



Annual Report 2012-13

Road User Charging Adjudicators



Table of contents	Page
<u>Aims and objectives and Role of the Adjudicators</u>	3
<u>Chief Adjudicator’s foreword</u>	4
<u>Congestion Charging—The first ten years</u>	6
<u>Interesting facts about the Congestion Charge Scheme</u>	8
<u>Ten years of recommendations</u>	10
<u>Recommendations for 2012-13</u>	12
<u>Developments in law and practice</u>	13
<u>List of Adjudicators (and their other appointments)</u>	15-16
<u>Useful Information</u>	17-22
• <u>Grounds of appeal</u>	17
• <u>Structure of the Road User Charging Adjudicators’ Tribunal</u>	18
• <u>The appeal process</u>	19
• <u>Matters of interest appearing in previous annual reports</u>	20
• <u>Viewing previous annual reports</u>	21
• <u>PATAS web site and Statutory register</u>	22
<u>Appendix One: Appeals and Fees charged 2003 – 2013</u>	23
<u>Appendix Two: Congestion Charging Statistics 2003 – 2013</u>	24
<u>Appendix Three: Maps of the Congestion Charge and Low Emission Zones</u>	25
<u>Contact details</u>	Back cover



Aims and objectives of the Road User Charging Adjudicators

- To provide all parties to road user charging appeals with independent, impartial and well-considered decisions based on clear findings of fact and proper application of law.
- To have the appropriate knowledge, skills and integrity to make those decisions.
- To ensure that all parties to road user charging appeals are treated equally and fairly regardless of age, ethnic origin, gender, marital status, sexual orientation, political affiliation, religion or disability.
- To enhance the quality and integrity of the road user charging appeals process.

The Role of the Road User Charging Adjudicators

- Adjudicators are appointed in accordance with Regulation 3 of The Road User Charging (Enforcement and Adjudication) (London) Regulations 2001, as amended.
- Their role is set out by Regulations 11(2) and 16(2) of the same Regulations which states that an Adjudicator “shall consider the representations in question and any additional representations which are made by the appellant on any of the grounds mentioned in regulation 10(3) or regulation 13(3)”.
- The Court of Appeal has made it clear that it is not part of an Adjudicator’s role to consider factors which fall outside of the grounds mentioned in regulations 10(3) or 13(3) and accordingly what might be described as ‘mitigating factors’ are matters for the Enforcing Authority to consider and are not matters for Road User Charging Adjudicators.





Chief Adjudicator's foreword

I am pleased to present to the Secretary of State this joint report of the Road User (Congestion) Charging Adjudicators for the year 2012 – 2013.

This joint report is required by Regulation 8 of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (as amended).

This has been a momentous year for the Tribunal as we have now reached the tenth anniversary of the Congestion Charging scheme. In those ten years it is inevitable that many people who were instrumental in setting up the scheme and the appeals process have moved on or retired. It is right that I should acknowledge here my thanks to Martin Wood (former Chief Adjudicator of the Parking and Traffic Adjudicators), Charlotte Axelson (Head of PATAS) and her administrative staff, and to Margaret Brown who provided such stalwart support to the Tribunal.

I also acknowledge the 10 years of dedicated service from the staff of Capita, in particular that of Carolann Highfield and Nigel Boyce, both of whom have now moved on to other challenges. Many people, however, remain happily connected to the Tribunal and I would like to thank Nick Lester of London Councils and Kevin Austin from the Greater London Authority (GLA). I would also like to give a warm welcome to Victoria Hills in her new role as Head of Transport at the GLA.

Garry Hoy, who is now Contracts manager, has made a unique contribution to the success of the Tribunal since its early days in 2003. He is a fount of practical information and has always been good natured and helpful. We congratulate him on his promotion within the organisation.

Richard Reeve has proved an ideal appointment as Tribunal manager. We continue to receive a good service from his team, in particular from Ada Amuta, who has a dedicated role in looking after RUCA. We would also like to thank Mark Smith who, although he has moved to another part of London Councils, continues to help with the technical production of the Annual Report.

We have always received and continue to receive an excellent service from the Reception and Security staff, ensuring Appellants are dealt with courteously and speedily.

I would like to thank the team of Adjudicators who have regularly given their time and experience to this Tribunal and have helped to contribute to its success. The Tribunal has now determined more than 150,000 appeals, and in the last year achieved an average time of 38.50 minutes to determine a personal appeal and 18.3 minutes for a postal appeal with an overall average of 21.86 minutes per appeal.

In February this year we held a day's training course for Adjudicators and we were very pleased that guests from London Councils and the GLA were able to join us. The topics that were covered in this training session included:

- Developments in Law and Practice
- Technical advice on the IT system
- Guidance on assessing credibility
- A guest speaker on the work of the Ministry of Justice and Tribunals

In this report we have included summaries of some of these talks for the benefit of users of this Tribunal.

Over the year the number of appeals has remained low (averaging 500 a month) and Adjudicators have consequently had to accept a lower number of sittings. The main focus, however, remains on the user of the Tribunal, and this year the percentage of cases considered within 56 days of receipt improved from 21.63% in April 2012 to 94.36% in March 2013. The average percentage of hearings for the year begun within 15 minutes of their allotted time slot was 83.08%.

If an Appellant arrives early very often an Adjudicator will be able to hear their appeals in advance of the allotted time slot. A full set of statistics is included in the Annexes to this report.

Over the next year we look forward to an improvement in the quality of the evidence packs provided to us by Transport for London.

From 2005 to October 2009, TFL sent all its evidence packs to the Tribunal electronically. However with a change of its IT service provider the same process was discontinued until February 2013 and the evidence packs are now being sent again electronically and in a new format. The new format of evidence results in much clearer images of the documents relevant to the appeal and helps both Appellants and Adjudicators.

In the longer term we heard with interest the proposals of the Mayor of London to introduce an ultra-low emission zone in the centre of London from 2020.

When the Congestion Charge was introduced in 2003 there were dire warnings about its effects – amongst other things it was said that the Underground would be “swamped”, that teacher recruitment would be devastated and that RSPCA rescue would be disrupted. Happily none of these predictions proved to be true and Congestion Charging has been judged a success and is now an accepted feature of the capital. It was the first such project in any major world city.

Today Milan, Durham, Riga in Latvia, Valletta in Malta and Znojmo in the Czech Republic all have some form of road user charge and Beijing in China is currently considering a similar scheme to that in London. 62,000 fewer Londoners are commuting by car or van today as compared to in 2001, despite the city’s population growing by more than 850,000.

I consider that the success of this Tribunal in ensuring a fair hearing for Appellants has contributed to the overall success of the scheme itself.

Ingrid Persadsingh
Chief Road User Charging Adjudicator



A Note of Thanks from the Road User Charging Adjudicators to the Chief Road User Charging Adjudicator

It would be remiss if, within this 10th anniversary edition, the Adjudicators did not express their enormous thanks and gratitude to Ingrid Persadsingh for her leadership and encouragement as the Chief Road User Charging Adjudicator.

Over the life of the Tribunal Ingrid has been the guiding hand of her ‘family’ of Adjudicators and ensured that the Tribunal has always been a supportive place to work.



Congestion Charging - The first ten years

It is now 10 years since the introduction of the Congestion Charge in London.

In 2003 Transport for London set up a scheme for Congestion Charging in Central London whereby a charge is imposed in respect of each charging day on which a relevant vehicle is used or kept within the congestion zone during charging hours. A user could challenge the decision of Transport for London that they had failed to pay the charge by appealing to the Road User Charging Adjudicators.

A lot has happened in the world since 2003. In 2003 Mr Tony Blair was in Downing Street, England won the Rugby World Cup and Ken Livingstone was the Mayor of London. The following year saw Mr Livingstone's re-election as Mayor together with the tragedy of the tsunami in Asia.

2005 was the year the Summer Olympics were awarded to London followed by the horror of the terror attacks on our beautiful city. 2006 saw the launch of Twitter and a heat wave hit the UK in July.

Tony Blair was replaced by Gordon Brown as Prime Minister in 2007, the same year the final book in the Harry Potter series was released and Apple launched their first iPhone.

Five years after the Congestion Charge scheme launched saw Boris Johnson winning the Mayoral election. One of his first acts was to abolish plans to impose additional charges on 'Chelsea tractors' and to implement a consultation scheme on the removal of the Western Extension. 2008 was the year in which the global financial crisis began. The following year the King of Pop, Michael Jackson, died and Barack Obama was inaugurated as President of the United States.

A new coalition government and Prime Minister in the form of David Cameron came to power in the UK in 2010, a volcano in Iceland erupted, causing massive disruption

to flights, and Chelsea Football Club won the Premiership and FA Cup 'double'.

2011 saw a Royal Wedding and an Arab Spring and just last year we enjoyed the Olympics and Paralympics, the Queen's Diamond Jubilee and Boris Johnson was re-elected as Mayor of London.

Originally in 2003 there were 12 Adjudicators appointed to hear these appeals, based on the presumption that there would be 7000 appeals annually. It was soon clear that this was a gross under-estimate as 42,339 appeals had been heard by the end of the first year. A further four Adjudicators were appointed in April 2003, and a further 21 Adjudicators in August 2004. This was the first judicial appointment for many of these Adjudicators and many of them have now gone on to other judicial appointments.

The Tribunal was designed from the outset to offer a modern and efficient service to its users. It was open for hearings late on certain days and on Saturdays to assist members of the public in attending hearings. It was designed to be a "paperless" Tribunal with the appeal "file" being held electronically and the Adjudicator entering the decision directly into the system. Both these original features have remained constant in the first 10 years.

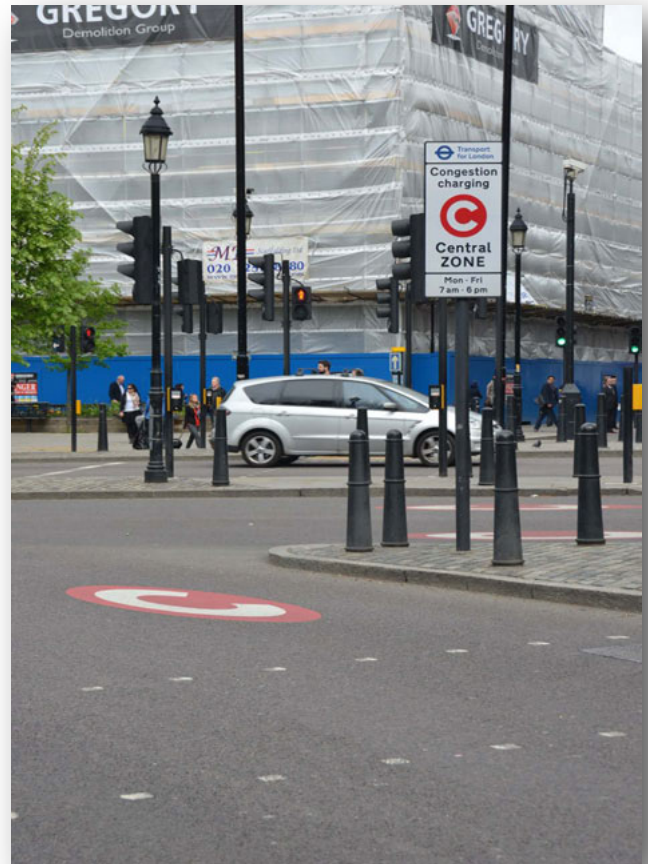
The Tribunal was originally sited in New Zealand House in the Haymarket and hearings were held there for the first 6 years. In 2008 the opportunity arose to move into larger premises at the Angel and the Tribunal moved there in February 2009. This centre offers Appellants and Adjudicators a light and airy environment in which to appear.

It is not surprising that with a new scheme there should have been many legal challenges. There have been a number of judicial reviews concerning the lawfulness of the charge and the independence of the Tribunal. The Administrative Court has rejected the challenges to the legality of the Congestion Charging scheme. In an important judgment the Court of Appeal in *Walmsley v Lane* [2005] defined the powers of the Tribunal and made it clear that

Adjudicators had to apply the six statutory grounds of appeal and had no inherent discretion themselves to allow an appeal on other grounds such as mitigating circumstances.

In 2003 the congestion charging zone was set in a comparatively small area of central London comprising the City, West End and an area just south of the river. In February 2007 the Western Extension to the zone was implemented covering the mainly residential districts of Pimlico, Kensington and Bayswater. This zone was, however, removed by the incoming Mayor of London in January 2011. In retrospect it is hard to say whether the Western Extension generated a larger number of appeals.

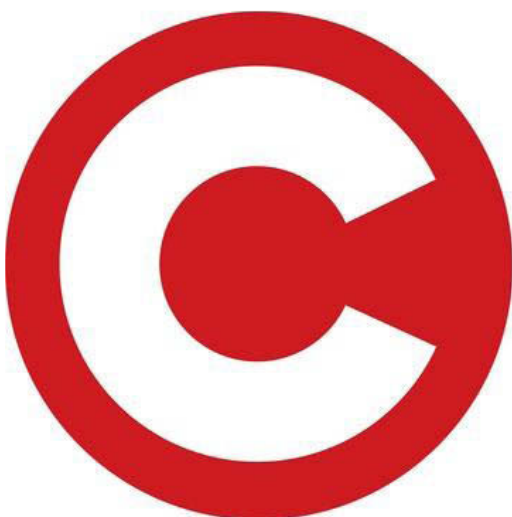
Transport for London has always offered a variety of payment methods to users of the Congestion Charge. Users could pay online or by telephone to the call centre, or they could purchase a charge from a retail outlet. Originally a charge had to be purchased by midnight on the day of use, but in June 2006 Transport for London allowed users to pay by midnight on the next charging day. On 4th January 2011 Transport for London launched Congestion Charging Autopay which is an automated payment system. The number of charging days on which a vehicle is used within the zone is automatically calculated and the customer's debit or credit card is billed each month. Millions of payments have now been made by Autopay and there are now 210,000 CCAP accounts.



The amount of the Congestion Charge was originally set at £5 but was increased to £8 in July 2006 and has now increased to £10 (or £12 next day). The Penalty Charge increased from £80 to £100 to £120 and from 20 May 2013 will be £130, with a discounted amount for early payment set at £65.

The scope of the Tribunal was widened in February 2008 when the Low Emission Zone was introduced across the whole of the London area with appeals to the Tribunal. Unlike the Congestion Charge the Low Emission Zone operates round the clock and the charges and penalties are much higher than for the Congestion Charge scheme - £200 for a Low Emission Charge with a Penalty of £1000 (or a discounted amount of £500). The Low Emission Zone scheme has now been widened to include large vans and minibuses, as well as larger lorries.

Over the 10 years of its existence the Tribunal has decided more than 150,000 appeals. It looks forward to the future with the prospect of taking on new challenges.



Interesting Facts about the Congestion Charge Scheme

When Congestion Charging was introduced on 17 February 2003, it had an immediate and dramatic impact on traffic entering the charging zone which fell by 15 per cent during weekday charging hours, a level which has been sustained and stable over the last 10 years.

The Central London Charging zone is a small area in the centre of the city covering 19 sq. km. On 19 February 2007 the zone was extended with the introduction of the Western Extension which increased the zone size to 41sq km. This extension was then removed on 24 December 2010 after a public consultation. Whilst initial analysis of removing the Western Extension did result in an increase in traffic driving into and within the zone, the increase was lower than expected and there was no discernable impact on air quality.



Where Transport for London (TfL) matches the vehicle number plate the camera system has read against an exactly matching charge payment, exemption or discount it automatically deletes the image of the vehicle.

Where TfL doesn't get an exact match, it checks and validates all the images and sends a Penalty Charge Notice (PCN) to the registered keeper of the vehicle. It is the issue of the PCN that opens up the possibility of an Appeal to an Adjudicator.

Over this decade the Mayor and TfL have introduced a wide range of measures to make paying the charge easier, for example, the ability to pay after the date of travel 'Pay Next Day' in 2006 and more recently the introduction of an automatic payment system known as 'CC Auto Pay' in 2011.

CC Auto Pay enables people driving within the zone to open an account with TfL with journeys within the zone for registered vehicles being monitored and then charged and deducted automatically at the end of the month from a nominated bank account.

When the Congestion Charge was introduced the daily charge for a vehicle was £5 per day, currently it is £10 per day to drive a vehicle into the zone.

A charge collected via a CC Auto Pay is £9.

TfL report that there are now some 210,000 CCAP accounts.



The Central Congestion Charging zone is now an accepted part of London life. Over the last decade traffic and congestion in central London has reduced with the number of vehicles entering the zone having reduced by 60,000 vehicles per day.

The Congestion Charge zone is monitored by cameras at entrances, exits and around the zone that read a vehicle's number plate. This is then checked against a database to work out whether a charge has been purchased for the vehicle, if it is exempt, or has a 100 per cent discount applicable for the date of travel. The ability to pay the charge exists until the end of the next charging day.

The scheme continues to develop as vehicle technology changes; the original scheme offered a 100% Discount for vehicles that qualified for an 'Alternate Fuel Discount'. In 2010 that was replaced with a Greener Vehicle Discount for eligible cars based on the emissions level of the vehicle.

That discount is to be phased out as the Mayor introduces an Ultra-Low Emission Discount (ULED) which will be available from 1st July 2013.

This is also a 100 per cent discount from the Congestion Charge. It will apply to electric and ultra-low emission cars and vans where vehicles have to either be pure electric or be cars and vans that emit 75g/km or less of CO2 and meet the Euro 5 emission standard for air quality.

Any customers registered for the Greener Vehicle Discount at the point the register closes on the 30th June 2013 will continue to receive the discount until 24th June 2016 as a way of recognising the commitments people have made to drive low emitting vehicles.

In 2013 the Mayor is also increasing the Penalty Charge from £120 to £130 (reduced to £65 if paid within 14 days) in line with all other London local authorities and also removing the retail channel as a way of purchasing the daily charge.



Over the decade there have been notable key volume changes: TfL report the number of PCNs issued has reduced from 1.3m for 2003 and a peak of 1.75m in 2004 to around 0.7m for 2012.

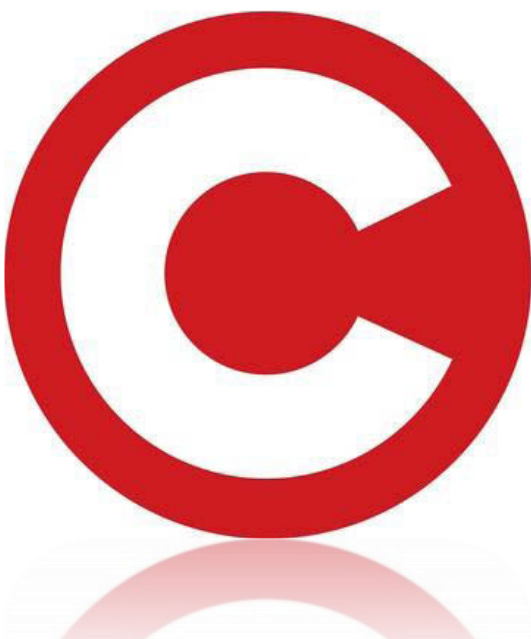
This is due to a range of reasons such as drivers getting used to the scheme, when and how to pay, and also the improvements offered as the scheme has developed such as CC Auto Pay.

It is also likely that drivers who have used the Appeals process, whether their appeal was allowed or not have also learned more about the way the scheme operates, is enforced and how penalty charges can be avoided.

In 2003, the year the scheme started there was a peak of Appeals with just over 86,000 appeals for contraventions in that year, that volume having reduced to just under 4,000 for 2011.

Appeals are still being received for 2012.

We understand from TfL that the £1.2bn net revenue generated by the scheme has been fed straight into on-going investment in the capital's transport infrastructure required under the original Scheme Order. This has helped produce a 9 per cent shift in transport use from car to public and other forms of sustainable transport. This is divided as follows: £960m on improvements to the bus network, £102m on roads and bridges, £70m on road safety, £51m on local transport/borough plans and £36m on sustainable transport and the environment.



Ten years of recommendations

Adjudicators have made direct recommendations to Transport for London in most annual reports. The recommendations are based on the experience gained in hearing cases and are designed to help Transport for London improve the service offered to the road user.

Direct Recommendations

2003 – 4

Unsurprisingly in the first year of operation we made many recommendations. These ranged from improving customer care to more specific recommendations dealing with cameras and signs.

Transport for London responded to all of these recommendations explaining what they had done to improve customer care and how they were working with Capita to improve the quality of the evidence supplied to the Tribunal.

They also explained the difficulties they faced in other areas – for instance the policy of the Department for Transport which prevented them from giving more information on the signs detailing the location of the Congestion Charge zone.

2004-5

Adjudicators expressed concern over the statutory declaration process and whether it was being abused by some potential Appellants. This is still an issue in the Tribunal.

Where it appears that an Appellant has abused the statutory declaration procedure Transport for London is able to apply for costs orders against them. Another recommendation this year was over contraventions committed by foreign drivers. It is understood that Transport for London took counsel's advice over the serving the Penalty Charge Notice on drivers abroad.

2005-6

Transport for London was invited to publish its policy on discretion following the landmark case of **Walmsley v Lane** in the Court of Appeal. They have chosen not to do so.

Other recommendations included one to exercise its discretion in the case of drivers who had incurred a Congestion Charge for the first time in the expanded zone. This Transport for London has done.

2006-7

There was a recommendation that Transport for London should comply with its statutory duties under Article 9(5) of the Consolidated Scheme Order regarding the removal of a vehicle from the register when they were no longer satisfied that it was a non-chargeable vehicle. This has been done.

A recommendation was also made on calculating the statutory periods on representations or payment from the date of actual, not presumed, service. This has now been done.



2007-8

The recommendations this year centred around the administration of the resident's discount. It was recommended that Transport for London amended the wording of the application form to make it clear to customers what payments they were authorising. This was acted on and no subsequent problems have been reported.

2008-9

No recommendations

2009-10

IBM took over responsibility for the operation of the Congestion Charge in 2007 and Transport for London were unable to send through the evidence packs electronically, leading to a loss of quality in the images and documentation. A recommendation was made to provide evidence electronically once more. This has now been remedied.

2010-11

No recommendations.

2011-2012

We recommended that Transport for London improved the wording on its website which explained how organisations should register for an organisation account and then add the fleet vehicles to their Fleet Autopay account. The wording has now improved and we are seeing fewer appeals raising this point.



Indirect Recommendations

There were also a number of other areas where, as a result of decisions made by Adjudicators in cases, Transport for London changed its processes and procedures. For example, as a result of referring to the legal principle of 'de minimis' TfL altered its approach of pursuing motorists who had been captured within the zone seconds after the zone became operational or seconds before the zone ceased.

As a result of numerous cases where the issues revolved around the Appellant's recollection of conversations they had with TfL's Call Centre Operators, Transport for London decided to record all telephone calls involving its operators.

Following many decisions involving hire car operators the British Vehicle Rental and Leasing Association (BVRLA) visited and spoke with Adjudicators to gain a better understanding of the Regulations. This led to a big reduction in cases involving hiring firms.

Similarly at the start of the scheme a number of cases involved matters concerning the Public Carriage Office but again, as a result of identifying and highlighting certain issues with the process, procedures were altered and cases involving this issue have all but vanished.



In hire agreement cases, where the company's name on the agreement is not the same as the registered keeper, TfL should consider checking with Companies House, using their free web check online facility, whether the two names are trading names or separate entities.



Recommendations for 2012 – 2013 report

That Transport for London review the appropriateness of only sending out one warning letter to a registered keeper when there has been a contravention involving the Low Emission Zone.

This is recommended since some operators have purchased vehicles, which have previously received warning letters, and not been informed by the prior registered keeper of the fact that a warning letter had been sent out once already by Transport for London.

That Transport for London consider revisiting its policy regarding the service of Penalty Charge Notices on registered keepers of vehicles who live abroad in light of the new European Community Regulations (EC 1393/2007) governing the service of documents abroad.



Developments in law and practice

At our training day in February 2013 we discussed the following developing areas of law and practice.

We are publishing these in this year's annual report to show users of the Tribunal the current thinking on many topics which will be of interest and relevance to them.

Sensitivity of personal information

The Tribunal is acutely aware of the need to safeguard and preserve the confidentiality of the information revealed in the course of appeals.

Appellants, whether appearing in person or making representations by post, will often rely on information that is sensitive, such as bank account details, telephone numbers and email addresses. Adjudicators are advised to avoid including such details except in the most general terms.

On occasions Appellants will have to reveal confidential personal information and Adjudicators will not refer to this unless they are essential facts on which they must make a finding. When such information has to be referred to, again it is done in the most general terms.

Adjudicators are aware that all decisions are open for public inspection on the statutory register



Service of documents by post or email

Very often Adjudicators have to decide whether a document has been served on an Appellant in order to decide whether to allow or dismiss an appeal. The implementation of Autopay has made such findings crucial, as when Autopay (for whatever reason) is suspended or closed an Appellant must be told of this by post or email.

The Autopay terms and conditions provide that a letter is served by post 48 hours after posting and an email is served at the time of receipt. The effect of the High Court case of **Callandine-Smith v Saveorder Ltd [2011] EWHC 2501 (CH)** is that a notice is deemed to be served if it is shown to have been properly addressed and posted.

However if there is evidence that a notice was delivered late or not at all this will rebut the presumption. The Adjudicator then has to consider all the evidence and decide whether a notice was delivered late or not at all.

Adjudicators taking a point not raised by either of the parties

This is an issue in many jurisdictions. The problem often arises that an Adjudicator can see a relevant point in the appeal which has not been raised by either Transport for London or the Appellant. Is the Adjudicator to take this point or is he or she restricted to the points made by the parties when deciding the appeal?



The view in this jurisdiction is that the Adjudicator is not bound by the decision letter of Transport for London but can take any point that appears to be relevant.

This is because the Adjudicator is bound by Regulation 16(2) of the 2001 Enforcement and Adjudication Regulations to consider the representations made by the Appellant rather than looking at the decision of the respondent.

Adjudicators consider however that where they are raising a fundamental issue that may affect the validity of many Penalty Charge Notices that procedural fairness may require them to go back to the Appellant and Transport for London for representations.



Standard of proof

The standard of proof in this Tribunal, as with other civil Tribunals, is proof on the balance of probabilities – i.e. is it more likely than not that a fact or assertion is true.

Where however either party is alleging dishonesty or fraud, Adjudicators consider that the stronger must be the evidence to show it.

It is not enough therefore for an Appellant or Transport for London merely to make an allegation of dishonesty – there must be evidence to back this assertion up.

This is based on the guidance of the House of Lords in **Re B (Children) [2008] UKHL 35**.

Third party websites

Appellants who use third party websites to purchase a congestion charge instead of using Transport for London's own website may pay substantially more for each charge. Transport for London does not officially recognise these websites and is less likely to exercise discretion if a mistake is made over the registration mark.

Those purchasing a congestion charge on-line should always check carefully that they are using the official TfL website, which is clearly marked as such, and not automatically follow sponsored advertisements when using an internet search engine.

Relevant High Court decisions

There have been a number of High Court decisions concerning aspects of the Tribunal's work.

Previous annual reports have highlighted these and you can see a list of these on [page 20](#).

They cover such issues as the adequacy of signage, the duty of a registered keeper when selling or transferring their vehicle, as well as the jurisdiction and validity of the Tribunal.

One significant decision was **R (Fivepounds.co.uk) v Transport for London [2005] EWHC 3002** which concerned the user of the Congestion Charge being given a legitimate expectation that he or she is then able to rely on. This case found that for legitimate expectation to succeed:

- 1) The Public authority must have created an expectation on the part of the customer that it would be an abuse of power for them to deny.
- 2) The authority must have acted so unreasonably that its conduct amounts to an abuse of power.
- 3) The customer must have put "all their cards on the table" and their expectations must be objectively reasonable.

List of Road User Charging Adjudicators

Mercy Akman

Jane Anderson

Ian Coutts

Gordon Cropper

Jane Cryer

Leslie Cuthbert

Fiona Dickie

Joanna Lyons

George Dodd

Anthony Edie

Gillian Ekins

Anthony Engel

Andrew Harman

Angela Black

Fiona Henderson

Anitra Hussein

Ian Keates

Graham Keating

Maggie Kennedy

Sanjay Lal

John Lane

Francis Lloyd

Maura Lynch

Isaac Maka

David Malone

Paul Middleton-Roy

Ian Mohabir

Michael Nathan

Belinda Pearce

Martin Penrose

Ingrid Persadsingh

Annabel Pilling

Luthfur Rahman

Christopher Rayner

Anita Reece

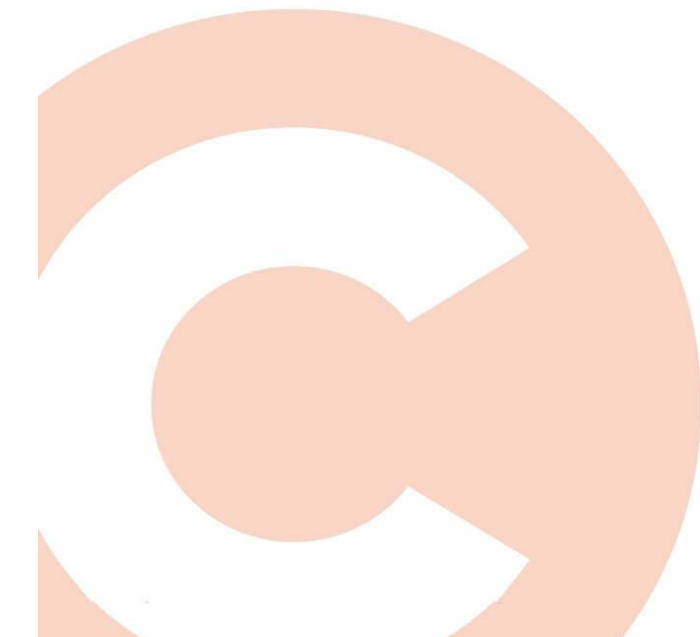
Timothy Smith

Alison Spicer

Jan Verman

Anwen Walker

Christopher Woolley



Road User Charging Adjudicators – other appointments

Almost all of the Adjudicators appointed as Road User Charging Adjudicators already had or have since gone on to have additional judicial appointments. At this time the following positions are also held:

Tribunal Judge – First Tier Tribunal – Asylum and Immigration Chamber

Tribunal Judge – First Tier Tribunal – Social Entitlement Chamber (Asylum Support and Social Security)

Tribunal Judge – First Tier Tribunal – Health, Education and Social Care Chamber (Mental Health)

Tribunal Judge – First Tier Tribunal – General Regulatory Chamber (Information Rights)

Lawyer Chairman – Residential Property Tribunal Service

Adjudicator – Parking and Traffic Adjudicators Tribunal

Adjudicator – Office of Fair Trading

Panel Member – Exceptional Hardship Scheme for HS2 (High Speed Rail)

Independent Adjudicator for Companies House

Panel Chair for the Conduct and Competence Committee of the Nursing and Midwifery Council

Chair of the Independent Monitoring Board for HM Prison, Pentonville

Assistant Deputy Coroner

Recorder - Crown Court

District Judge – Magistrates Court

District Judge – County Court

Vice-President of the Valuation Tribunal for England

We are also pleased to record the births of 9 babies plus 5 grandchildren to the Adjudicators.



Useful information

Grounds of appeal

Initially the responsibility is on Transport for London to demonstrate that a contravention has occurred.

This means that Transport for London must produce evidence to the Adjudicator to prove that:

- 1) A relevant vehicle;
- 2) was used or kept within the congestion charge area or low emission zone;
- 3) during the designated hours of a particular date; and
- 4) that the appellant is the registered keeper of the vehicle; and
- 5) that the correct payment for that vehicle for that date has not been received by Transport for London or that the vehicle was not subject to an exemption.

If Transport for London produces this evidence, the onus will shift to the appellant to satisfy the Adjudicator that, on the balance of probabilities, one or more of the six statutory grounds of appeal applies.

These grounds are:

- (a) that the recipient -
 - (i) never was the registered keeper in relation to the vehicle in question; or
 - (ii) had ceased to be the person liable before the date on which the vehicle was used or kept on a road in a charging area; or
 - (iii) became the person liable after that date.
- (b) that the charge payable for the use or keeping of the vehicle on a road on the occasion in question was paid at the time and in the manner required by the charging scheme.
- (c) that no penalty charge is payable under the charging scheme.
- (d) that the vehicle had been used or kept, or permitted to be used or kept on a road by a person who was in control of the vehicle without the consent of the registered keeper.
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case.
- (f) that the recipient is a vehicle hire-firm and;
 - (i) the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice imposed in relation to the vehicle during the currency of the hiring agreement.

Please note:

These grounds apply to both alleged congestion charge and low emission zone contraventions.

The Adjudicator **CANNOT** consider mitigating factors. This has been upheld by the Court of Appeal.

The structure of the Road User Charging Adjudicators' Tribunal

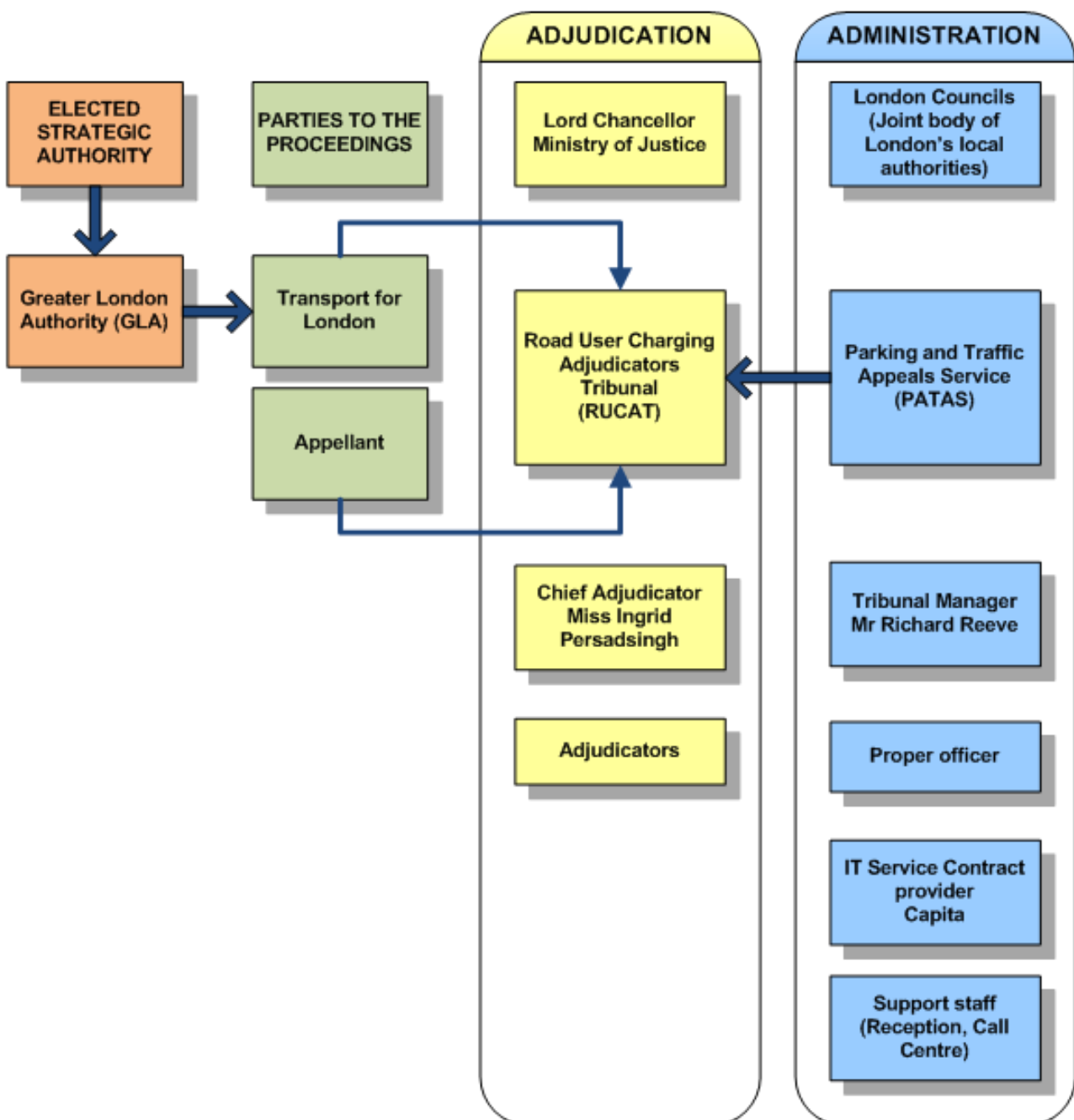
What is 'RUCAT'?

RUCAT is the 'Road User Charging Adjudicators Tribunal. It is an independent tribunal which decides appeals against Congestion Charge and Low Emission Zone penalties in London.

What is PATAS?

PATAS is the Parking and Traffic Appeals Service and provides administrative support to the Road User Charging Adjudicators. Under the Road Traffic Act 1991 and the Traffic Management Act 2004, London Councils is required to provide this service to the Parking and Traffic Adjudicators and provides the same service for the Road User Charging Adjudicators under contract to the GLA.

The following diagram explains the structure of RUCAT and PATAS



The appeal process

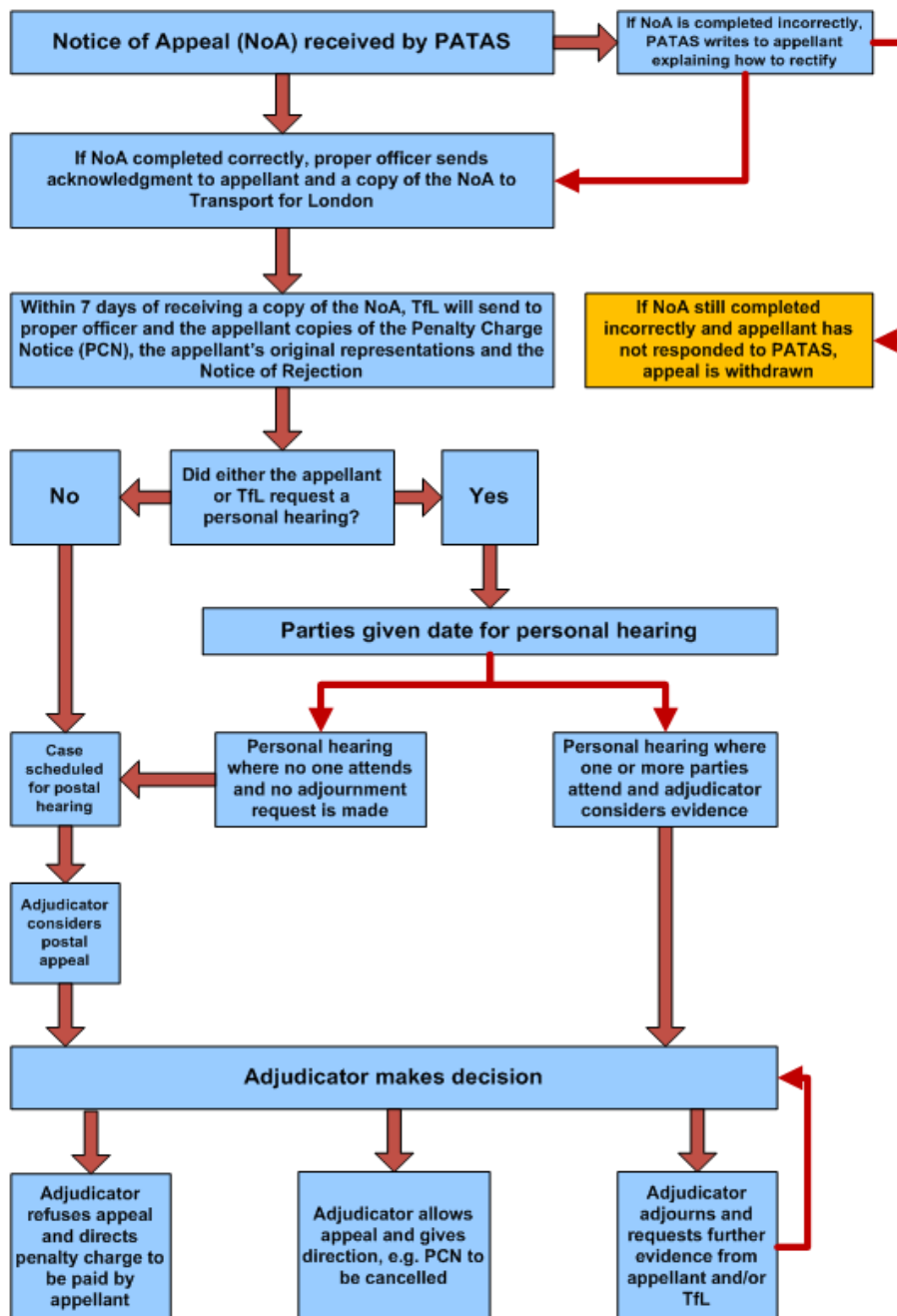
If Transport for London serves a Penalty Charge Notice arising from an alleged Congestion Charge or Low Emission Zone contravention, the registered keeper of the vehicle is entitled to contest the penalty charge by making written representations to Transport for London.

If Transport for London accepts those representations, then the PCN will be cancelled.

If Transport for London rejects the representations, the registered keeper of the vehicle may APPEAL to the Road User Charging Adjudicator.

The APPEAL is an appeal against Transport for London's decision to reject the written representations.

The following diagram explains the process of an appeal after it is received by PATAS.



Matters of interest

The following issues have appeared in previous annual reports

(if you are viewing the electronic version of this report, click on the year below or see page 21 to access the appropriate report)

	<u>Year</u>	<u>Page(s)</u>
Adjudicator's independence	2008-9	14
Angel, the tribunal's move in 2009	2008-9	18-22
Case delay statistics	2008-9	35
Chief adjudicator, role of	2008-9	15
Costs	2003-4	16-17
Decision, obtaining a copy of	2008-9	9
Emissions Related Congestion Charge	2006-7	19-20
Evidence produced by a prescribed device	2008-9	8
Fees charged against cases closed	2008-9	35
Grounds of Appeal described in detail	2008-9	26-29
Hire agreements	2003-4	7
Judicial reviews		
- R (on app. of Walmsley) v Transport for London & Others	2004-5	8
- R (ex.parte Graham) v Road User Charging Adjudicator	2004-5	9
- R (on app. of Dolatabadi) v Transport for London	2005-6	22-23
- R (on app. of Fivepounds.co.uk) v Transport for London	2005-6	24
- R (on app. of Grunwald) v Transport for London	2005-6	25
- R (on app. of Edwards) v Road User Charging Adjudicator	2005-6	26
- R (on app. of de Crittenden v National Parking Adjudicator	2005-6	27
- R (on app. of Dufaur) v Transport for London	2006-7	24
- R (on app. of Jabang) v Transport for London & PATAS	2007-8	14
- R (on app. of Latter) v Transport for London & PATAS	2008-9	11
- R (on app. of Lilley) v Transport for London & PATAS	2008-9	11-12
Local Government Ombudsman	2008-9	16-17
Low Emission Zone—An introduction	2007-8	9-12
Photographic evidence	2004-5	12-13
Private Hire Vehicles	2004-5	12-13
Ranelagh Bridge	2006-7	12-16
Recording of call centre conversations	2006-7	17
Review of Adjudicator's decision	2003-4	15-16
Statutory declaration	2003-4	13
Statutory register	2006-7	18
Transcripts of hearings	2008-9	9
Validity of Penalty Charge Notices, challenges to	2006-7	9-11
Vehicle cloning	2004-5	10-11
Vehicles registered outside the UK	2004-5	11-12

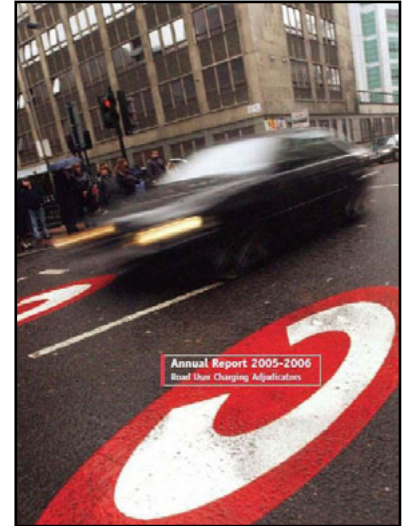
Click on the image below to open the annual report for that year
(if you are viewing the printed version of this report, please visit www.patras.gov.uk to see previous reports)



2003-04



2004-05



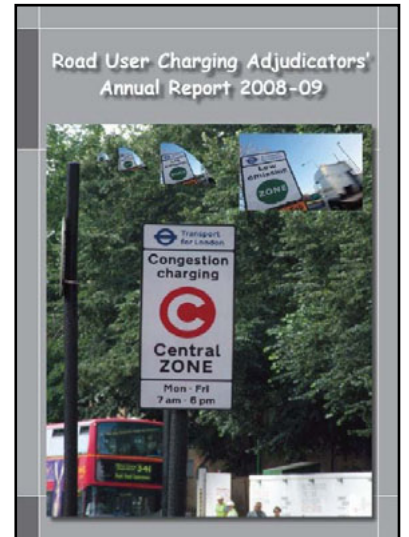
2005-06



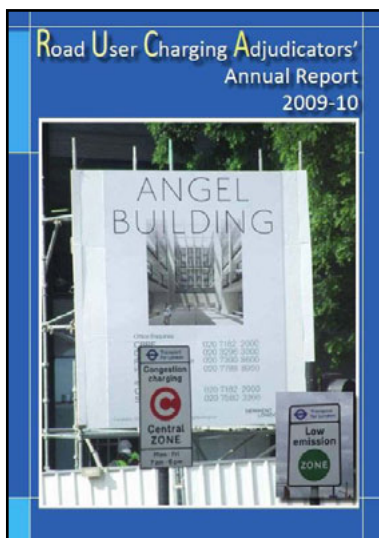
2006-07



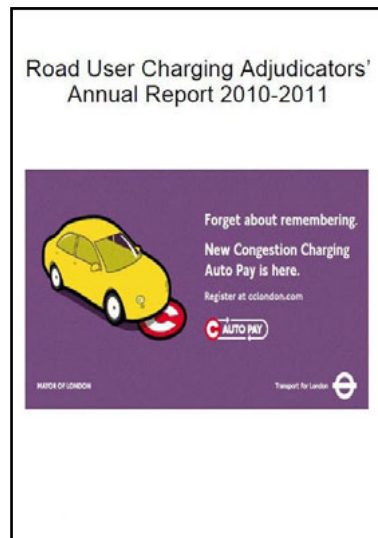
2007-08



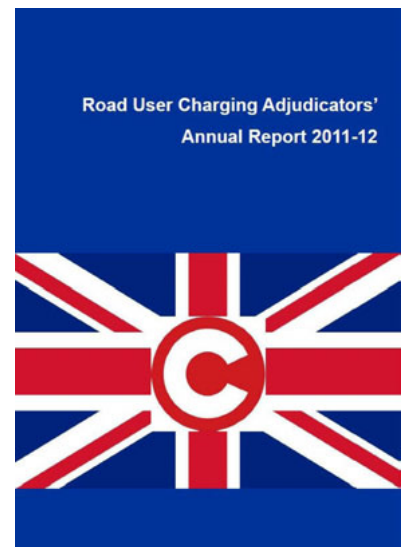
2008-09



2009-10



2010-11



2011-12



PATAS website

The Parking and Traffic Appeals Service maintains a website with the aim of providing information, guidance and assistance to anyone intending to appeal to the tribunal.

The daily lists of each day's cases before the tribunal can be viewed, as well as maps and travel advice on getting to the hearing centre.

The website offers a useful guide to each stage of the enforcement process, explaining the options available to the appellant at each stage.

The Statutory Register (see right) can also be accessed through this website.

Statutory register

This is the official register of cases at the Road User Charging Tribunal, kept under Section 21 of the Schedule to the *Road User Charging (Enforcement and Adjudication) (London) Regulations 2001*.

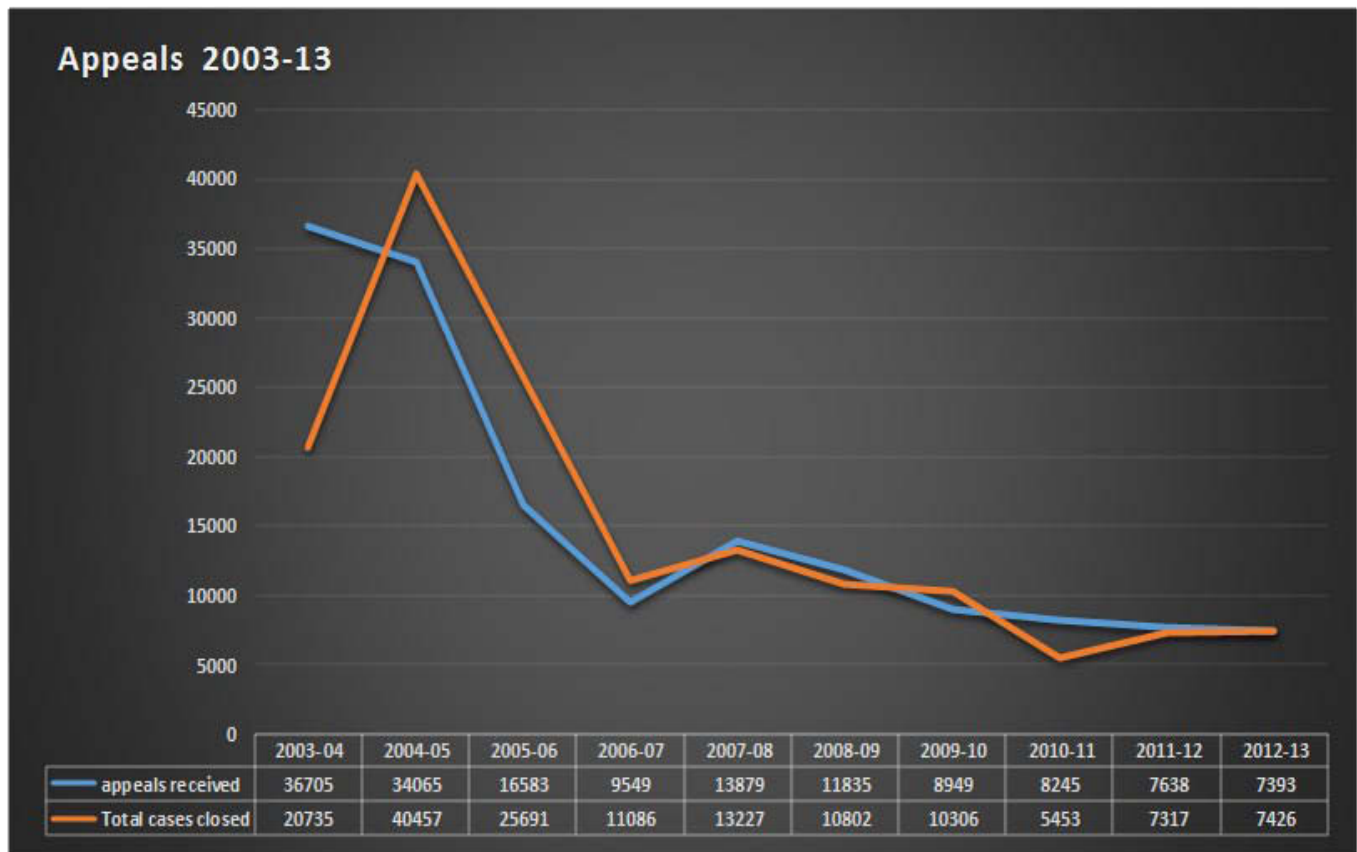
It is a register of all appeals and the decisions made on them.

The Register can be viewed online and can be browsed for one day of appeals at a time, or a more specific search (looking for instance at the appellant's name) can be made.

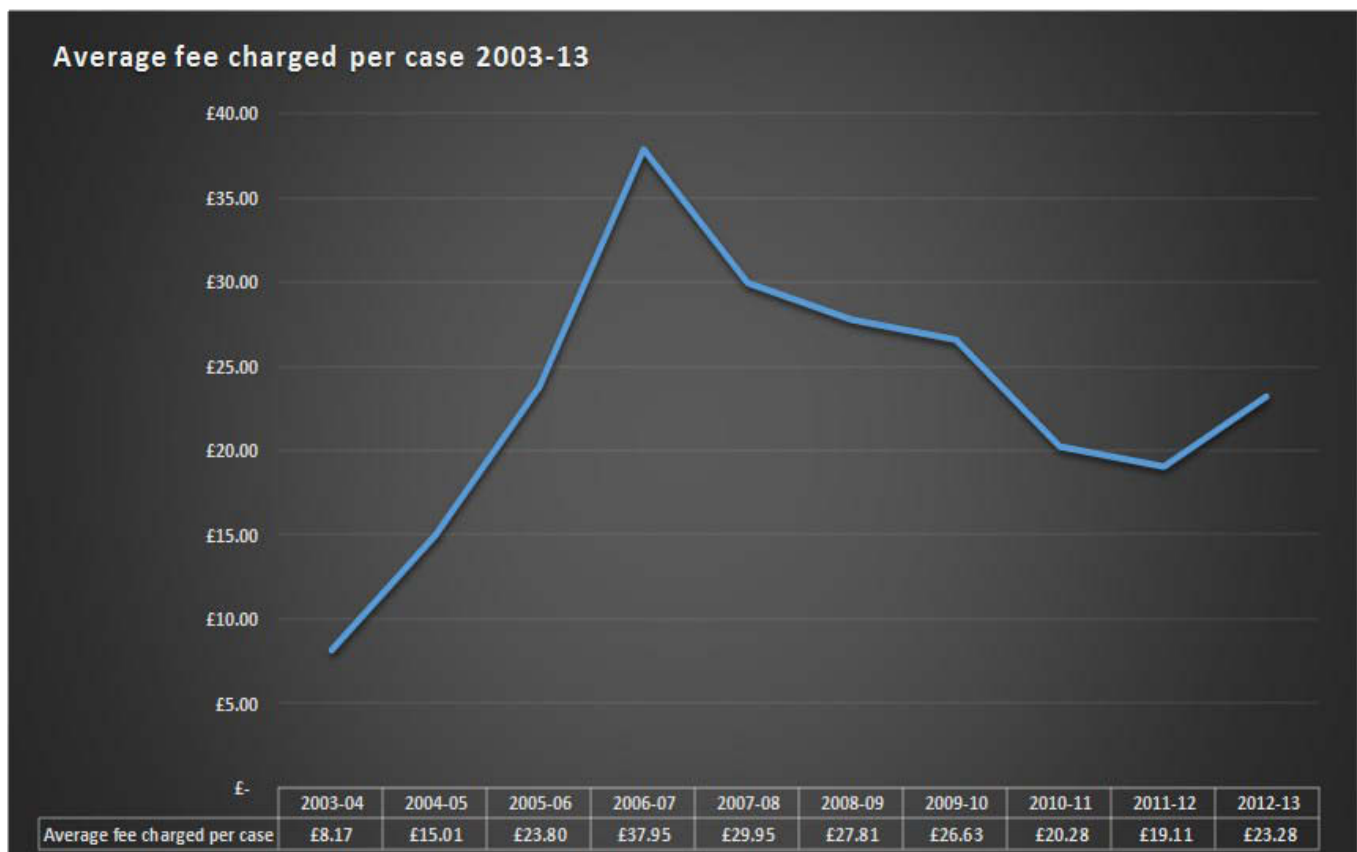
The Register can also be examined at the hearing centre.



Appendix One Appeals 2003-2013



Fee charged per case 2003-2013



Appendix Two

Congesting charging yearly statistics comparison 2003-13

	2003/4 Total	2004/5 Total	2005/6 Total	2006/7 Total	2007/8 Total	2008/9 Total	2009/10 Total	2010/11 Total	2011/12 Total	2012/13 Total
Appeals received	42339	34065	16583	9547	13879	11835	8949	8245	7536	7393
Total cases closed	24314	40457	25115	10985	13227	10802	10345	5453	7317	7426
Appeals withdrawn by appellants	287	268	420	138	123	100	130	113	108	103
Appeals not contested by TfL	13033	13160	5084	2883	5571	4854	3963	2481	1568	1313
Appeals refused postal**	4770	17838	13870	6179	5832	4605	5279	2236	4869	4311
Appeals allowed postal*	2806	5443	7121	3200	4584	4096	3302	1936	1321	1141
Appeals refused personal**	643	1408	1436	505	758	663	526	444	547	1174
Appeals allowed personal*	2116	2012	2522	1060	2034	1436	1237	837	580	797
Closed administratively	659	328	166	41	19	2	1	0	0	3
Appeals adjourned	1518	6085	3399	1608	836	706	636	225	407	299
Review decisions	121	349	743	181	136	113	70	49	83	64
Costs decisions	10	140	153	12	17	15	14	18	4	10
Postal cases ready for adjudication at end of year	9383	7528	2004	306	340	306	38	889	568	229
Personal hearings scheduled	5657	6989	4282	1614	1836	1453	1130	895	871	1170
	2003/4 Average	2004/5 Average	2005/6 Average	2006/7 Average	2007/8 Average	2008/9 Average	2009/10 Average	2010/11 Total	2011/12 Total	2012/13 Total
% withdrawn by appellants	1.20%	0.69%	1.75%	1.14%	0.93%	0.93%	1.26%	2.07%	1.48%	1.39%
%not contested by TfL	52.65%	32.30%	20.13%	27.28%	42.12%	44.94%	38.31%	45.50%	21.43%	17.68%
% refused postal	20.36%	44.13%	55.31%	54.95%	44.09%	42.63%	51.03%	41.00%	66.54%	58.05%
%allowed postal	12.06%	13.55%	27.38%	30.01%	34.66%	37.92%	31.92%	35.50%	18.05%	15.36%
%refused personal	2.57%	3.57%	5.51%	4.50%	5.73%	6.14%	5.08%	8.14%	7.48%	15.81%
%allowed personal	8.78%	4.93%	9.65%	10.24%	15.38%	13.29%	11.96%	15.35%	7.93%	10.73%
% closed administratively	2.37%	0.82%	0.64%	0.36%	0.14%	0.02%	0.01%	0.00%	0.00%	0.04%
% of cases allowed	73.49%	50.78%	57.16%	40.25%	50.03%	51.21%	43.88%	50.85%	25.98%	26.10%
	2003/4 Average	2004/5 Average	2005/6 Average	2006/7 Average	2007/8 Average	2008/9 Average	2009/10 Average	2010/11 Total	2011/12 Total	2012/13 Total
Average postal hearing (mins)	20.30	22.66	35.96	43.79	53.91	51.75	43.20	33.79	35.18	27.22
Average personal hearing (mins)	22.99	35.15	50.72	60.13	77.86	65.96	61.72	49.98	49.95	43.98
% of cases 1st considered within 56 days	24.37%	34.88%	34.47%	49.36%	84.43%	61.81%	43.99%	58.91%	26.78%	34.32%
Average days delay***	88	212	205	80	55.5^	n/a	n/a	n/a	n/a	n/a
% hearings within 15 mins	75.92%	84.17%	69.13%	76.42%	74.83%	76.27%	69.75%	72.00%	71.83%	83.08%
summary of decisions by ground of appeal (allowed)	2003/4 Total	2004/5 Total	2005/6 Total	2006/7 Total	2007/8 Total	2008/9 Total	2009/10 Total	2010/11 Total	2011/12 Total	2012/13 Total
Appellant not registered keeper	440	995	307	131	96	59	70	30	65	23
Charge has already been paid	1902	3014	1194	387	328	146	135	43	44	147
No charge is payable under the scheme	2284	2359	1472	518	487	356	317	163	162	378
Vehicle hire firm	255	798	1026	174	71	124	43	24	29	37
Penalty exceeded relevant amount	175	520	374	180	52	34	39	33	40	36
Vehicle used without appellant's consent	28	42	48	56	40	30	28	11	20	4
Summary of decisions by ground of appeal (refused)	2003/4 Total	2004/5 Total	2005/6 Total	2006/7 Total	2007/8 Total	2008/9 Total	2009/10 Total	2010/11 Total	2011/12 Total	2012/13 Total
Appellant not registered keeper	346	1421	405	389	409	292	232	140	243	196
Charge has already been paid	1495	4463	2036	1148	1229	990	1045	295	660	585
No charge is payable under the scheme	1787	5288	3679	2354	2609	2105	2493	1051	2844	3030
Vehicle hire firm	1619	6840	9326	1899	1202	850	897	621	830	859
Penalty exceeded relevant amount	415	1270	1062	1064	1163	804	987	444	793	753
Vehicle used without appellant's consent	42	159	193	113	176	97	128	54	80	81

* 2003/4 and 2004/5 figures exclude DNCs. 2005/6 figures include DNCs

** 2003/4 and 2004/5 figures exclude Withdrawals. 2005/6 figures include Withdrawals

*** The way in which this figure is calculated changed in October 2006.

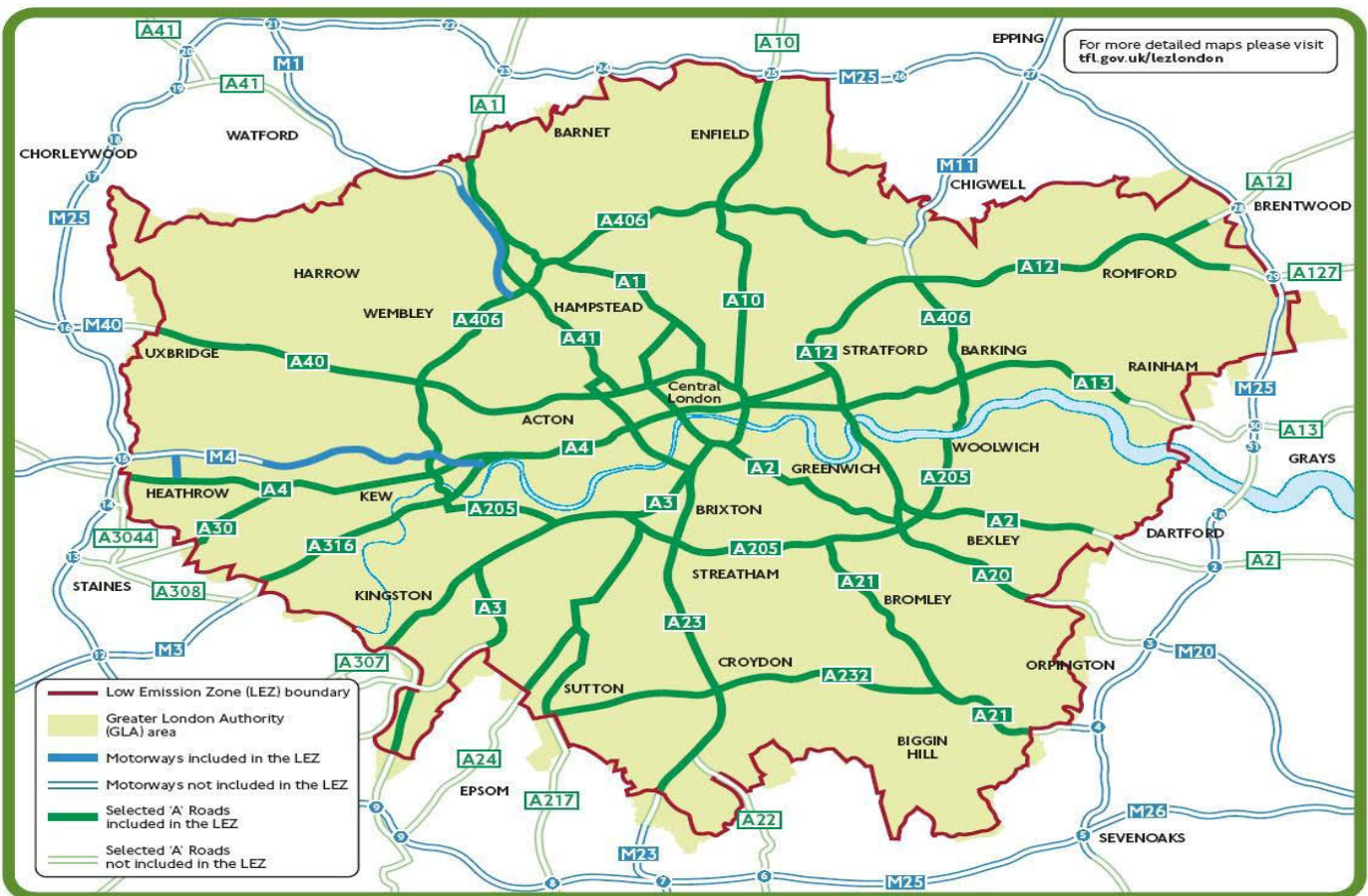
^ Only recorded up until July 2007



Appendix Three Congestion Charging Area



Low Emission Zone Area



Road User Charging Adjudicators

Parking and Traffic Appeals Service

Upper Ground Floor

Block 2

Angel Square

London

EC1V 1NY



Telephone: 020 7520 7200

Fax: 01932 578493

Minicom: 020 7520 7205

DX: DX 155080 Chertsey 7

Web site: www.patas.gov.uk

