

PARKING AND TRAFFIC APPEALS
SERVICE

ANNUAL REPORT
2014-2015

The annual report of the Parking and Traffic Appeals Adjudicators to the Transport and Environment Committee of London Councils.

Parking and Traffic Appeal Adjudicators
Parking and Traffic Appeals Service

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CHIEF ADJUCATOR'S FOREWORD

This year the London Adjudicators determined over 54,000 appeals and witness statement referrals in what has proved to be another busy year. Full particulars of the different areas of work that make up the adjudicators' caseload can be found in this report (see workload page 9) and all adjudicators' decisions can be viewed on our statutory register. The number of appeals registered still represents only a very small percentage of penalty charge notices issued by the London enforcement authorities and the reduction in appeals mirrors the reduction in tickets issued in London. The reduced number of penalties issued may reflect greater compliance with or understanding of parking restrictions, however the more likely explanation is that it is the Enforcement Authorities' response to the controversy generated by government over the rights and wrongs of parking enforcement and the enthusiastic, if sometimes inaccurate media reporting and comment that followed. Whatever the reason, as far as the independent and impartial adjudicators are concerned, parking appeals are determined on the evidence submitted by the parties with the relevant current law applied; newspaper headlines or popular sentiment playing no part in the decision making process or outcome.

This year also saw the determination by adjudicators of the first appeals lodged against penalty charge notices issued by borough councils for contravening the prohibition on depositing litter from a vehicle. Under the London Local Authorities Act 2007 a penalty charge is payable to a borough council by the owner of a vehicle if a person inside or on board the vehicle throws down, drops or otherwise deposits litter.

The appeals have so far been limited in number and our current small caseload arises further to penalty charge notices issued by the London Borough of Wandsworth enforcement team only (see page 16).

This new aspect of the adjudicators' work demonstrates the potential for transferring matters from the overburdened criminal justice system to the more efficient and cost effective fixed civil penalty that provides the citizen with a statutory right of appeal before an independent specialist adjudicator.

During the course of this reporting year it was confirmed that the tribunal will be unable to remain in our current accommodation at Angel Square, Islington. Preparations are now well underway for the tribunal's move to new premises in Chancery Exchange, Furnival Street EC1. Although, in keeping with general cost

cutting measures and financial restraint, the new hearing centre will necessarily be smaller, the adjudicators welcome the return of the tribunal to a more central location allowing for easier access to all parties to an appeal. It is hoped that the new location will encourage parties to exercise their right to a personal appeal hearing.

The London Parking and Traffic Appeals Adjudicators present their 2014-2015 annual report to the Transport and Environment Committee of London Councils and take this opportunity of expressing their thanks to the Parking and Traffic Appeals Service team for their committed administrative support over the course of another busy and challenging year.

Caroline Hamilton
Chief Adjudicator

London, April 2015

Parking and Traffic Appeals Service.

2014-2015

1. WORKLOAD

The figures provided below include appeals registered in the previous year that were scheduled for hearing for determination in the 2014-2015 reporting year. The total number of appeals and referrals received will not necessarily be reflected in the number of outcomes recorded, a number of appeals being withdrawn or discontinued. Discrepancies in the numbers may also arise as a result of single appeals being lodged that include a series of penalty charge notices.

APPEALS

TOTAL of ALL:

43,175 appeals received

11,389 statutory declaration/witness statement referrals

47,701 appeals were determined (this figure includes appeals lodged in the previous year but determined in the reporting year)

21,575 appeals were allowed of which 8,919 were not contested

26,126 appeals were refused

The number of appeals has been broken down into appeal types (parking, bus lane, moving traffic, London lorry control and litter) and the number of appeals received and decided.

Parking appeals received

35,632 appeals were received

10,219 referrals were made

TOTAL: 45,851

Parking appeals decided

39,678 appeals were determined

Allowed

18,560 appeals were allowed of which 7,763 were not contested

Refused

21,118 appeals were refused

Bus lane appeals received

1,679 appeals were received

289 referrals were made

TOTAL: 1,968

Bus lane appeals decided

1,537 appeals were determined

Allowed

652 appeals were allowed of which 241 were not contested

Refused

885 appeals were refused

Moving traffic appeals received

5,736 appeals were received

881 referrals were made

TOTAL: 6,617

Moving traffic appeals decided

7,374 appeals were determined

Allowed

2,270 appeals were allowed of which 866 were not contested

Refused

4,072 appeals were refused

London Lorry Control Scheme

128 appeals were received

No statutory declarations referrals were made

London Lorry Control appeals decided

144 appeals were determined

Allowed

93 appeals were allowed of which 49 were not contested

Refused

51 appeals were refused

Litter appeals

6 appeals were received

No statutory declarations referrals were made

Allowed

2 appeals were allowed of which 1 was not contested

Refused

4 appeals were refused

PERSONAL/POSTAL APPEALS

Postal Hearings: 26,575

Personal Hearings: 16,600

Both parties to the appeal are invited to select a personal or postal appeal hearing and have the opportunity of indicating their preferred day and timeslot for case scheduling. Enforcement authorities do not generally select personal appeal hearings or send representatives to personal appeal hearings that have been listed at the request of appellants, although they are of course entitled to do so. Appellants who do not make a personal/postal selection are, as a precautionary measure, automatically granted a personal appeal hearing slot. If the party selecting the personal appeal hearing does not attend the hearing centre and fails to make contact with the tribunal advising of any delay or requesting an adjournment, the appeal will usually be determined by the adjudicator in their absence, half an hour after the allocated hearing time slot has passed. Statutory declaration/witness statement referrals that progress to an appeal can also be listed as personal or postal hearings at the request of either party

26,575 appellants selected a postal hearing and 16,600 selected a personal hearing.

RECOMMENDATIONS

Part 2 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 provides under regulation 7(4) that if the adjudicator does not allow the appeal but is satisfied that there are compelling reasons why, in the particular circumstances of the case, the notice to owner should be cancelled he may recommend the enforcement authority to cancel the Notice to Owner. On receipt of a recommendation the authority is obliged to consider cancellation, taking full account of the observations made by the adjudicator. Within the period of 35 days the authority must notify the Appellant and the adjudicator whether or not it accepts the recommendation. If the adjudicator's recommendation is not accepted by the authority, the authority must provide reasons for not doing so. It should be noted that no appeal rights to the adjudicator arise further to these reasons (regulation 7(7)). If the authority does not respond to the adjudicator's recommendation at all within 35 days, the authority is deemed to have accepted the recommendation made.

Appeals refused with a recommendation:

2014-2015: 960

2013-2014: 1,184

2012-2013: 1,005

Appeals refused with a recommendation resulting in acceptance by the enforcement authority of that recommendation:

2014-2015: 259

2013-2014: 333

2012-2013: 304

Appeals refused with a recommendation resulting in rejection by the enforcement authority of that recommendation:

2014-2015: 328

2013-2014: 412

2012-2013: 244

Appeals refused with a recommendation resulting in a deemed acceptance by the enforcement authority having neglected to respond to the Adjudicator's recommendation:

2014-2015: 371

2013-2014: 439

2012-2013: 457

(Two decisions remain outstanding at the time of recording).

Recommendations, as is reflected by the numbers made by the adjudicators, should arise infrequently, the appellants having usually already had the opportunity of putting their compelling reasons before the authorities prior to appeal or as part of the appeal evidence itself.

COSTS

Paragraph 13 of the Schedule to the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 states that the Adjudicator shall not normally make an order awarding costs and expenses but may, subject to sub-paragraph (2) make such an order:

- (a) against a party (including an Appellant who has withdrawn his appeal or an Enforcement Authority which has consented to an appeal being allowed) if he is of the opinion that that party has acted frivolously or vexatiously or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable; or
- (b) against an enforcement authority where he considers that the disputed decision was wholly unreasonable.

172 applications for costs were received in the reporting period; 105 from Appellants and 67 from Respondent enforcement authorities.

It should be noted that the adjudicators have no power to award compensation arising from claims relating to anxiety, inconvenience or stress caused to a motorist as a result of a penalty charge notice having been issued and any award of costs must relate to the appeal process only.

The applications for costs received in the reporting year break down as follows

Appellants

| | |
|----------------------|------------|
| Parking | 89 |
| Bus lane | 4 |
| Moving traffic | 7 |
| London Lorry Control | 5 |
| Total: | 105 |

Enforcement Authorities

| | |
|----------------------|-----------|
| Parking | 49 |
| Bus lane | 0 |
| Moving traffic | 12 |
| London Lorry Control | 6 |
| Total: | 67 |

A number of costs applications are determined (either allowed or refused) at the appeal hearing itself, without the need for a separate costs hearing. Others are not pursued once the regulations are explained or full particulars or supporting evidence requested. Our case management system has recorded the applications for costs that progressed to a separate costs listing only.

Number of costs applications listed to Appellants and to Enforcement Authorities

| Enforcement Authority | Appellant Applications | Amounts awarded to Appellants | EA Applications | Amounts awarded to EAs |
|-----------------------|------------------------|-------------------------------|-----------------|------------------------|
| Barking and Dagenham | 1 | £141.70 | 2 | £106 |
| Barnet | 29 | £815.80 | 2 | £424.98 |
| Bexley | 1 | £0 | 0 | |
| Brent | 1 | £105 | 0 | |
| Bromley | 0 | | 0 | |
| Camden | 4 | £250 | 2 | £164.38 |
| City of London | 0 | £0 | 0 | |
| Croydon | 2 | £0 | 0 | |
| Ealing | 2 | £0 | 3 | £318 |
| Enfield | 1 | £50 | 0 | |
| Greenwich | 0 | £185 | 0 | |

| | | | | |
|------------------------|------------|------------------|-----------|------------------|
| Hackney | 4 | £171.03 | 0 | |
| Hammersmith & Fulham | 5 | £0 | 0 | |
| Haringey | 7 | £54 | 0 | |
| Harrow | 2 | £195 | 3 | £212 |
| Havering | 1 | £0 | 0 | |
| Hillingdon | 0 | | 0 | |
| Hounslow | 0 | | 6 | £440 |
| Islington | 1 | £0 | 1 | £78.25 |
| Kensington and Chelsea | 2 | £220 | 1 | £106 |
| Kingston Upon Thames | 4 | £79 | 0 | |
| Lambeth | 3 | £65 | 0 | |
| Lewisham | 0 | | 0 | |
| Merton | 1 | £153 | 2 | £82 |
| Newham | 7 | £200 | 1 | £72.96 |
| Redbridge | 4 | £0 | 1 | £41.38 |
| Richmond Upon Thames | 0 | | 0 | |
| Southwark | 2 | £231 | 0 | |
| Sutton | 2 | £13 | 0 | |
| Tower Hamlets | 6 | £163.60 | 3 | £212 |
| Transport for London | 5 | £53.50 | 10 | £1,100.44 |
| Waltham Forest | 1 | £0 | 15 | £573.31 |
| Wandsworth | 0 | | 0 | |
| Westminster | 2 | £0 | 1 | £106 |
| | | | | |
| Totals : | 100 | £2,960.63 | 61 | £4,249.70 |

The limited number of costs orders reflects our regulations that do not intend costs to be the norm in the fixed penalty charge jurisdiction of this tribunal. It is imperative that parties are not reluctant to lodge or contest an appeal as a result of being in fear of a potential liability further to an award of costs.

2. LAW UPDATE

(a) The London Lorry Control Scheme

REPORT by Adjudicator Anthony Chan

The London Lorry Control Scheme controls the movement of heavy goods vehicles over 18 tonnes maximum gross weight at night and at weekends. The scheme is in place to help minimise noise pollution in residential areas during unsocial hours through restricted use of roads in Greater London.

Under the Scheme, London roads are classified as excluded roads or restricted roads. Excluded roads are a network of routes usually trunk roads and similar. The use of these roads is not controlled. On the other hand, heavy goods vehicles using other roads (restricted roads) in London during controlled hours must have permission to do so.

Permission to use restricted roads is normally granted subject to conditions. A key condition is that the use of restricted roads must be kept to a minimum. In general, this will mean travelling to the closest point on a trunk road then using the shortest direct route on restricted roads to the destination. Similarly, if the starting point of a route is on a restricted road then the vehicle must take the shortest route from there to a trunk road.

Operators and drivers often appeal against a penalty on the basis that they have taken the shortest journey. The actual requirement is that they must minimize the use of restricted roads, even if that means that the total journey length may be longer.

Another condition is, that for a period of four weeks after a vehicle journey is made, the applicant must be capable of substantiating the need for a vehicle being on a restricted road at any particular time and place.

Operators are obliged to obtain permission for using heavy goods vehicles on restricted roads. They and the drivers of the vehicles, are responsible for using a legally compliant route and complying with all permission conditions. A contravention occurs if a heavy goods vehicle is used on a restricted road without permission, or if one or more of the permission conditions has not been met, e.g. the vehicle failed to use the minimum amount of restricted roads. Penalty Charge Notices may be issued to the operators and/or the drivers where appropriate.

The London Lorry Control appeal outcomes can be viewed at page 8 of this report. All decisions can be found on our statutory register.

(b) [Waste and litter appeals under the London Local Authorities Act 2007](#)

Adjudicators appointed under the Road Traffic Act 1991 and Traffic Management Act 2004 have also been appointed to determine appeals arising from penalty charge notices issued under the provisions of the London Local Authorities Act 2007.

Littering from vehicles

A penalty charge is payable to a borough council with respect to a motor vehicle or a pedicab by the owner of the vehicle or pedicab if a person inside or on board the vehicle or pedicab acts in contravention of section 87 of the 1990 Act (the offence of leaving litter).

the grounds on which representations may be made against a penalty charge notice are—

(a)that the recipient—

(i)never was the owner of the vehicle in question;

(ii)had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or

(iii)became its owner after that date;

(b)that no person inside the vehicle acted in contravention of the said section 87;

(c)that at the time the alleged contravention took place the person who was in control of the vehicle was in control of the vehicle without the consent of the owner;

(d)(except in the case of a pedicab) 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 vehicle hiring agreement; and

(ii)the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty notice issued in respect of the vehicle during the currency of the hiring agreement; or

(e)that the penalty charge exceeded the amount applicable in the circumstances of the case.

When relying on a defence of ownership, representations must include a statement of the name and address of the person to whom the vehicle was disposed of by the person making the representations (if that information is in his possession).

Adjudicators have to date registered 6 litter appeals all arising further to penalty charge notices issued by the LB Wandsworth and all relating to littering from the vehicle by throwing cigarette ends onto the street.

Case Report

A penalty charge is payable to a borough council by the owner of a vehicle if a person inside or on board the vehicle throws down, drops or otherwise deposits litter.

The authority, the London Borough of Wandsworth, relies on the evidence provided by two Waste Enforcement Officers, Timothy and Michael Hinks, in the form of two signed witness statements. The statements exhibit the littering form completed at the scene and contemporaneous photographs.

The authority's case

The enforcement officers state that they were on duty parked outside the Town Hall when they saw the vehicle travelling south. The driver's window was open and the driver was smoking. The female driver was seen to drop the cigarette out of the open driver side window onto the carriageway. Mr Timothy Hinks took a photograph of the discarded cigarette end. The officers followed the vehicle and noted that a cigarette was also dropped from the passenger side window. Further photographs show the open passenger side window and confirm the vehicle registration mark.

The penalty charge notice (PCN) was served to the registered keeper Mrs Debra Stewart by post on 13th June 2014 showing a contravention dated 12th June 2014 at 12.57 hours.

The appellant's case

Mrs Debra Stewart, the registered keeper of the vehicle responded to the PCN by a letter dated 16th June 2014 confirming that she owned the vehicle and stating 'if you could forward photos of the alleged offence committed by both driver and passenger I will willingly pay the PCN'. On receipt of the Notice of Rejection Mrs Stewart lodged an appeal listing the content of the photographic evidence and commenting 'insufficient evidence.' A letter from Mrs Stewart dated 23rd June explains that the driver is a non-smoker and that the passenger smokes non branded roll up cigarettes whereas the photograph shows a branded cigarette. Mrs Stewart states that the passenger used the vehicle's own ashtray to dispose of the cigarette end.

The burden and standard of proof

The burden rests with the authority to prove on the balance of probabilities (that it is more probable than not) that the contravening acts occurred.

The evidence

The authority has provided two witness statements giving direct evidence of the incident. The supporting photographs demonstrate that their view of the vehicle was clear and unobstructed. The registered keeper has, in my view taken some care not to identify the driver or the passenger and has not submitted a direct statement from either. The initial response from the registered keeper does not include the denial that I would expect but rather makes a request for further evidence prior to payment. The cigarette end in the photograph is the one discarded by

the driver, so the point relied on regarding the passenger's cigarette being a roll up is not of assistance.

Conclusion

Having considered all the evidence in this case I prefer the direct and consistent evidence of the enforcement officers and I am satisfied on the balance of probabilities that the contravening acts described on the face of the penalty charge notice occurred. The appeal is refused.

(c) Panel Hearing 2014

Panel hearings have proved to be useful means of determining issues that cause uncertainty and give rise to a large number of appeals. A detailed determination by a panel of adjudicators assists in achieving consistency and certainty which in turn allows parties to an appeal to be in a better position when they come to consider the nature of representations that they might make to enforcement authorities to achieve a favourable outcome. This year a panel of adjudicators considered a number of points by grouping and consolidating appeals that raised technical issues in the case of *Miller and Others v Transport for London and Others (PATAS 214015350A)*.

The panel noted that increasingly, a large number of appeals coming before the Tribunal, ignore the fundamental question as to whether or not a contravention had occurred, raising instead detailed technical challenges to the validity of the Penalty Charge Notices (PCNs) and to the other documentation that the Authorities are required to serve, namely, the Notice to Owner and the Notice of Rejection.

The Panel had at the forefront of its considerations that an essential part of the Tribunal's duty to determine cases justly is

to ensure that a proportionate allocation of time and resources is made. Adjudicators have increasingly encountered appeals, (frequently, but not exclusively, where "professional" lay representatives act for Appellants) where a multiplicity of highly detailed technical challenges to each stage of the enforcement process are taken. The panel raised concerns that the proliferation and length of such appeals had the potential to derail the proper and proportionate allocation of resources for determining the appeal of what is, after all, a relatively low value, civil penalty. Further adjudicators' experience was that technical appeals often neglected to raise an obvious and clear defence to the issue of the penalty charge notice, to the detriment of the motorist who lost the opportunity of a mitigating feature or valid challenge to the penalty charge being considered at representation stage.

While the panel was mindful that the decision of any adjudicator (including a panel decision) is not binding upon another adjudicator, it was the express intention of this panel, to provide detailed decisions on each of the arguments raised, so that appellants, Enforcement Authorities, the public and the corps of adjudicators may have in one decision an authoritative determination on these issues. Accordingly, the panel was particularly concerned to ensure that all parties were given the widest opportunity to raise all the arguments they wished on the technical challenges.

The panel's full determination can be viewed on our website at www.Londontribunals.gov.uk clicking

on keys cases Miller.

The adjudicators have no doubt that this reasoned decision covering a number of technical issues will serve to advise motorists as to the merits of any proposed technical challenge, allowing all parties to be in a far better position when it comes to assessing the merits or otherwise of appeal points.

3. JUDICIAL REVIEW

Decisions, Permission Refused and Pending Permission

During this reporting period the 40,000 plus appeal decisions reached by the adjudicators generated 14 applications for permission to seek judicial review. Parties who decide to make such applications are encouraged to take independent legal advice first. The adjudicators' work essentially amounts to determining disputes between the citizen and the administration arising further to the issue of a civil penalty. Whilst parties to an appeal may apply for the review of an adjudicator's decision under certain grounds, judicial review in the Administrative Courts is the next available court proceeding, whereby a judge has the power to review the lawfulness of a decision or action made by a public body. Although the adjudicator is the defendant in any claim, the protagonists to an application for judicial review are the original parties to the appeal. A claim brought by a motorist must identify the enforcement authority as an interested party and serve the claim on that authority who in turn, if they wish to defend the claim must take the appropriate action within the relevant time constraints. Neglecting to acknowledge a claim or ensure that the correct facts are before the court can result in decisions being

reached that are based on a false premise thereby losing a valued opportunity of adding to the tribunal's jurisprudence.

Judicial Review Decisions

1. *The Queen on the Application of Tihamiyu Bello -v- The Parking Adjudicator [CO/854/2014] (Tihamiyu -v- London Borough of Merton PATAS 2130501916 2014)*. The motorist was issued with four penalty charge notices for parking without a permit and explained that he had paid for the permit but had not received it. The permit is however not valid unless it is displayed in the vehicle. The appeals were refused and the application for a review was rejected by a second adjudicator for being out of time. The court accepted the claimant's reasons for being out of time and first adjourned the matter to allow for the review of the decision made not to extend time for review. Thereafter, the application for review was accepted out of time by the adjudicator, in light of delays that may have arisen due to the Christmas post and the application was heard with no grounds for review identified. The claimant was allowed to amend his claim to include an application relating to the review decision and the Court ordered that the appeal be re-determined in accordance with the assertions made by the claimant. The adjudicator found as follows: "This matter has been referred back to the Parking and Traffic Appeal Service further to the order dated 16th December 2014 of His Honour Judge Anthony Thornton QC (sitting as a Deputy High Court Judge) under case CO/854/2014. In his judgment, attached to the order, from the facts before him the learned judge makes a number of findings,

concluding that the penalty charge notices under this appeal reference number should not have been issued to Mr Bello's vehicle. The case has been returned to the tribunal for determination in accordant with the terms of the judgement or withdrawal by the LB Merton. The LB Merton seeks to challenge the basis of the decision reached by the learned judge, pointing to a number of incorrect facts that were before the court. The time and place for challenging Mr Bello's application was in the High Court by lodging a defence to his claim or appealing the outcome. The LB Merton having indicated to the High Court it intended to take no part in proceedings their full representations or submissions were not before the Court and do not now fall to be considered. The tribunal can only apply and follow the findings as directed by the higher court and the adjudicator has no power to correct the factual basis of that court's findings at this late stage or at all. Consequently the appeal on the direction of His Honour Judge Thornton QC is allowed."

2. *The Queen on the Application of Robert Gordon Humphreys - v- The Parking Adjudicator [CO/1069/2014] (Robert Gordon Humphreys -v- London Borough of Camden PATAS 2130558549 (2013))*. The adjudicator was satisfied that the motorist had parked in contravention in a suspended bay but made a recommendation to the authority to cancel the penalty in the particular circumstances of the case (the motorist had left his motor bike in a bay and did not return to it for over ten days, the bay was suspended during this period). The authority rejected the recommendation stating that in congested areas

the motorist had an obligation to check for upcoming suspensions. The Court found that no contravention had occurred and directed that the penalty be cancelled, making a number of unfavourable remarks regarding the adjudicator's determination. The interested party authority had not however filed evidence and although represented by Counsel the Court was, it seems, not advised of the terms of the Traffic Management Order or the statutory review procedures available under the relevant regulations. The enforcement authority has now lodged an appeal.

Permission to seek Judicial Review - update from 2013-2014 report

1. *The Queen on the Application of Eventech Limited –v- The Parking Adjudicator [CO/10424/2011] (Eventech Limited –v- London Borough of Camden PATAS 2110086039 and 211008604A)*: This matter was heard on 24th and 25th April 2013. Responses from a reference by the Court of Appeal to the European Court of Justice have now been received. The case status on the Court of Appeal case tracker system is now described as 'stood out pending ADR'.
2. *The Queen on the Application of Muhammad Ali -v- The Parking Adjudicator [CO/5929/2012] (Ali –v- London Borough of Hounslow PATAS 2120374867 (2012))*. The adjudicator was satisfied that the vehicle had parked with wheels on the footway. The court found no properly arguable public law error in the decisions of the adjudicators in dismissing the appeal and in rejecting the application for review. Legally adequate reasons were given for upholding the full penalty

charge notwithstanding the claimant's points about the car behind and the reduced rate payment.

3. *The Queen on the Application of Oliver Wheble -v- The Parking Adjudicator [CO/198/2014] Oliver Wheble -v- Transport for London PATAS 2130297412 (2013)*. This appeal related to a penalty charge notice issued to a vehicle stopped on a red route clearway. The appeal was refused further to a personal hearing where the appellant attended and was represented by Mr St Claire Nelson. An application for the review of the appeal adjudicator's decision was rejected by the independent adjudicator who found no ground for review. The application before the High Court was found to be totally without merit. The claimant sought permission to appeal against the refusal in the Court of Appeal, but the Court found that the proposed appeal to have no real prospect of success with no arguable grounds, noting that the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations does not require a statement of the provision of the Traffic Management Order that has been infringed and that it was not arguable that there had been an infringement of Article 6 of the European Convention on Human Rights, the Court noting, that even if this could be classified as a criminal matter the particulars contained in the notice were such that the applicant would have been well aware of the case against him and the reason why it was believed that the penalty was payable i.e. he was stopped where prohibited on a red route or clearway.

Judicial Review Applications 2014-2015

1. *The Queen on the Application of Chinn -v- The Parking Adjudicator [CO/2134/2014] (Chinn -v- London Borough PATAS (2012))* The court found no arguable grounds upon which to challenge the lawfulness of the decision. The claimant made renewed application in person but permission to apply for a judicial review was again refused.

2. *The Queen on the Application of Maxted-Pettman -v- The Parking Adjudicator [CO/3615/2014] (Maxted-Pettman -v- London Borough of Richmond upon Thames PATAS 2140014853 (2014))* The court explained that a claim for judicial review has to be brought promptly and in any event within three months. “This claim is out of time and the explanation insufficient to overcome the obligation of promptitude.” The adjudication that had occurred was found to be perfectly rational and the underlying provision restraining the parking of motor vehicles to the carriageway perfectly clear. The court found no procedural impropriety or irrationality.

3. *The Queen on the Application of Alieu Badara Faleh Kamara -v- The Parking Adjudicator [CO/3738/2014] (Kamara -v- London Borough of Southwark PATAS 2140170837 (2014))* The court found the application to be wholly without merit noting that the appropriate remedy was statutory review not judicial review although the application for statutory review was submitted out of time, the application thereafter being listed for hearing, there is no basis for judicial review.

4. *The Queen on the Application of Ben Harrisson -v- The Parking Adjudicator [CO/4330/2014] (Harrisson -v- London Borough of Lambeth PATAS 2140146708 (2014))*

Information from the DVLA having been provided as to the transfer of the subject vehicle prior to the alleged offence the enforcement authority cancelled the penalty charge notice. The court found the claim to be academic with no substantial purpose served in granting permission the claimant now no longer being subject to the penalty charge which had been appealed.

5. *The Queen on the Application of Samuel Idigbe -v- The Parking Adjudicator [CO/4419/2014] (Idigbe -v- London Borough of Newham PATAS 2140173427 (2014))*

The Court noted that the application for review had been received out of time and found no basis for concluding that the adjudicator had erred in law. The application having since been listed out of time there was an alternative remedy available to the claimant.

6. *The Queen on the Application of Steven Eric McPherson-v- The Parking Adjudicator [CO/4445/2014] (McPherson -v- London Borough of Hillingdon PATAS 2130647831 (2014))*

The court noted that the claim was considerably out of time, the explanation for the delay lacking in credibility and found further that the claim had no merit or substance. The claimant was ordered to pay the defendant's costs (preparation of the Acknowledgment of Service) in the sum of £784.

7. *The Queen on the Application of Goldin -v- The Parking Adjudicator [CO/5079/2014] (Goldin -v- London Borough of Barnet PATAS 214034487 (2014))* The court found that there was no merit in the substance of the application and noted that all the matters which ought to have been taken into account were considered “and it cannot be said that they were so unreasonable that no reasonable authority could ever have come to those decisions.”

8. *The Queen on the Application of Baz -v- The Parking Adjudicator [CO/4626/2014] [CO/5582/2014] (Baz -v- London Borough of Haringey PATAS 2140363910 (2014))* The motorist claimed that he was looking for his visitor’s permit and asking his aunt for her blue badge when the penalty charge notice was served. The adjudicator was satisfied the vehicle was parked without a permit. Before the Court the application by the claimant was considered to be totally without merit the court finding: “there is nothing in any of these documents which gives rise to any arguable case that the adjudicator erred in law or acted in any way in a procedurally improper manner.”

9. *The Queen on the Application of Martine Shackerley-Bennett -v- The Parking Adjudicator [CO/733/2015] (Shackerley-Bennett -v- London Borough of Newham PATAS 214011190 (2014))* Permission was refused the application having been considered to be totally without merit. The adjudicator’s decision was found to disclose no public law ground of

challenge having taken into account all evidence adduced and his decision upholding a contravention was a decision the adjudicator was entitled to reach.

10. *The Queen on the Application of Ian Thompson -v- The Parking Adjudicator [CO/661/2015] (Thompson -v- London Borough of Camden PATAS 2140323858 (2014))* The application related to the powers under which councils remove vehicles parked in contravention requiring payment of the penalty charge prior to releasing the vehicle. The application was rejected the court finding no arguable error on the part of the adjudicator that was amenable to judicial review on public law grounds. The application was renewed at an oral hearing but permission remained refused.

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4. TRAINING AND APPRAISAL

TRAINING

The adjudicators are a mature tribunal with many years of sitting experience between them. They are barrister or solicitors and part-time office holders. Training meetings allow the adjudicators to not only meet to discuss and share issues of law and procedure, but also give the chief adjudicator the opportunity of ensuring that the cohort of adjudicators is kept abreast of relevant legal developments, caseload trends and fresh challenges. In this reporting year the adjudicators attended training meetings in April 2014 and March 2015. The training programmes included amongst other matters:

1. The panel's decision in *Gillingham v London Borough of Newham (2130193949)* *Essoo v London Borough of Enfield (2130232767)* *Khan v Transport for London (2130261437)* *S. W. Des Banks v L B Hammersmith & Fulham (2130483643)*.

2. Group and linked cases, in particular:
 - (a) *ERAC UK LTD v City of Westminster (2130573043)* now being case managed by adjudicator Jane Anderson
 - (b) Saracens event day cases allocated to adjudicator Edward Houghton
 - (c) The Eventech appeals case managed by adjudicator Carl Teper.

3. Conduct of hearings, judgecraft and tribunal skills. The determinations in the appeals of *Anish Basin v Transport for London (PATAS 2130472498)*, *Stephen David Jacobson v LB Barnet (PATAS 2140038793)* and *Kojo David Kesse v Transport for London (PATAS 213038846)*.

4. Reviews and referrals to adjudicators.
 A report was provided by adjudicator Anthony Chan on the High Court decision in *The Queen on the application of Alexander v The Parking Adjudicator and London Borough of Hammersmith & Fulham [2014] EWHC 560 (Admin) (Alexis Alexander v LB Hammersmith & Fulham PATAS 2130)*.

The second training meeting covered the following issues:

1. Panel hearing report and update regarding the case of *Miller and Others v Transport for London and Others (PATAS 214015350A)* with reference to the review decision is *Yaakov Ruimy v London Borough of Barnet (PATAS 2140171228)*.

2. Hire agreement report by adjudicator Jane Anderson.

3. *The Queen on the application of Eventech Limited v The Parking Adjudicators and London Borough of Camden and Transport for London.*

The matter has been returned to the Court of Appeal and we are still waiting for a hearing date. Approximately 2,000 appeals have been set aside waiting for this decision.

4. Traffic Signs Regulations and General Directions 2015
5. The Civil Enforcement of Parking Contraventions (England) General (Amendment) Regulations 2015
6. Tribunal Move / New IT system report
7. Workload report and case management
Royal Mail Parcel Force v Transport for London (PATAS 214052876A)
8. Electric vehicle appeals
Okin v London Borough of Camden (PATAS 2140480743)
9. Feedback on Appraisal
10. Judicial Review report
Ian Stuart Thomson v London Borough of Camden (PATAS 2140323858).

APPRAISAL

All Adjudicators are required to participate in the tribunal's Appraisal Scheme. It is an opportunity for Adjudicators to demonstrate their competence and to have good practice confirmed.

The purpose of the scheme is to ensure that we collectively and individually:

- maintain and improve the quality of our decision making process;
- produce sound, clear and understandable decisions; and
- address appeals as efficiently as possible.

It also provides feedback that allows individuals to reflect on their own working practices and identify any problems or training needs at the earliest opportunity.

Our appraisal scheme remains based on what was the Judicial Studies Board's tribunal competencies (now Judicial College) but has been simplified and adapted to ensure the scheme is proportionate and relevant to the needs of our tribunal.

The current schedule of appraisals has been completed as planned. Appraisals take place on a three year cycle and the scheme is due to recommence in the first quarter of 2018.

5. THE ADJUDICATORS AND THE PARKING AND TRAFFIC APPEAL SERVICE

THE CHIEF ADJUDICATOR

Caroline Hamilton

THE PARKING AND TRAFFIC ADJUDICATORS

Jane Anderson
Michel Aslangul
Angela Black
Teresa Brennan
Michael Burke
Anthony Chan
Hugh Cooper
Anthony Edie

Mark Eldridge
Henry Michael Greenslade
John Hamilton
Andrew Harman
Neeti Haria
Monica Hillen
Edward Houghton
Anju Kaler
John Lane
Michael Lawrence
Francis Lloyd
Alastair McFarlane
Kevin Moore
Michael Nathan
Ronald Norman
Joanne Oxlade
Mamta Parekh
Belinda Pearce
Neena Rach
Christopher Rayner
Jennifer Shepherd
Caroline Sheppard
Sean Stanton-Dunne
Gerald Styles
Carl Teper
Timothy Thorne
Susan Turquet
Austin Wilkinson
Martin Wood

Paul Wright

This reporting year sees the retirement of Susan Turquet and Ronald Norman. Martin Wood our former chief adjudicator did not seek re-appointment at the end of his five year renewable term of office. The contribution to the tribunal made by all three adjudicators is recognised and appreciated by all colleagues; they will all be missed.

A number of adjudicators having already left the service or approaching retirement, the need to consider starting a recruitment exercise has been recognised. To maintain a just and efficient appeal system the tribunal must have a ready corps of adjudicators available to determine appeals in a timely manner.

THE PARKING AND TRAFFIC APPEALS SERVICE

The 2014/15 team

Richard Reeve - Tribunal Manager

Garry Hoy- Contracts Manager

Dedray Marie - Senior Tribunal Assistant

Ada Amuta - Tribunal Assistant

Tom Caulfield – Tribunal Assistant

Peter Hollamby - Tribunal Assistant

6. APPENDIX

CASE DIGEST

The following case digest gives examples of the types of cases the Adjudicators have addressed over the reporting period.

Llewellyn v City of Westminster (PATAS 2140173314)

The ticket was issued to the vehicle parked in the restricted street on the single yellow line. The appellant did not attend but applied to adjourn the hearing. The adjudicator refused the application noting that this was the third application to adjourn: “the case is old and it is not in the interest of justice to adjourn the matter further.” The Appellant explained that her husband was the driver and that when he parked he saw no sign of any restriction. The adjudicator noted that the vehicle was parked in a controlled parking zone and explained: “there is no requirement in law for each road within a parking zone to be sign posted with the parking restrictions. All that is required is that there are parking zone signs at each entry point to a particular zone in this case a Westminster zone where the restriction is from 8.30am to 6.30pm Monday to Friday. The requirement for additional signs is if the particular street within the zone has a different restriction.” The appeal was refused.

Shaw v London Borough of Camden (PATAS 2140238941)

The adjudicator heard evidence from the motorist and was satisfied that his account of events was consistent and reliable. The adjudicator accepted that the motorcycle was parked in the permit holder bay whilst a delivery in the course of the driver's employment was underway. The adjudicator, being satisfied that the motorist was engaged in an exempt activity when the penalty charge notice was issued, allowed the appeal.

Khorami v London Borough of Bexley (PATAS 2140284224)

The penalty charge notice was issued to the vehicle parked with wheels on the footway. The motorist explained that he was a private hire driver and only parked in order to drop off an elderly passenger with mobility problems. The adjudicator considered the CCTV evidence and found "There is no exemption which allows a driver to park on the footway to set down or pick up passengers. There is such an exemption for stopping on yellow lines but not for parking on the footway. Mr Khorami may have been stopped only briefly but this does not alter the fact that he was parked on the footway." The appeal was refused.

Papatheodossiou v London Borough of Hackney (PATAS 2140284392)

The ticket was issued to the vehicle parked in the permit bay without a permit. The appellant complained that the demarcation between the business permit bay and the

resident permit bay was not sufficiently clear. The adjudicator was satisfied that the correct sign was in place but, from the evidence before him, could not be satisfied that the bay markings indicated a boundary between the two types of neighbouring spaces. The appeal was allowed.

Lumanlan v London Borough of Hounslow (PATAS 2140285511)

The penalty charge notice was issued to the vehicle parked in the shared use bay without displaying a permit or voucher. The driver of the vehicle explained that he had needed to use a lavatory. The adjudicator explained “the motorist is expected to manage the need to use a toilet. The motorist who fails to take a toilet break in good time and allows the position to develop to the point he feels he has to stop cannot rely on the fact to avoid liability for a penalty charge”. The motorist in this case was not the owner of the vehicle but the adjudicator explained that there being no evidence to suggest that the vehicle had been taken without consent, legal liability for the penalty remained with the owner.

Silver Chauffeurs v London Borough of Southwark (PATAS 2140328614)

The adjudicator found the motorist to be genuine and reliable but explained that his evidence did not amount to a ground of appeal. The ticket was issued to the vehicle parked on double yellow lines at a time when waiting and loading restrictions were in force. The driver was waiting for a passenger and was concerned at the lack of parking spaces

for private hire drivers. The adjudicator noted parking at the location was not permitted at any time and refused the appeal.

Vaughan-Teague v London Borough of Barnet (PATAS 2140385593)

The penalty charge notice was issued to the vehicle parked in a permit space or zone without a valid ticket. The adjudicator allowed the appeal noting that despite the appellant's representations challenging the adequacy of the signs and/or lines no evidence of the restriction in place had been provided by the authority.

All the adjudicators' appeal decisions can be viewed on our statutory register by visiting our new hearing centre (from July 2015) at London Tribunals, Chancery Exchange, 10 Furnival Street, London EC4A 1AB or by accessing our website at www.londontribunals.gov.uk .

The Parking and Traffic Adjudicators
Parking and Traffic Appeals Service

April 2015