

**Annual Report
2007-08**



Transport
for London

**Low
emission**



ZONE

Road User  Charging Adjudicators

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.**

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Chief Adjudicator's foreword

I am pleased to present to the Secretary of State the fifth Joint Report of the Road User Charging Adjudicators (RUCA) for the year 2007-08.

The one important change this year has been the introduction of the Low Emission Zone (LEZ). Phase 1 went live in Greater London on 4 February 2008 and affected heavy diesel-engine vehicles exceeding 12 tonnes Gross Vehicle Weight (GVW), including goods vehicles, motor caravans, motorised horseboxes and other specialist vehicles.

Transport for London have adopted a very tolerant approach to the introduction of this charge and where there has been a first contravention time has been given to make the vehicle emission compliant.

The result of this is that to date there have been no appeals to RUCA in relation to the Low Emission Zone, although we expect this situation to change in future.

The second phase of the LEZ was introduced on 7 July 2008 and will affect lighter lorries.



These are defined as heavy, diesel-engine vehicles, between 3.5 and 12 tonnes Gross Vehicle Weight, including goods vehicles, motor caravans, motorised horseboxes and other specialist vehicles. Also affected will be diesel-engine passenger vehicles with more than eight seats plus the driver's seat exceeding 5 tonnes Gross Vehicle Weight.

The adjudicators have all received extensive training about the LEZ and are ready to undertake their first appeals.

This year has seen the level of appeals settle at about 1,000 appeals coming in per month resulting in on average 42.12% not contested by Transport for London and 57.88% contested and going before an Adjudicator for determination. As a result the volume of work has dropped considerably.

Generally there are considerably fewer personal appeals but where appellants have chosen to attend the appeals are considerably longer than they originally were. This may be because most personal appeals go to the core of the regulations and are generally brought by

appellants who do not believe the congestion charge is a legitimate measure.

This year saw the reappointment of the first adjudicators reminding us all that the service has been in existence for five years. It seems like yesterday when we were all in that new world of the Congestion Charge and every day there was an item in the news or on the radio and TV about it. Now it appears to have become part of everyday life in London.

As chief adjudicator I attended in March this year, with other tribunal leaders, a course at Northampton run by the Judicial Studies Board. The main themes of the course were management challenges, managing change, management style and leadership. The most useful part of the course to me was to realise that all tribunals had the same fundamental problems and nobody had the perfect solution.

On 10 March 2008 the tribunal also ran an extremely successful training day with adjudicators being able to attend different workshops in the morning relating to diverse issues regarding the Congestion Charge scheme. The afternoon was then devoted to intensive training on the impending Low Emission Zone. The feedback from this training day was extremely good.

The most significant change this coming year will be that we are moving to new premises in central London. We are moving in 2009 but to where has not been determined as yet. However, the most important criteria in deciding where we move is that the location must be convenient to parties who wish to attend hearings.

Finally I would like to thank those adjudicators and colleagues who have been very supportive throughout the year and without whose continuing loyalty and support this would not be a most enjoyable job.

As we move into a new administration in London there may be changes ahead but I am confident my colleagues and I are prepared to meet each and every new challenge to our tribunal service.

Ingrid Persadsingh
Chief Adjudicator

Recommendations

There have been recent cases which have come before Adjudicators where Transport for London has been rigidly applying the provisions of Paragraph 3 to Annex 3 of the Consolidated Scheme Order, which states:

(1) An individual who is a qualified resident in relation to a resident's vehicle shall be entitled to purchase a licence for that vehicle in accordance with the following provisions of this paragraph.

(2) A licence may be purchased under this paragraph for –

(a) a period of 5 or 20 consecutive charging days, provided that in either case the last day of the period does not fall after the last day of the registration period for the vehicle; or

(b) a period of consecutive charging days expiring on the last charging day of the registration period for the vehicle.

(3) The charge for a licence for a resident's vehicle purchased under this paragraph for a period specified in column (2) of an item in the table shall be the amount specified in column (3) of the item.

(4) At no time may licences purchased by virtue of this paragraph be in force for more than one resident's vehicle for the same charging day, in relation to the same qualified resident.

In a number of cases qualified residents, whose registration for being able to purchase a discounted charge is about to expire, have applied to renew their registration. In the interim period, they have been paying for their discounted licences, for which at least one day overlaps the term of their existing registration. For example their registration expires on 12 April 2008. They purchase a month's discounted charge on 1 April 2008 which therefore extends up to and beyond the registration expiry date. Even when the renewed registration is ultimately successful and runs immediately consecutively without a day's break- Transport for London nevertheless refunds the balance of the overlapping payment to the resident in accordance with the provisions of paragraph 3(2)(a).

Appellants have stated that they were unaware of this taking place or presumed that it was an error by Transport for London and have, as a consequence, incurred penalty charge(s).

At first it could appear that residents are being forced to pay twice for the licence of charges but Transport for London have argued that the refund eliminates this and that in effect residents only have to pay once, at the discounted rate if the registration is renewed and at the standard rate if it is not.

It would appear that as soon as the resident makes a payment, which straddles two registration periods Transport for London writes to the resident and refunds the balance of their payment for those paid days after the existing registration expiry date. In some cases there has only been one day's overlapping and by the time

(1) Item No.	(2) Period	(3) Amount of charge
1.	5 consecutive charging days	£4
2.	20 consecutive charging days	£16
3.	Period of consecutive charging days expiring on the last charging day of the registration period of the vehicle	An amount equal to £0.80 multiplied by the number of charging days in the period

the appellant receives the refund of 80p he has already incurred a penalty charge of £120.00 if he has used his vehicle since the new registration period began (an example of this occurred in appeal 9080024987).

Where there has been a successful consecutive renewal of registration, this would appear to be an unjust and an unfair application of paragraph 3.

It has to be said, however, that a resident cannot assume a successful renewal and that by paying for days in advance they are assuming their application will be renewed, which, of course, it may not be. So each case must be dealt with on its merits. The resident registered keeper is ultimately responsible for paying in the time and manner required by the scheme and thus if he makes a discounted payment before he is notified of renewal and some of the payment dates are for after the original registration expiry, he is running a risk.

- It is our recommendation that TfL should alter their practice in relation to the application of paragraph 3 of Annex 3 of the Scheme Order.
- It is our recommendation that TfL should amend the wording of the section of the residents' discount application form which also allows for payment of the Congestion Charge to be made at the same time. The form currently gives the impression that customers may authorise the regular deduction of payments from bank or credit card accounts, not merely the payment of a single weekly, monthly or annual charge. The current wording is misleading and has caused numerous customers to misunderstand the situation and believe that they have given authority for regular payments to be deducted by TfL. This issue is one which has been brought to TfL's attention in a number of adjudicators' decisions but which TfL has not responded to.



The Road User Charging Adjudicators

as at 1 April 2008

Mercy Akman

Jane Anderson

Ian Coutts

Gordon Cropper

Jane Cryer

Leslie Cuthbert

Fiona Dickie

George Dodd

Tony Edie

Gillian Ekins

Anthony Engel

Andrew Harman

Angela Black Hedegard

Fiona Henderson

Anitra Hussein

Ian Keates

Graham Keating

Maggie Kennedy

Sanjay Lal

John Lane

Francis Lloyd

Maura Lynch

Joanna Lyons

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

Martyn Waygood

Christopher Woolley



Procedural issues

The forms for Road User Charging appeals have been altered to take into account the new Low Emission Zone. Several amendments were made to the Notice of Appeal forms in relation to Road User Charging penalties to ensure consistency and accuracy since the same forms will be used for both Congestion Charging and Low Emission Zone appeals.

There were also certain alterations required to the information technology system to prepare for Low Emission Zone appeals and these were fully tested prior to 4 February 2008.



Recent developments

As of 10 December 2007 there was an increase in the amount of penalty charges in relation to the Congestion Charge. These were as follows:

- Penalty Charge with discount increased from £50 to £60.
- Penalty Charge without discount increased from £100 to £120.
- Charge Certificate surcharge increased from £150 to £180.
- Clamping Charge increased from £65 to £70.
- Vehicle Removal Charge increased from £150 to £200.
- Storage Charge (per 24 hours) increased from £25 to £40.
- Disposal Charge for vehicle which has been removed increased from £60 to £70.

The Low Emission Zone (LEZ)

What is the LEZ?

It is a geographically defined area designed to discourage the most individually polluting vehicles from being driven in London. (A map is provided at the end of this annual report)

The scheme requires the heaviest diesel-engine vehicles to meet strict emissions standards to drive within London and operates 24 hours a day, 365 days per year. The LEZ does not ban vehicles from London but rather requires non-compliant vehicles to pay a charge

How will the LEZ operate?

- The LEZ is a charging scheme – but most people will avoid paying the charge by driving a compliant vehicle.
- There will be signs at entry points and in the zone itself

- Vehicles which are subject to the LEZ are detected using fixed and mobile cameras
- TfL checks a vehicle's registration against a register of compliant vehicles
- Non compliant vehicles have to pay a daily charge – £200 per day for HGV, buses and coaches
- The Charging day is midnight to midnight, 365 days a year
- Payment can be made by phone or via the internet, up to the next day after entering the zone
- Vehicles which are non compliant, or which are not on the register will be sent a Daily Penalty Charge Notice: – £1000 (reduced to £500 if paid within 14 days) for HGVs, buses & coaches

Visit to Capita, Coventry

In preparation for the introduction of the LEZ the Chief Adjudicator attended Capita's centre in Coventry in November 2007. This visit was to learn about the processes which were being put in place to handle the representations and appeals that were expected to be received in regards to the implementation of the LEZ.

Capita confirmed that approximately 100 vehicles per week were being registered onto the Low Emissions Zone register.

The LEZ publicity has had various phases including a campaign across the European Union as well as Great Britain which included translating the leaflet which outlines the working of the LEZ into 22 different languages.






Customer Service Representatives (CSRs) are able to provide a 3 way translation service in relation to calls to Transport for London's (TfL's) Call Centre. These calls are recorded in the same way as all calls received and similarly are subject to random quality assurance sampling. As at November 2007 TfL's Call Centre were receiving approximately 200 calls per day in relation to the LEZ.

Unlike the Congestion Charge scheme, cameras are not at all entrance and exit points to the LEZ but rather there will be a mix of static and mobile cameras all over the zone which will capture relevant vehicles in motion.

If someone applies to register their vehicle but there is no need for the vehicle to be registered, as it is already compliant with the relevant emissions standards, then TfL will nevertheless register the vehicle anyway to prevent any confusion that might come from 'rejecting' the application.

As with Congestion Charging the CSRs have a 'Zone Checker' which allows them to enter a postcode to see whether or not the location is within the LEZ.

Stages in the introduction of the Low Emission Zone

Vehicle type definitions	Date affected	Required emissions standards
 <p>Heavier lorries: Heavy diesel-engined vehicles exceeding 12 tonnes Gross Vehicle Weight, including goods vehicles, motor caravans, motorised horseboxes and other specialist vehicles.</p>	<p>4 February 2008 Euro III</p>	<p>All Euro III vehicles meet the LEZ standard. From 4 February 2008 the LEZ emissions standard is Euro III for PM. Vehicles first registered as new with the DVLA on or after 1 October 2001 are assumed to be Euro III, so will meet the LEZ emissions standards. Vehicles not meeting the emissions standard could be made to do so by modifying them to meet the Euro III standard for particulate matter. Vehicles not meeting the emissions standards would need to pay a daily charge if used within the LEZ.</p>
 <p>Lighter lorries: Heavy diesel-engined vehicles between 3.5 and 12 tonnes Gross Vehicle Weight, including goods vehicles, motor caravans, motorised horseboxes and other specialist vehicles.</p>	<p>3 January 2012 Euro IV</p>	
 <p>Buses and coaches: Diesel-engined passenger vehicles with more than eight seats plus the driver's seat exceeding 5 tonnes Gross Vehicle Weight.</p>	<p>7 July 2008 Euro III</p>	<p>From January 2012 the required emissions standards are raised to Euro IV. All Euro IV vehicles will meet the LEZ standard. Vehicles first registered as new with the DVLA on or after 1 October 2006 are assumed to be Euro IV, so will meet the LEZ emissions standards. Vehicles not meeting the emissions standards could be made to do so by modifying them to meet the Euro III standard for particulate matter. Vehicles not meeting the emissions standards would need to pay a daily charge if used within the LEZ.</p>
 <p>Large vans: Diesel-engined vehicles between 1.205 tonnes unladen and 3.5 tonnes Gross Vehicle Weight and motor caravans and ambulances between 2.5 tonnes and 3.5 tonnes Gross Vehicle Weight.</p>	<p>3 January 2012 Euro IV</p>	<p>All Euro III vehicles will meet the LEZ standard. Vehicles registered as new with the DVLA on or after 1 January 2002 are assumed to be Euro III, so will meet the emissions standards. Vehicles not meeting the emissions standards could be made to do so by modifying them to meet the Euro III standard for particulate matter. Vehicles not meeting the emissions standards would need to pay a daily charge if used within the LEZ.</p>
 <p>Minibuses: Diesel-engined passenger vehicles with more than eight seats plus the driver's seat below 5 tonnes Gross Vehicle Weight.</p>	<p>4 October 2010 Euro IV</p>	<p>All Euro III vehicles will meet the LEZ standard. Vehicles registered as new with the DVLA on or after 1 January 2002 are assumed to be Euro III, so will meet the emissions standards. Vehicles not meeting the emissions standards could be made to do so by modifying them to meet the Euro III standard for particulate matter. Vehicles not meeting the emissions standards would need to pay a daily charge if used within the LEZ.</p>

Current Statistics in relation to the Low Emission Zone as at 7 July 2008

Transport for London had Issued 6271 PCNs to UK registered vehicles

Of these PCNs issued TfL had received representations against 4311 PCNs

Of the representations received 4040 were accepted and the penalty charge notices were cancelled

Transport for London have rejected representation against 220 PCNs



Future developments

Emissions Related Congestion Charging

Between 10 August and 19 October 2007, Transport for London ran a public consultation on Emissions Related Congestion Charging with proposals to charge cars with the highest greenhouse gas emissions £25 to drive in the existing Central London Congestion Charging Zone, whereas vehicles with the lowest emissions would be eligible for use within the existing Congestion Charge Zone without charge, qualifying for a 100 per cent discount.

Following his election the new Mayor of London, Boris Johnson, ended proposals for introducing this CO₂ Charge.

This means there will be no increase in charge for drivers of vehicles emitting 226 g/km and above of CO₂ (VED Band G and some equivalent Band F vehicles) from October 2008.

The 100 per cent discount for vehicles emitting up to 120g/km of CO₂ (VED Band A and B vehicles) has also been removed. In addition, there will be no change for residents registered for the 90 per cent discount with these types of vehicles.

The decision by the Mayor means the discount for alternative fuel vehicles will remain in place and the existing Congestion Charge scheme will not be affected. The hours of operation are still Monday-Friday 07:00-18:00, excluding Bank Holidays.



Judicial review applications

R (on the application of Ismaila Jabang v (1) Transport for London and (2) The Parking and Traffic Appeals Service [2007]

Judicial Review – human rights

In January 2008 the High Court refused permission to Mr Jabang to apply for a Judicial Review of the decision of the Adjudicator.

The background to the application was that on 3 April 2007, the Appellant's vehicle was used on a road within the Central London Congestion Charge Zone at a time when a licence ("a Congestion Charge") was required in respect of the use of that vehicle in the Congestion Charge Zone.

Transport for London issued a Penalty Charge Notice and the Claimant in turn made representations to Transport for London against the issue of the Penalty Charge Notice. Transport for London rejected the Claimant's representations and the Claimant in turn filed with The Parking and Traffic Appeals Service a Notice of Appeal requesting a personal hearing before a Road User Charging Adjudicator.

The Parking and Traffic Appeals Service wrote to the Claimant on a number of occasions offering him a personal hearing date and agreeing to adjournments he requested of this date due to his alleged ill-health. On the third occasion the Appellant sought to adjourn his personal hearing the Adjudicator refused the Claimant's application noting that no evidence had ever been provided from the Claimant's doctor to support his assertion of ill-health. The Adjudicator had regard to the delay in the proceedings, the nature of the Claimant's case and that all evidence had already been

filed by both parties. The Adjudicator proceeded to determine the appeal on the papers and on the evidence provided by both parties. The Adjudicator refused the appeal giving reasons and a copy of his determination was sent to both parties.

The Claimant sought a Review of the Adjudicator's decision on the ground that he failed to appear at the hearing due to illness. No details or evidence of the illness was provided. The Claimant's Application for Review was scheduled for a personal hearing before another Adjudicator and again the Appellant sought an adjournment of this hearing and of the adjourned hearing. At the third personal review hearing the Claimant did not attend and the application was stayed for 7 days during which time a letter from the Claimant requesting a further adjournment was received by the Parking and Traffic Appeals Service.

A different Road User Charging Adjudicator, refused the Claimant's third application to adjourn the hearing of his Application for Review, the sixth adjournment request in total. The Claimant's application for review was refused and the decision to refuse the Claimant's appeal was upheld.



In his application for judicial review the Claimant asserted that his right to a fair trial under Article 6 of the European Convention on Human Rights had been infringed.

In refusing permission to apply for Judicial Review HHJ Mackie QC, sitting as a Deputy High Court Judge, held:

"The Claimant's grievance was properly and fairly considered by the Defendant [TfL] and by the independent appeal body PATAS. His ECHR rights have not been infringed".



**Zone
ENDS**

Useful information

The Structure of the Road User Charging Adjudicators' Tribunal

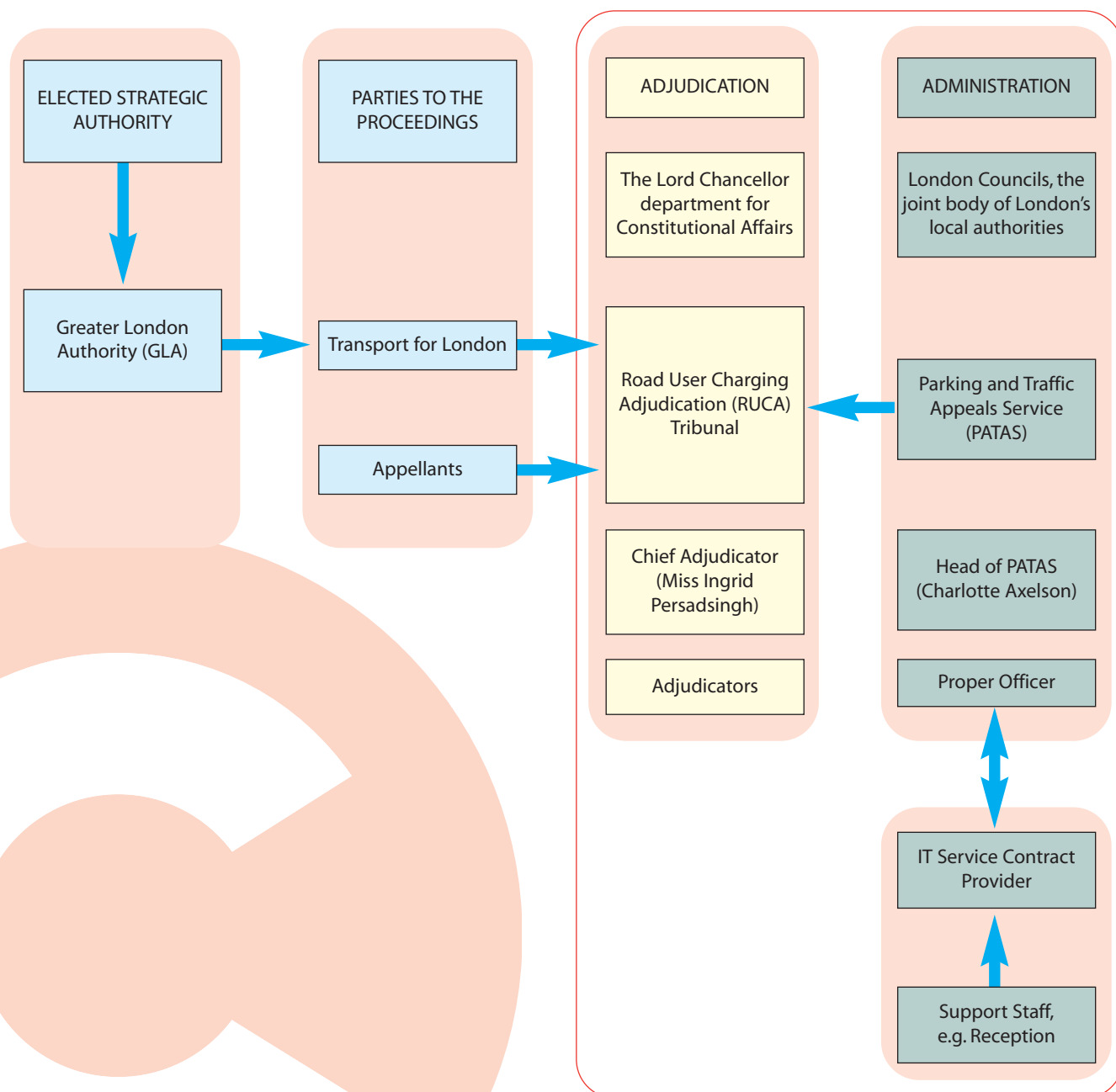
What is 'RUCAT'?

'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 is the organisation which provides administrative support to the road user charging and parking and traffic adjudicators. Under the 1991 Road Traffic Act and the 2004 Traffic Management Act, London Councils is required to provide this service for the parking and traffic adjudicators, and provides the service for the road user charging adjudicators under contract to the GLA.

The following diagram explains the structure of RUCAT and PATAS:



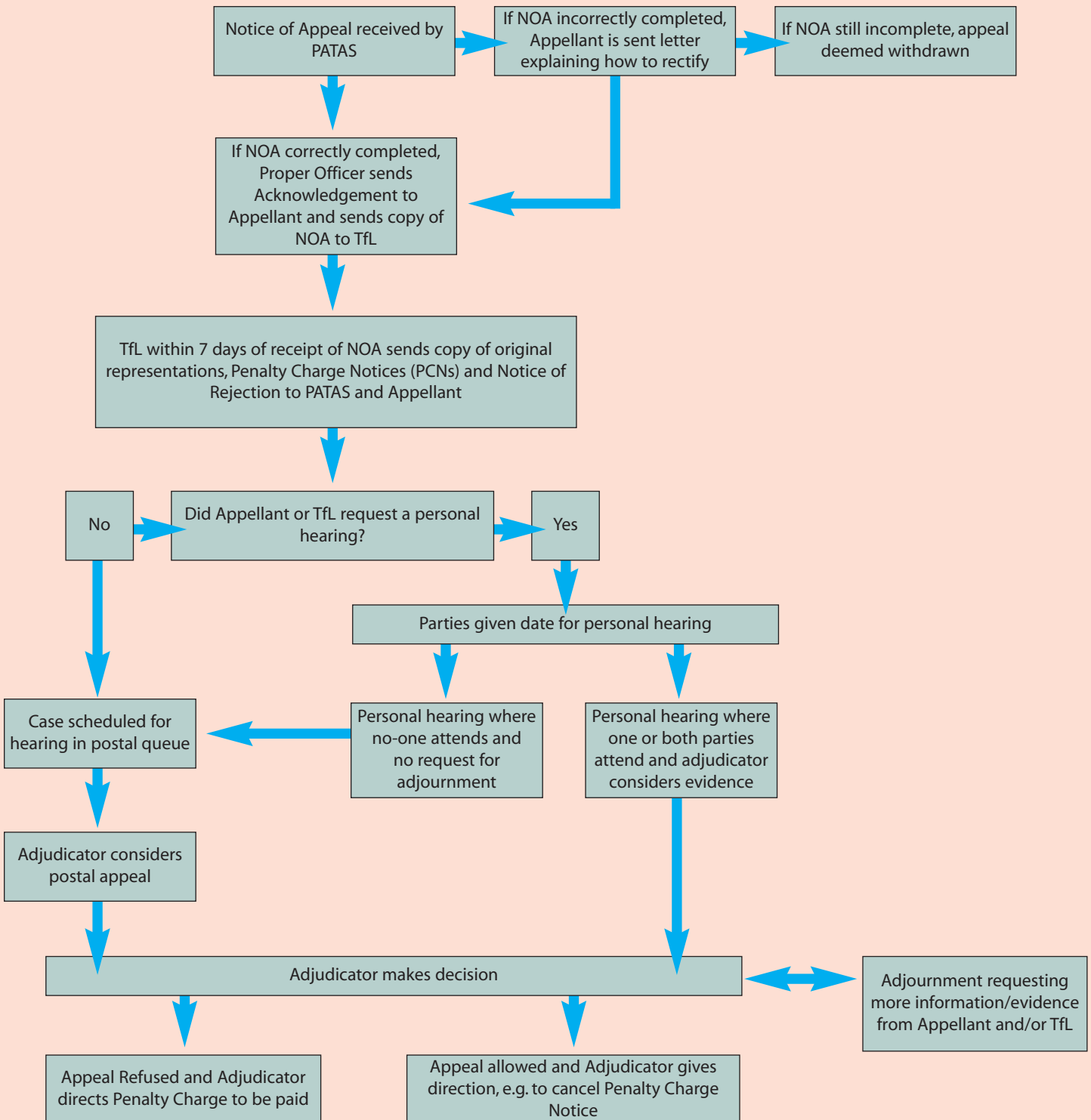
What is an appeal?

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 Penalty Charge Notice 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 a Notice of Appeal is received by PATAS.



Information about the Adjudicator

What qualifications do Adjudicators have?

All Road User Charging Adjudicators must be a qualified lawyer (a Solicitor or Barrister) and have been qualified for 5 or more years. They are independent of Transport for London and will reach an objective decision based upon the evidence presented to them and applying the relevant law.

Who appoints Adjudicators?

All Road User Charging Adjudicators are appointed by the Lord Chancellor/the Department for Constitutional Affairs.

Who pays Adjudicators?

London Councils pays Adjudicators on a monthly basis. The funds are provided by the Greater London Authority as required by Regulation 4 of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 as amended.

Are Road User Charging Adjudicators independent?

Yes. All persons appointed as Adjudicators by the Department for Constitutional Affairs were judged to satisfy the competencies and have the abilities listed below:

- integrity and independence,
- fairness and impartiality,
- have an understanding of people and society,
- have maturity and be of sound temperament,
- be courteous, committed, conscientious and diligent.
- intellectual and analytical ability,
- sound judgment,
- decisiveness,
- communication and listening skills,
- authority and case management skills.

Transport for London has no say in the appointment of Adjudicators, neither can they remove them from office.

How does the European Convention on Human Rights/the Human Rights Act 1998 apply to appeals before a Road User Charging Adjudicator?

Following the implementation of the Human Rights Act 1998 into UK Law, all public authorities must act in accordance with the European Convention on Human Rights and all laws must be read in conjunction with the European Convention on Human Rights. An Adjudicator, however, does not have power to declare a law passed by Parliament as incompatible with the European Convention. This power resides with High Court Judges.

Explanation of the 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 an Adjudicator to prove that:

- 1) A relevant vehicle,
- 2) was used or kept within the Congestion Charge 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 the vehicle was not subject to an exemption.

If Transport for London fails to do this then the Adjudicator will not be satisfied that a contravention has occurred and therefore that a valid Penalty Charge has been created.

If Transport for London does produce sufficient evidence, however, the onus shifts on to the Appellant to satisfy the Adjudicator that one of the 6 statutory grounds of appeal exists. This Appellant must satisfy the Adjudicator that

'on the balance of probabilities' one of the appeal grounds is present.

Ground 1:

I was not the person liable at the time of the contravention

This relates to Regulation 13 (3) (a) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

There are 4 possible scenarios that qualify under this heading:

- (i) That the Appellant was never the registered keeper in relation to the vehicle in question;

In order to succeed under this heading, an Appellant would need to produce evidence to demonstrate that their details may have been recorded incorrectly by the DVLA.

- (ii) That the Appellant 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;

In order to succeed under this heading, it would not be enough to state that the vehicle had been sold prior to the date of contravention. In addition the Appellant would need to provide evidence of when they notified the DVLA that they had sold their vehicle.

- (iii) That the Appellant became the person liable after that date;

In order to succeed under this heading, the Appellant would need to provide evidence of when they purchased the vehicle.

- (iv) That the vehicle shown in the photograph is a 'cloned' or 'ringed' vehicle;

In order to succeed under this heading, the Appellant might provide evidence to show differences between their vehicle and the vehicle shown in the photographs produced in evidence by

Transport for London, a police crime report number or evidence from DVLA. Alternatively the Appellant would need to produce evidence to show that their vehicle was not within the Congestion Charge Zone or the Low Emission Zone at the time and date shown by the photographs.

Ground 2:

The charge has already been paid

This relates to Regulation 13 (3) (b) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

This ground of appeal actually requires that a 'licence' (a "Congestion Charge") is purchased in the time and manner required under the Scheme. What this now means in practice is that the penalty must be paid prior to midnight following the date of travel, albeit that the actual Congestion Charge amount alters slightly depending upon when the Congestion Charge is purchased. Therefore attempting to purchase a Congestion Charge after this time will mean you are not purchasing a Congestion Charge in the 'time required under the Scheme'.

It also means that the road user must ensure that the Vehicle Registration Number is correct when purchasing a Congestion Charge and that the Congestion Charge has been purchased for the correct date of travel. If you the road user does not, then a Congestion Charge has not been purchased in the 'manner required under the Scheme'.

In order to succeed under this ground of appeal the road user would need to produce evidence of payment having been made to Transport for London and as far as possible demonstrating that this payment related both to the correct vehicle and to the alleged contravention date. Therefore bank statements alone will not necessarily be sufficient to satisfy an Adjudicator to find in an Appellant's favour. The best evidence is a receipt which confirms the date paid for and that the correct amount was paid although in certain circumstances if provided with full credit/debit card details, Transport for London may be able to trace the transaction.

Ground 3:

No penalty charge is payable under the charging scheme

This relates to Regulation 13 (3) (c) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

This includes cases where the provisions of the charging scheme do not impose a Penalty Charge e.g.:

- The vehicle was either not used or kept within the Congestion Charging Zone or Low Emission Zone during the designated hours;
- that at the time of use, the road user qualified for an exemption or a 100% discount from payment of the Congestion Charge;

Ground 4:

The vehicle was used without the registered keeper's consent

This relates to Regulation 13 (3) (d) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

This relates to cases where the vehicle has been driven without the consent of the registered keeper. It should be noted that a driver who was using the vehicle with the permission of the registered keeper but who had not obtained specific consent to use the vehicle in the Congestion Charge Zone would not be covered under this provision.

Normally the Adjudicator would require evidence to demonstrate that the vehicle had been used without the consent or authority of the registered keeper. Evidence may for example be in the form of a letter from the police confirming that the vehicle had been reported as having been stolen prior to the date of the alleged contravention.

Ground 5:

The penalty exceeded the relevant amount

This relates to Regulation 13 (3) (e) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

This is an often misunderstood ground of appeal. It does not concern itself with whether or not an Appellant considers that the increase from an £8.00 charge to purchase a Congestion Charge licence to a £100.00 penalty charge is a fair one. The amount of the Penalty Charge is set by law and an Adjudicator cannot order that an Appellant pay a penalty at anything other than the fixed amounts of either £100.00 or the discounted rate of £50.00 (if the Appellant made representations and appealed within the relevant time periods).

An example of when this ground of appeal would be applicable is where an Appellant entered the zone when the penalty amount was fixed at £80.00, for example in 2003, but when they received the Penalty Charge Notice it indicated that they must pay a penalty of £100.00.

Ground 6:

The registered keeper is a vehicle hire firm

This relates to Regulation 13 (3) (f) of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001.

Under this ground, this allows the registered keeper to transfer liability to the hirer if certain evidential points are proven. In the event that an appeal on this ground is successful the original Penalty Charge Notice is cancelled and Transport for London are entitled to reissue the Penalty Charge Notice directly to the hirer.

The registered keeper must establish all of the following:

- (i) that the registered keeper of the Penalty Charge Notice is a vehicle-hire firm;
- (ii) that the vehicle in question was at the material time (i.e. when the camera captured the vehicle within the zone) hired from that firm under a hiring agreement; and

- (iii) 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.

Therefore 'loan' cars and 'courtesy cars' from a garage in the ordinary course of events are not covered under the Congestion Charge scheme. In order to transfer liability to the hirer, the registered keeper of the vehicle would need to prove that a valid hire agreement was in force.

As the registered keeper must be a vehicle hire firm, Hire Purchase Agreements are excluded.

A 'hire agreement' is a document which needs to meet a number of conditions in order to qualify under the definition of a hiring agreement. These provisions come from Section 66(7) of the Road Traffic Offenders Act 1988 and Schedule 2 of The Road Traffic (Owner Liability) Regulations 2000.

Section 66 (7) applies to a hiring agreement under the terms of which the vehicle concerned is let to the hirer for a *fixed period of less than six months* at the outset, whether or not that period is capable of extension by agreement between the parties or otherwise.

This document must contain upon it a 'statement of liability' signed by the hirer indicating that they accept liability for any penalties in relation to the Congestion Charge scheme in relation to the vehicle during the period of the hire agreement.

Recorded upon the document must be the following particulars of the person signing the statement of liability:

1. Their full name.
2. Their date of birth.
3. Their permanent address.
4. Their address at the time of hiring (if different from 3 above and stay is likely to be more than two months from date of hiring).
5. The details of their driving licence:
 - (a) country where issued (if not UK),

- (b) serial number or driver's number,
- (c) date of expiry (which should be no later than date specified in B7 below).

(If the person taking possession of the vehicle is not the same as the person by or on whose behalf the statement was signed, the full name of that person should also be supplied (if known).)

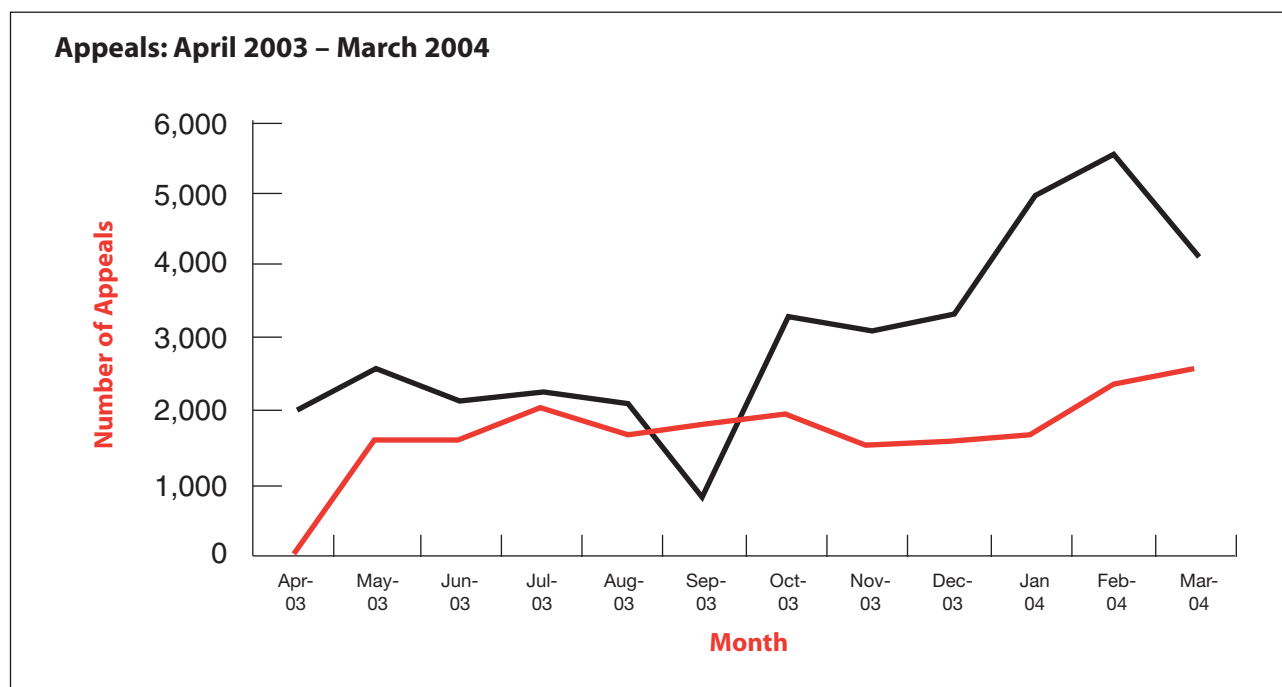
1. In addition the document needs to record the following particulars:
Registration mark of vehicle hired under the hiring agreement.
2. Make and model of vehicle hired under the hiring agreement.
3. Registration mark of any vehicle substituted for the above during the currency of the hiring agreement.
4. Make and model of any vehicle substituted for the above during the currency of the hiring agreement.
5. Time and date of any change of vehicle.
6. Time and date of commencement of original hiring period.
7. Expected time and date of expiry of original hiring period.
8. Time and date of commencement of authorised extension of hiring period.[†]
9. Expected time and date of expiry of authorised extension of hiring period.[†]
10. Actual time and date of return of vehicle (or when vehicle returned out of hours time and date on which vehicle-hire firm next opened for business).[†]

([†]These requirements applying only to the vehicle hire firm's copy of the hiring agreement.)

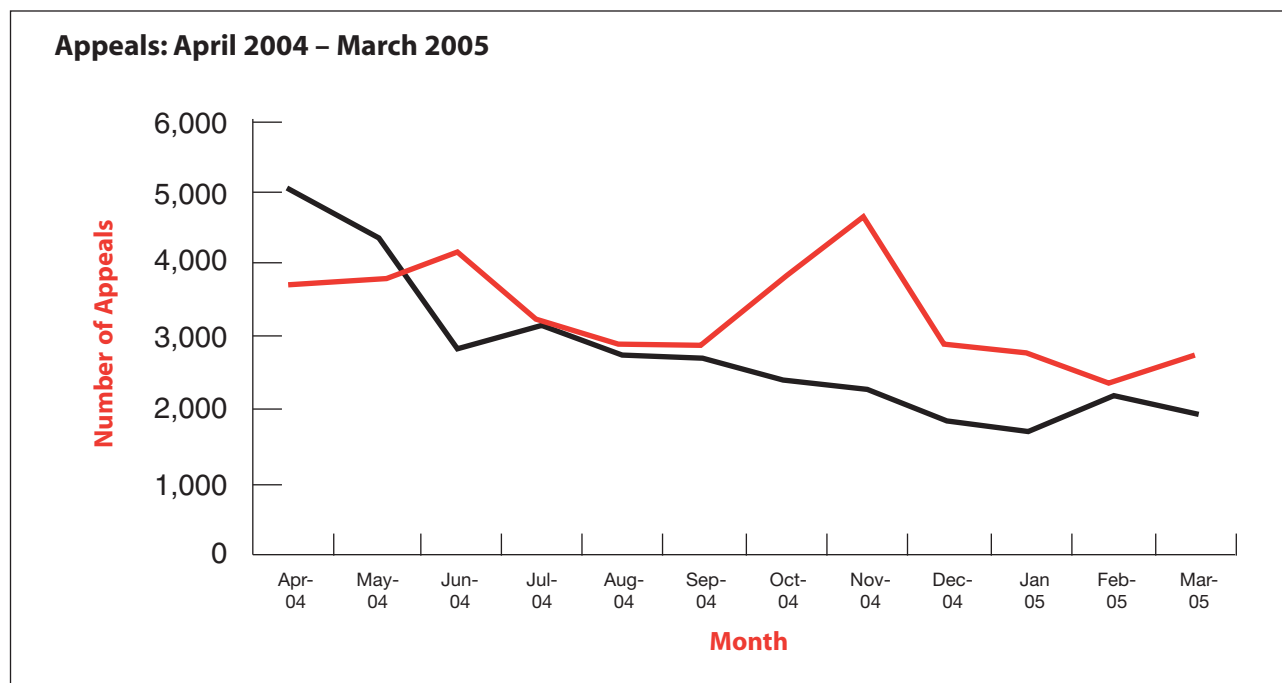
The Regulations are highly prescriptive and in the event that any single item is not recorded on the Hire Agreement, the Agreement will not be sufficient to transfer liability.

Annex 1

Appeals: April 2003 – March 2008

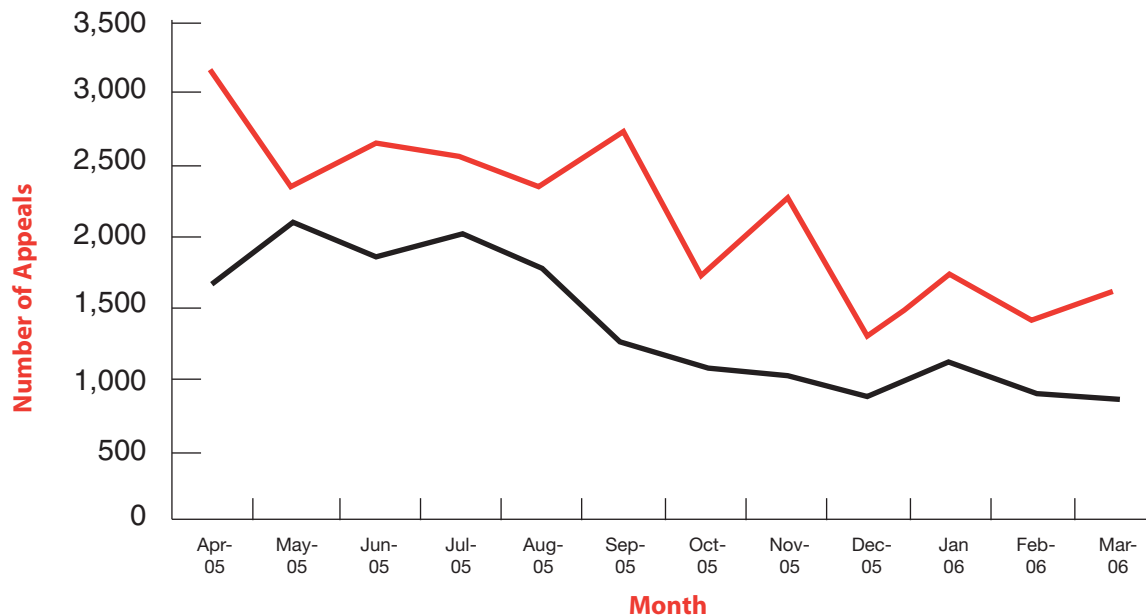


	Apr 03	May 03	Jun 03	Jul 03	Aug 03	Sep 03	Oct 03	Nov 03	Dec 03	Jan 04	Feb 04	Mar 04
Appeals Received	2056	2647	2211	2293	2130	813	3369	3126	3356	5006	5542	4156
Total Cases Closed	0	1628	1640	2090	1700	1816	1994	1558	1593	1694	2407	2615



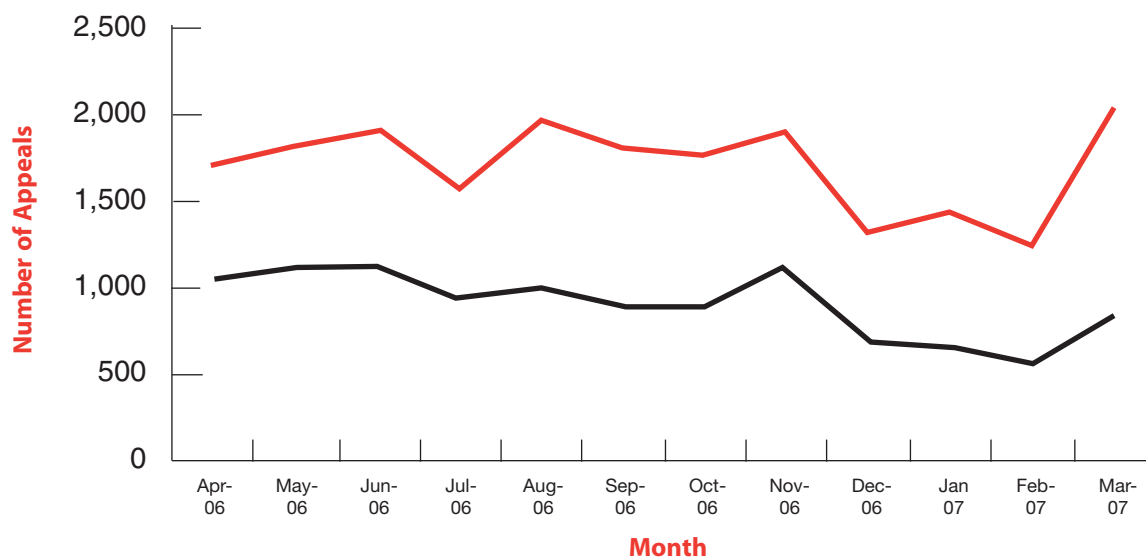
	Apr 04	May 04	Jun 04	Jul 04	Aug 04	Sep 04	Oct 04	Nov 04	Dec 04	Jan 05	Feb 05	Mar 05
Appeals Received	5140	4476	2938	3215	2783	2791	2487	2334	1918	1756	2220	2007
Total Cases Closed	3776	3831	4205	3244	2917	2914	3903	4728	2949	2807	2397	2786

Appeals: April 2005 – March 2006



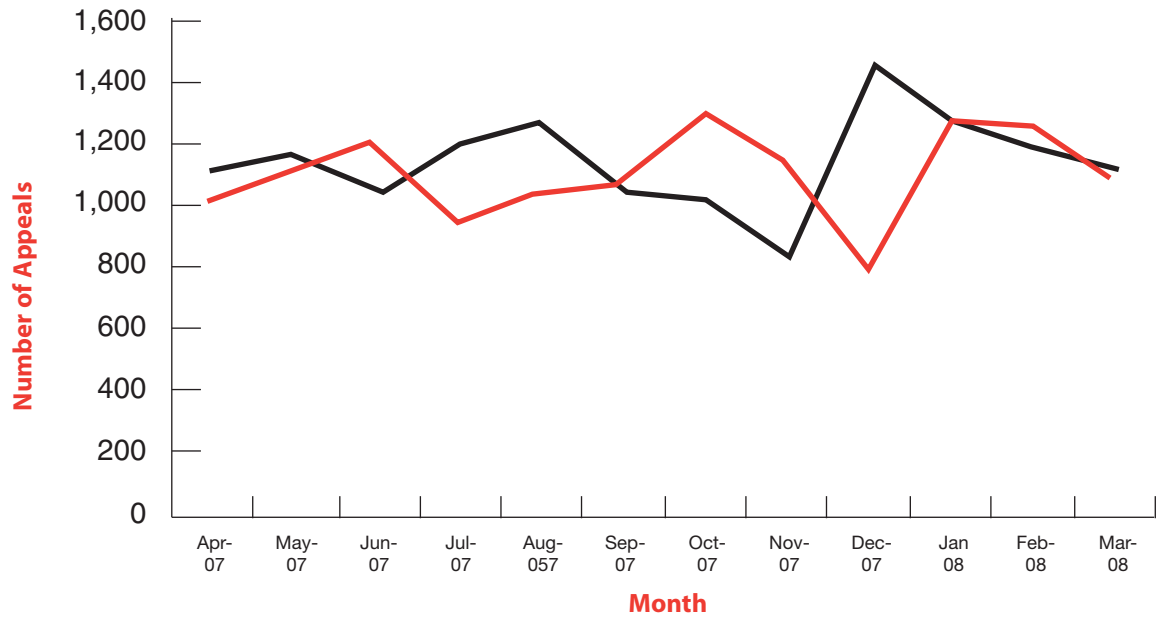
	Apr 05	May 05	Jun 05	Jul 05	Aug 05	Sep 05	Oct 05	Nov 05	Dec 05	Jan 06	Feb 06	Mar 06
Appeals Received	1674	2096	1866	1995	1787	1268	1078	1027	890	1097	923	882
Total Cases Closed	3165	2344	2639	2544	2342	2730	1716	2237	1298	1701	1393	1582

Appeals: April 2006 – March 2007



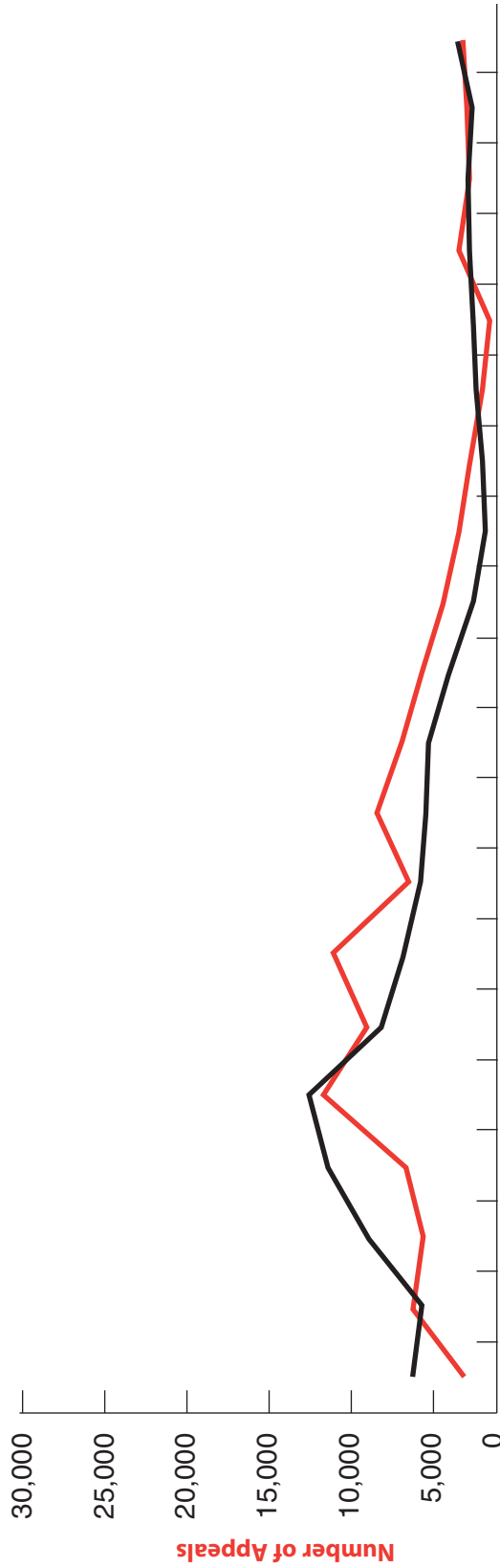
	Apr 06	May 06	Jun 06	Jul 06	Aug 06	Sep 06	Oct 06	Nov 06	Dec 06	Jan 07	Feb 07	Mar 07
Appeals Received	647	701	755	642	971	934	886	757	616	771	677	1190
Total Cases Closed	1063	1133	1156	950	1009	902	901	1139	720	675	582	856

Appeals: April 2007 – March 2008



	Apr 07	May 07	Jun 07	Jul 07	Aug 07	Sep 07	Oct 07	Nov 07	Dec 07	Jan 08	Feb 08	Mar 08
Appeals Received	1127	1173	1059	1212	1279	1054	1025	844	1461	1297	1208	1140
Total Cases Closed	1016	1084	1206	949	1035	1062	1305	1145	789	1291	1255	1090

Appeals: April 2003 – March 2008 (Quarterly)



Annex 2

Congestion charging statistics 2003 – 2008

	2003/4	2004/5	2005/6	2006/7	2007/8
Appeals received	42339	34065	16583	8054	13879
Statutory Declarations received	n/a	n/a	n/a	1493	1593
Total cases closed	24288	52776	25115	10985	13227
Appeals withdrawn by appellants	286	265	420	138	123
Appeals not contested by TfL	12922	13127	5084	2883	5571
Appeals refused postal (inc withdrawals)	4839	17699	13870	6179	5832
Appeals allowed postal (inc DNCs)	13537	14811	7121	3200	4584
Appeals refused personal (inc withdrawals)	745	1558	1436	505	758
Appeals allowed personal (inc DNCs)	4508	4988	2522	1060	2034
Closed administratively	659	328	166	41	19
Appeals adjourned	1518	6085	3399	1608	836
Review decisions	121	349	743	181	136
Costs decisions	10	140	153	12	17
Postal cases ready for adjudication at end of year	9383	7528	2004	306	340

	2003/4	2004/5	2005/6	2006/7	2007/8
% withdrawn by appellants	1.18%	0.50%	1.75%	1.14%	0.93%
% not contested by TfL	53.20%	24.87%	20.13%	27.28%	42.12%
% refused postal	19.92%	33.54%	55.31%	54.95%	44.09%
% allowed postal	55.74%	28.06%	27.38%	30.01%	34.66%
% refused personal	3.07%	2.95%	5.51%	4.50%	5.73%
% allowed personal	18.56%	9.45%	9.65%	10.24%	15.38%
% closed administratively	2.71%	0.62%	0.64%	0.36%	0.14%
% of cases allowed	74.30%	37.52%	57.16%	40.25%	50.03%

	2003/4	2004/5	2005/6	2006/7	2007/8
Average postal hearing (mins)	20.30	22.66	35.96	43.79	53.91
Average personal hearing (mins)	22.99	35.15	50.72	60.13	77.86
% of cases 1st considered within 56 days	24.37%	34.88%	34.47%	49.36%	84.43%
Average days delay*	88	212	205	80	
% hearings commenced within 15 mins	75.92%	84.17%	69.13%	76.42%	74.83%

Summary of decisions by ground of appeal (allowed)	2003/4	2004/5	2005/6	2006/7	2007/8
Appellant not registered keeper	440	995	307	131	96
Charge has already been paid	1902	3014	1194	387	328
No charge is payable under the scheme	2284	2359	1472	518	487
Vehicle hire firm	255	798	1026	174	71
Penalty exceeded relevant amount	175	520	374	180	52
Vehicle used without appellant's consent	28	42	48	56	40

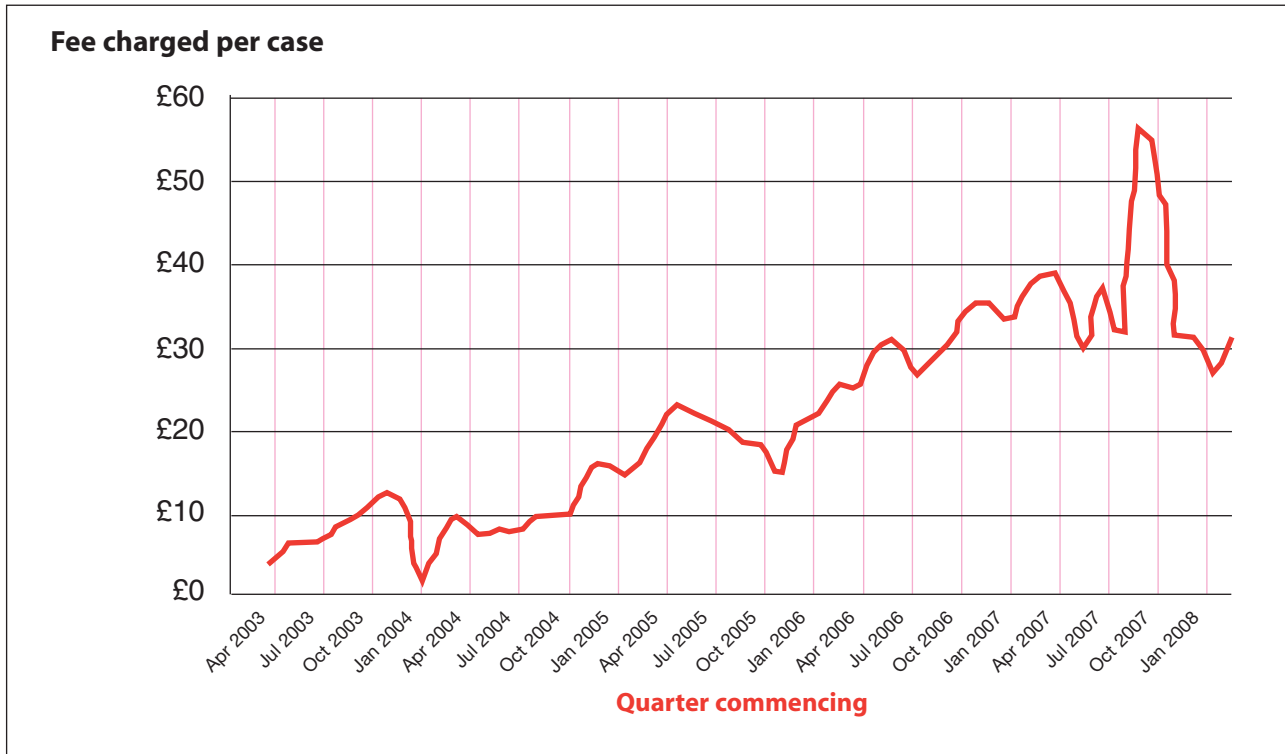
Summary of decisions by ground of appeal (refused)	2003/4	2004/5	2005/6	2006/7	2007/8
Appellant not registered keeper	346	1421	405	389	409
Charge has already been paid	1495	4463	2036	1148	1229
No charge is payable under the scheme	1787	5288	3679	2354	2609
Vehicle hire firm	1619	6840	9326	1899	1202
Penalty exceeded relevant amount	415	1270	1062	1064	1163
Vehicle used without appellant's consent	42	159	193	113	176

NB Commentary – These statistics need to be considered as a whole and it is not possible to simply examine set statistics on an annual basis. For example in relation to the number of appeals received and the number of cases closed the figures are not identical as the some appeals determined in 2005/6 would be appeals which were originally received in 2004/5 or even earlier.

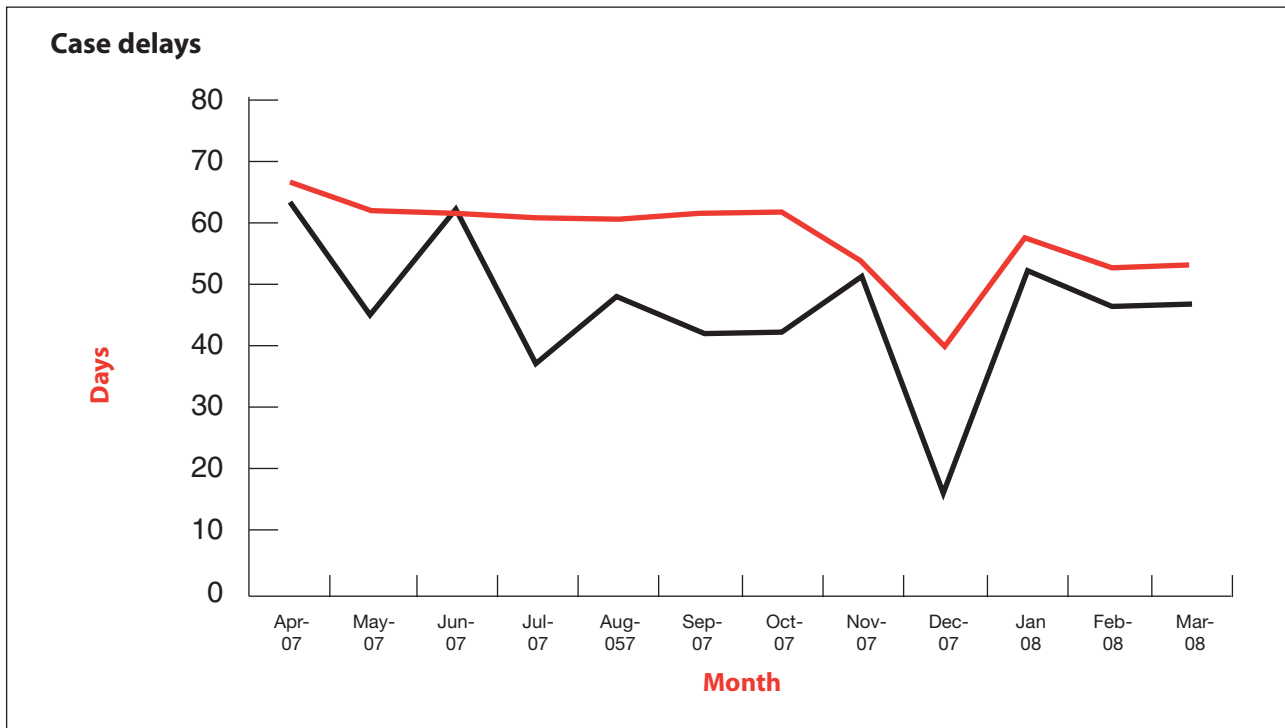
* The way in which this figure is calculated changed in October 2006.

Annex 3

Road User Charging Adjudicator Tribunal Fees charged against cases closed April 2003 - March 2008



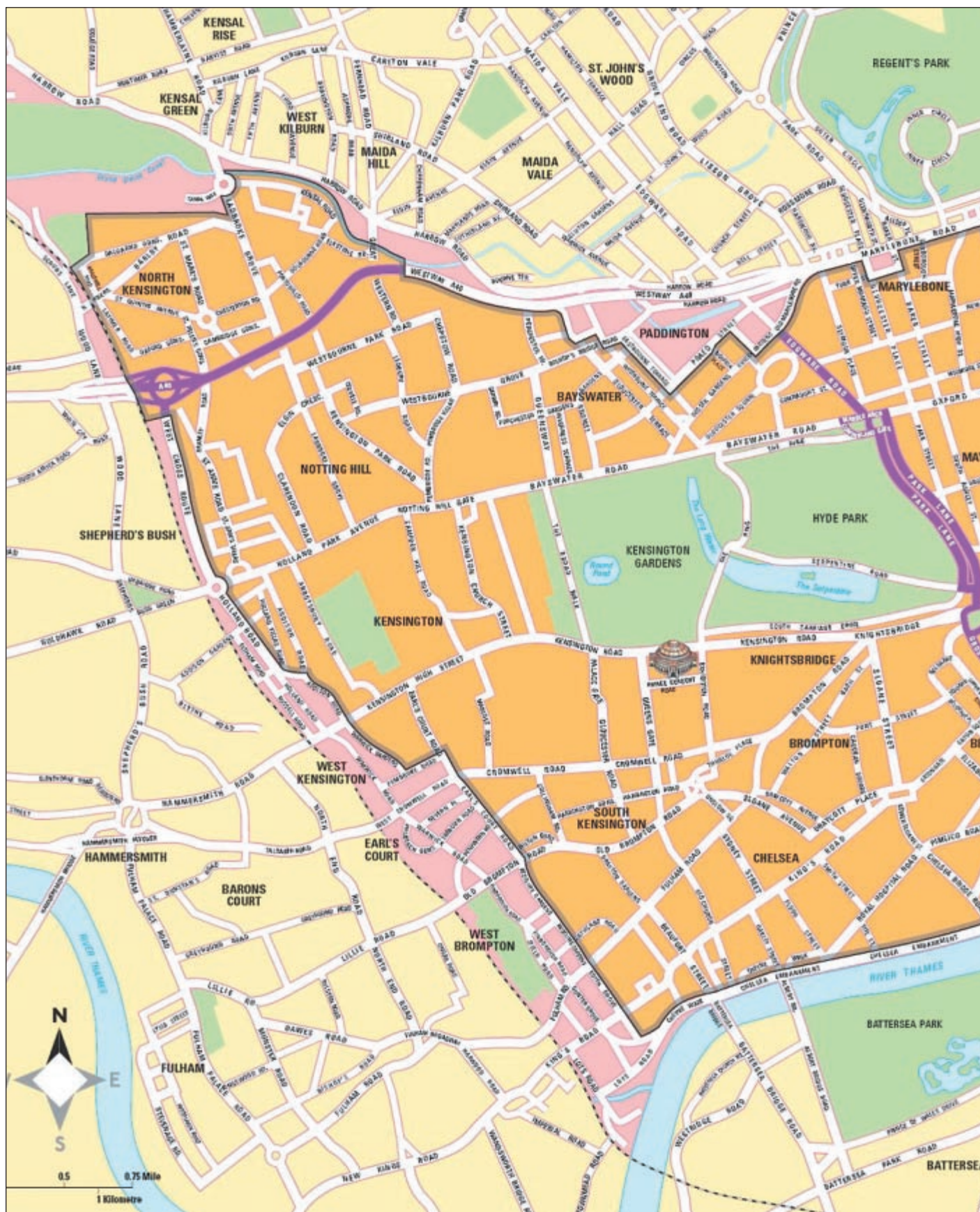
Road User Charging Adjudicator Tribunal Case delays April 2007 - March 2008



	Apr 07	May 07	Jun 07	Jul 07	Aug 07	Sep 07	Oct 07	Nov 07	Dec 07	Jan 08	Feb 08	Mar 08
Personal	63.8	46	61.5	38.25	49.2	41.2	41.25	50.25	17.5	51	47.25	47.4
Postal	67.4	62.5	62	60.75	60.2	61.8	61.5	53.75	40	58.25	52.75	53.8

Annex 4

Map of the Extended Central London Congestion Charging Zone







Annual Report 2007-08

Road User Charging Adjudicators

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Web site: **www.parkingandtrafficappeals.gov.uk**

Email: **patas.team@patas.gov.uk**