

Transport and Environment Committee

Environment and Traffic Adjudicators

The Annual Report: 2017/2018

Item no:
10

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| Report by: | Caroline Hamilton | Job title: | Chief Adjudicator Environment and Traffic |
| Date: | October 2018 | | |
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Summary: The Annual Report from the Environment and Traffic Adjudicators for the reporting year 2017-2018, presented to the Environment and Transport Committed on behalf of the Environment and Traffic Adjudicators by the Chief adjudicator, Caroline Hamilton.

Recommendations: That members receive and note the content.

Environment and Traffic Adjudicators

ANNUAL REPORT

2017-2018

*The Annual Report of the Environment and Traffic
Adjudicators to the Transport and Environment
Committee.*



*The Environment and Traffic Adjudicators
London Tribunals 2017-18*

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CHIEF ADJUDICATOR'S FOREWORD

Adjudicators completed another productive year at Chancery Exchange, determining a mixture of personal and postal appeals, as well as undertaking the case management tasks that necessarily arise in the smooth administration of justice. In line with our continued aim to ensure that parties to an appeal are equipped with a clearer understanding of the applicable law and procedures, adjudicators convened a further panel hearing, clarifying the issues that arise regarding liability for penalty charge notices that are issued to vehicles that are being driven under a hire agreement that purports to transfer liability, from the vehicle's DVLA registered keeper, to the driver or hirer (see page 14). Once again, the aim of the panel's determination is to ensure that all tribunal users are furnished with an impartial and clear understanding of the requirements and evidential burdens that they will need to meet, to bring or contest an appeal and to encourage a consistency in practices and approaches amongst adjudicator colleagues.

This year also saw the appointment of 11 more environment and traffic adjudicators (see page 30), recruited under the terms of the Traffic Management Act 2004. This new intake of lawyers will ensure that, as our more established adjudicators move on to other challenges, we have a fully equipped and experienced

cohort in place, allowing our workload to continue to be efficiently and justly addressed.

The Environment and Traffic Adjudicators present their 2017-18 annual report to the Transport and Environment Committee and take this opportunity of expressing thanks to the Proper Officer team for its continued able support.

Caroline Hamilton

Chief Adjudicator

Environment and Traffic

London, April 2018

1. WORKLOAD

This year saw a further reduction in parking appeals and a rise in moving traffic appeals. This trend may reflect a move to a focus on driver and pedestrian safety, highlighted by the decision to retain CCTV enforcement for parking at bus stops or on bus lanes, red routes and school entrances, under The Civil Enforcement of Parking Contraventions (England) General (Amendment No2) Regulations 2015. For moving traffic, CCTV enforcement remains the norm, allowing incidents to be fully and accurately recorded contemporaneously. Moving images can provide the adjudicator with a clear view of the area and the incident, as well as evidencing the position and clarity of lines and signs, with the opportunity of observing the position of other vehicles that may have contributed to an incident.

The right of appeal to the adjudicator only arises when parties have made formal representations to the enforcement authority which have been rejected by the authority, with a notice of rejection served. The very small number of appeals that are made to the adjudicator compared with the number of tickets issued in London, must be a reflection of matters being resolved to the satisfaction of the parties at an early stage. It is certainly the case that the standard of evidence that enforcement authorities are now able to collate and display to the motorist, in the form of contemporaneous photographs and recordings is high, providing the motorist with a clear and speedy illustration of the allegation.

The appeal process must necessarily include an ongoing review by each party, further or better evidence being provided at appeal stage. The reference below to appeals that have been allowed, not having been contested by the enforcement authority, reflects the ongoing obligation, on each party, to review their respective positions. A large proportion of the appeals that are not contested by the enforcement authorities arise where late evidence, supporting the sale, or hire, of a vehicle is provided to the enforcement authority only with the notice of appeal. The authorities will not have had the opportunity of assessing that evidence prior to the appeal having been registered and any decision not to contest the appeal will generally result in a fresh notice to owner being served on the relevant party.

Each Notice of Appeal is registered by the adjudicator as one case, although a single appeal may contain multiple penalty charge notices. This process explains discrepancies in the outcome numbers detailed below. It must also be remembered that the figures include appeals registered by the adjudicator in the previous year that were scheduled or determined in the reporting year.

APPEALS

TOTAL of all:

38,093 (37,934) appeals received

5,811 (6,477) statutory declaration/witness statement referrals

Total: 43,904 (44,411)

36,218 (35,828) appeals were determined

17,584 (17,213) appeals were allowed of which 9,396 (7,302) were not contested

18,634 (18,615) appeals were refused

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

PARKING appeals received

25,275 (28,693) appeals were received

4,701 (5,821) referrals were made

TOTAL: 29,976 (34,514)

Parking appeals decided

23,790 (27,696) appeals were determined

Allowed

12,348 (13,572) appeals were allowed of which 6,799 (5,803) were not contested

Refused

11,442 (14,124) appeals were refused

BUS LANE appeals received

1,678 (1,483) appeals were received

157 (146) referrals were made

TOTAL: 1,835 (1,629)

Bus lane appeals decided

1,588 (1,292) appeals were determined

Allowed

714 (587) appeals were allowed of which 314 (185) were not contested

Refused

874 (705) appeals were refused

MOVING TRAFFIC appeals received

11,004 (7,607) appeals were received

953 (510) referrals were made

TOTAL: 11,957 (8,117)

Moving traffic appeals decided

10,723 (6,693) appeals were determined

Allowed

4,454 (2,970) appeals were allowed of which 2,252 (1,256) were not contested

Refused

6,269 (3,723) appeals were refused

LONDON Lorry Control

130 (126) appeals were received

London Lorry Control appeals decided

110 (122) appeals were determined

Allowed

61 (63) appeals were allowed of which 31 (43) were not contested

Refused

49 (59) appeals were refused

LITTER appeals

No appeals were received in this reporting year (1 received and refused)
1 appeal was allowed (carried over from last year)

WASTE appeals

6 (24) appeals were received

6 (24) appeals were determined

Allowed

6 (21) appeals were allowed

Refused

0 (3) appeals were refused

RECOMMENDATIONS:

Under the terms of the Traffic Management Act 2004, where an adjudicator does not allow an 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 of owner. Thereafter it is the duty of the enforcement authority, to which a recommendation has been made, to consider afresh the cancellation of the notice to owner, taking full account of all observations made by the adjudicator and, within a period of 35 days, to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator's recommendation.

Recommendations that are not accepted must be accompanied by reasons, but no appeal to the adjudicator arises further to that decision.

If the enforcement authority does not respond to the recommendation within the statutory time frame or at all, the recommendation is deemed to have been accepted and the notice to owner must be

cancelled. This power, is to be used sparingly by the adjudicator, “compelling reasons” necessarily requiring a high threshold, as is reflected in the number of recommendations made in this reporting year.

Refused with a recommendation: 443

Recommendation accepted: 172

Deemed accepted: 121

Rejected: 150

PERSONAL/POSTAL APPEALS

Our move to more central tribunal premises was designed to accommodate and reflect the needs of our users, who drive and park in the London and Greater London catchment areas.

The adjudicators’ extended sitting times and flexible hearing times remain in place to ensure that all parties are able to attend a personal appeal hearing, if that is their preferred option, without having to take time away from work or other commitments.

With that in mind the adjudicators hear personal appeals 6 days a week, including on Saturday mornings, with early (8am) and late (7.30pm) hearing slots also available to those who have commitments during usual office or working hours.

The adjudicators regard this flexibility and accessibility as one of the hallmarks of our tribunal, with our users’ needs reflected in the wide selection of hearing slots provided to appellants, who are invited to

identify their preferred hearing times, with online appellants self-selecting the date and time that suits.

Cases are scheduled for an allocated half hour hearing slot, to avoid parties having to experience the frustration of having to wait for their cases to be called from a general morning or afternoon list, as occurs in most Courts and Tribunals.

Sufficient adjudicator resources are available to allow cases to be floated to other hearing rooms, should an appeal unexpectedly require more than the average hearing time. This fluid and flexible approach adopted by adjudicators allows the tribunal to ensure that parties to an appeal are called into their hearing room on time and also allows the adjudicators to accommodate latecomers, without disturbing parties who have attended in good time.

The evidence provided by both parties to the appeal will have been scanned to the automated case management system and adjudicators will share the images, including moving images, on the screen with the parties, allowing for clear understanding, communication and comment. Most appeals are determined at the end of the hearing, with appellants receiving full written reasons for the decision reached.

Postal determinations take place when parties have failed to attend their personal hearings, or when a postal appeal has been selected. The evidence is assessed and considered to the same standard as at a

personal hearings, with full written reasons for each decision sent to the parties.

Postal Hearings: 25,200 (26,575 2014-15)

Personal Hearings: 11, 082 (16,600 2014-15)

These figures do not include the appellants who elected to attend in person further to the referral of a statutory or witness statement order to the adjudicator that is subsequently listed for appeal (see page 17).

COSTS

Appellants are not charged an application fee when an appeal is registered by the adjudicator, but of course, by the time the formal notice to owner has been issued, the right to pay the penalty at the statutory discount rate has elapsed. The discount is a discount for prompt payment and cannot be carried over or extended by the appellant or the adjudicator. Once the appeal has been registered by the adjudicator, the penalty amount (full not discounted) remains frozen until the determination of the appeal.

Under the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, the adjudicator shall not normally make an order awarding costs and expenses but may 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.

The high threshold is reflected, not only in the level of conduct described, but also in the proviso that an order for costs in our jurisdiction is not the norm.

The terms and the correct application by the adjudicator of the regulations, result in the small number of cost applications that come to be listed for a contested application hearing, that may in turn result in an award.

Applications for costs listed for determination by the adjudicator:

APPELLANTS

Parking 55 (55)

Bus Lane 9 (3)

Moving Traffic 29 (9)

London Lorry Control 0 (0)

Litter and Waste 0 (0)

Total 93 (67)

ENFORCEMENT AUTHORITIES

Parking 12 (6)

Bus Lane 1 (0)

Moving Traffic 3 (1)

London Lorry Control 0 (0)

Litter and Waste 0 (0)

Total 16 (7)

2. LAW AND PROCEDURE UPDATE

(a) Panel Hearing

Panel hearings are convened when issues arise that impact on a large number of motorists and where there is some uncertainty as to the correct interpretation or application of the regulations. Panel hearings are designed to dispel misunderstanding, allowing the adjudicators to consolidate a number of cases and provide a more detailed “guidance” determination that provides a higher level of certainty as to the law and the likely outcome of an appeal. Panel hearings are only arranged when it is considered proportionate to do so, in order to reach a decision that will provide more information to the prospective parties to an appeal with a view to reducing the number of appeals lodged at the tribunal by providing clarity to each party as to the merits of pursuing or contesting an appeal.

Adjudicators have now generated six panel decisions, and the full determinations, available on our website at www.londontribunals.gov.uk under key cases, cover the following topics:

U turns

CCTV cameras

Box junctions

Technical challenges

Loading

This reporting year’s panel hearing (Adjudicators Carl Teper (chair), Monica Hillen, Michael Oliver) considered the issue of hire agreements.

The full determination can be accessed on our website at www.londontribunals.gov.uk by selecting key cases as stated above, but the principle findings made by the panel are reproduced here:

Camden v Europcar Group Limited & Others [ETA 2170480403 (2018)]

Summary of conclusions

1. Each case will necessarily turn on its own facts but the following principles are clear;
 - i) Liability cannot be transferred in domestic cases (i.e. a loan of a vehicle to a friend or relative); the vehicle must have been hired by a vehicle hire firm as defined in the legislation (see paragraph 5 ii above).
 - ii) Hire agreements of 6 months or more are excluded (see paragraph 5 iv above).
 - iii) Liability cannot be transferred for bus lane contraventions. Section 4(2) of the London Local Authorities Act 1996, as amended by the London Local Authorities Act 2000 and the Transport for London (Bus Lanes) Order 2001, provides that the owner of a vehicle, not the driver or person in charge of the vehicle, is liable for a penalty charge in respect of any contravention of a bus lane restriction. The 1996 Act does not make provision for transfer of liability in the case of a vehicle which is on hire at the time and the Act provides no ground of appeal in such cases.
 - iv) All **applicable** particulars detailed in schedule 2 of the 2000 regulations must be contained within the agreement. A company hirer clearly cannot provide a date of birth or driving licence details. An omission of a required particular is fatal and renders the hire vehicle company unable to transfer liability (see paragraphs 11-13 above).

- v) The required particulars (driving licence number etc.) need not be contained within the main body of the hire agreement, an annex or schedule containing the applicable particulars may be sufficient provided, as a matter of fact, they are found to be part of the hire agreement. Each case will be fact specific as to whether the required particulars are part of the hire agreement or not (see paragraphs 14-16 above).
- vi) Minor typographical errors, such as a spelling of a name, may not be fatal. Each case will be fact specific (see paragraph 17 above).
- vii) Amended hire agreements or agreements produced late will be rigorously scrutinised and cogent reasons will be required to explain the delay (see paragraphs 18-21 above).

The panel then considered the merits of the individual appeals applying the above conclusions.

(b) Statutory Declaration and Witness Statement referrals

Referral to the adjudicator of Orders made at the Traffic Enforcement Centre of the Northampton County Court continue to form a large part of the adjudicators' workload (see page 7). Although a warning is recorded on the face of the Court Order itself, motorists still frequently wrongly assume that the order cancels the penalty charge notice. The order however simply returns the enforcement process to the point where communication between the parties has broken down.

Once a case has been referred to the adjudicator, the motorist is invited to substantiate the witness statement or statutory declaration relied on. It is only when evidence of a right of appeal has been established that

the case will be listed before an adjudicator for determination on the merits. These cases are addressed in the usual way, the appellant being offered the option of selecting a personal or postal decision, returning them firmly to the appeal path that has been missed only as a result of mail going astray.

Where no appeal rights are established, the adjudicator will make a payment direction.

It must be underlined, that the process is not a mechanism for avoiding penalties or for accessing the statutory right of appeal when the correct procedures have not been followed.

Our case management team is now able to process the enforcement authority's statutory referrals through the automated case management system, allowing for a swifter referral to the adjudicator and a timely outcome.

3. JUDICIAL REVIEW

As in previous years, of the 36,000+ decisions reached by adjudicators, only a very small number are subject to applications for permission to seek a judicial review in the High Court. Whilst the adjudicator will be the named defendant to the proceedings, it is the parties to the original appeal who make representations on the application, the adjudicator remaining impartial and ready to apply the law as clarified by the Court.

(a) Update from 2016-2017

The Queen on the Application of Robert Sackey -v- The Environment and Traffic Adjudicator and (1) Agatha Sackey (2) The London Borough of Enfield [CO/1963/2016] (Agatha Sackey -v- London Borough of Enfield ETA 215038338A (2015)).

Adjudicator's Reasons

“The Enforcement Authority assert that vehicle **GK13UES**, not being of the specified class, was parked at a location restricted for use by vehicles of a specific class only; the Appellant denies liability for the ensuing Penalty Charge Notice on the basis of prevailing circumstances as detailed in her written representations and those of her witnesses: Mr R. Sackey and S. Si.

The Road Traffic Act 1991 prescribes that the owner of a vehicle, not the driver for the time being, shall be liable for a Penalty Charge Notice issued in respect of it. The 'owner' is presumed to be the keeper as registered at the Driver and Vehicle Licensing Agency (DVLA)

Enquiries of DVLA established the Appellant as the registered keeper of the said vehicle, therefore the Appellant is the person liable.

The sections of the earlier Road Traffic Act, to which the Appellant makes reference, do not apply to the issue of Penalty Charge Notices, but rather to proceedings in respect of the commission of offences.

The Enforcement Authority who assert that the said vehicle was so parked contrary to, and during the operative period of, a restriction are obliged to adduce evidence to the requisite standard to substantiate that assertion.

The evidence upon which the Enforcement Authority rely to substantiate the assertion comprises the certified copy Penalty Charge Notice, and extracts of governing Traffic Management Order provisions, together with photographic evidence: CCTV footage and still frames taken therefrom revealing the said vehicle in situ and the divisional lane carriageway markings.

It is incumbent upon a motorist to consult signage and comply with carriageway indications, and to be acquainted with the nature of such restrictions by reference to The Highway Code.

The Enforcement Authority also adduce images of the bus lane signage along the route of the road in question.

Photographic capture is adduced in contention demonstrating the bent nature of one such sign. I note that directly beside that sign is the bay time plate advising motorists as to the restrictions operative within the same, therefore the motorist cannot fail to miss the bus lane sign.

A recent Decision in the High Court endorsed the view that minor irregularities do not denigrate the viability of a restriction where the signs and lines suffice to indicate the nature and extent of a restriction.

I am satisfied that the combination of the signage along the route together with the carriageway markings are sufficient to communicate the nature of this restriction. Further the prudent motorist must adhere to bus lane indicators until such point as an 'end of bus lane' sign is observed.

The different bus lane sign, to which a camera enforcement advertisement has been newly added, is noted; the fact that such camera enforcement advertisement was not in the immediate vicinity previously does not detract from its viability; since the placement of such signs around the road network suffices to indicate that camera enforcement is an option available for use by the Enforcement Authority in respect of transgressions.

The general premise is that a vehicle shall be deemed to wait in a restricted area if any point in that street is below the vehicle or its load (if any) and the vehicle is stationary. The brevity of duration, the fact that the driver remains in the vehicle, or that the engine continues to run is immaterial. The driver's representations, regarding the reason for so parking, have been noted, but amount to mitigating circumstances only and do not found the nominated (or any) ground of Appeal. The Court of Appeal Held in the case of *Walmsley-v-Transport for London* [2005] EWCA Civ 1540 that no Adjudicator is entitled to take mitigation into consideration in reaching a determination.

Evidentially I am satisfied that this contravention occurred, accordingly I refuse this Appeal.”

REVIEW: The reviewing adjudicator found no ground for interfering in the appeal decision.

JUDICIAL REVIEW: The application was refused.

COURT OF APPEAL: The application was refused with no right of appeal to the Supreme Court.

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 (2011)): This case remains at the Court of Appeal (Civil Division) currently stood out pending alternative dispute resolution that is ongoing.

(b) Applications 2017-18

The Queen on the Application of Samuel Idigbe -v- London Tribunals [CO/595/2018] (Samuel Idigbe -v- London Borough of Barking and Dagenham ETA 217032140A (2017))

The appeal:
Adjudicator's Reasons

“The Appellant attended the hearing in person.

The Appellant said that he was allowed to park on the pavement. He argues that the prohibition of pavement parking does not apply anywhere in the Borough of Barking and Dagenham. He draws my attention to the different surfaces on the pavement and argues that the outside edge of the pavement has been specifically strengthened for this purpose. He also referred to an appeal in which he was successful for the same reason.

Parking on the pavement is prohibited throughout Greater London save at locations designated by the Authority. The Authority would have to sign these locations. There is no evidence that the Authority has designed the location as permissible for pavement parking. There is also no sign.

As to the previous appeal, the Adjudicator found that the Authority has not addressed the issue about the different surfaces of the pavement. The same applies in this case but I do not agree that this is sufficient to say that the Authority has intended by the differential surfaces to create a pavement parking area.

I refuse the appeal.”

REVIEW: The reviewing adjudicator identified no ground for review.

JUDICIAL REVIEW: The application was found to be totally without merit.

1. *The Queen on the Application of Daniel Lister -v- London Tribunals [CO/585/2018] (Daniel Lister -v- London Borough of Islington ETA 2170266425 (2017))*

The appeal:

Adjudicator's Reasons

“The appellant disputes the contravention stating that the only the back of the sign is visible in the photographic evidence and he therefore believes it was not clearly visible at the date and time of the contravention.

The local authority accept that the angle of the video does not show the face of the sign but have submitted photographic evidence taken on the 8th and 12th April which is both before and after the date of the alleged contravention showing the sign to be present and clearly visible.

On the balance of probabilities, I am satisfied from the local authority's evidence that the contravention did occur and refuse this appeal.”

REVIEW: The reviewing adjudicator found no ground for interfering in the appeal decision.

JUDICIAL REVIEW: The application was refused, the claimant's grounds were unarguable. They disclosed no error of law but instead a simple disagreement with the adjudicator's decision.

The appellant (claimant) has applied for the claim to be renewed at an oral hearing.

2. ***The Queen on the Application of Shijian Zheng -v- London Borough of Hackney [CO/3996/2017] (Shijian Zheng-v- London Borough of Hackney ETA 2170193139(2017))***

The appeal:

Adjudicator's Reasons

“This PCN was issued for the alleged contravention of failing to comply with restrictions on vehicles entering a pedestrian zone in Birkbeck Road at 9.22am on 21 February 2017.

I have reviewed the CCTV footage and the site images submitted by the Council. These show that Mr Zheng's car was driven through two signs, one on each side of the road, which had a no entry restriction for all motor vehicles between 6am and 8pm from Mondays to Saturdays except for access by T3 permit holders between 6am and 9.30am and between 3.30pm and 7pm.

Mr Zheng says that he is a permit holder and that his wife was entering the pedestrian zone to attend their business address. He submits in evidence a business permit for Zone C. However, the signed exemption for permit holders is for T3 which means that Mr Zheng's permit was not valid for entering the pedestrian zone during the controlled hours.”

REVIEW: The reviewing adjudicator found no ground for interfering in the appeal decision.

JUDICIAL REVIEW: The application was refused, the respondent enforcement authority having indicated that it did not consider it to be proportionate to defend the claim agreeing to pay reasonable costs assessed by the court at £334.73.

3. **The Queen on the Application of Waseem Chaudhry -v- Environment and Traffic Adjudicators London Tribunals [CO/517/2018] (Waseem Chaudhry v London Borough of Ealing ETA 2160381697(2017))**

The appeal:
Adjudicator's Reasons

“The penalty charge referenced above is one of an outstanding pair sought from the appellant Dr Chaudhry in connection with the use of Connell Crescent contrary to the signage introduced to restrict motor vehicles at the time recorded on CCTV clip.

I have heard in connection with this appeal from Dr Chaudhry who attended two hearings accompanied on both occasions by his in law relation Mr Sayed Hanif.

During the course of the adjudication Mr Hanif alluded to a high number of motorists receiving penalty charges as a result of the Connell Crescent restrictions and Mr Hanif was critical of the signage arrangements associated with them. I have not however been persuaded that criticisms of the signage justify penalty charge cancellation in the pair of cases before me. I have repeatedly in earlier cases ruled that the signage concerned was legally adequate. Furthermore, criticisms of signage are not really at the heart of this appeal which is essentially about whether the evidence establishes that the Mini recorded was one owned by the appellant at the time when the CCTV recording was made.

I am aware that an earlier adjudication by a Colleague Adjudicator after a brief oral hearing, one approximating 15 minutes I understand, quashed a Connell Crescent penalty charge imposed on the appellant on the basis that evidence was inadequate to demonstrate the Mini recorded was one belonging to the appellant. The Adjudicator in that case wrote a decision canvassing a possibility of clone. That earlier Tribunal decision was based on evidence different from that available to me currently and I have decided to disregard that earlier decision for present forensic purposes. It is not legally binding on me.

My adjudication has extended over two oral hearings. These were on 11 February and 4 March 2017. At these adjudication hearings the Council was represented by Mr Shetty and Mr Barbatouci (with Mr Motaleb *vice* Mr Barbatouci on 4 March).

My task in this adjudication is to decide contested issues on *the balance of probabilities*.

The nub of the appellant case is that some two days before his wife's birthday (i.e. birthday 9 August 2016) he acquired as a present for her from Gerard Motors in the same street as he lives, a white Mini convertible seemingly matching that recorded on cctv for this case. He was thus not owner at the material dates.

I have not had the opportunity to hear from Mrs Chaudhry despite my clearly expressed wish that she should attend to give evidence. I am recording that I did not receive what I regarded as satisfactory explanations for her not being available to attend to give evidence.

The oral evidence of Dr Chaudhry did not lead me to accept his evidence about the date of acquiring that Mini for his wife and surrounding circumstances as reliable.

I have had particular regard to the copy of the V5C sent to this Tribunal from the appellant to assist me following my insistence on it being produced.

I sought sight of this document as I believed it would assist the Adjudicator in assessing the strength of the appellant version of events surrounding acquisition, dates etc.

In connection with the copy V5C received I shall record receiving a letter signed by Dr Chaudhry dated 20 March 2017 that informed me that when before me in person he had been unaware that the car had been sold and that his associate Graham was responsible for sending the copy V5C to this Tribunal as evidence.

The Council has in terms said it is not satisfied that the purported copy of the V5C provided by the appellant is a true copy of the original document. I have agreed it is materially misrepresentative.

The Council has contended that section 5 of the V5C as sent in which should normally show the date when the vehicle was acquired appears to it to have been deliberately and totally obscured. I have agreed with the Council on that.

The Council has also pointed out that in the *office use only* section of this document a reference number indicates that the V5 document was processed on 8 June 2013 registering a cherished number plate T17 HRA to this vehicle. I have agreed with the Council that is the case.

The above considerations have led me to uphold Dr Chaudhry's liability for the pair of penalty charges under my adjudication.

The weight of evidence has resulted in me accepting the Council case that the appellant Dr Chaudhry was at the material time the owner of the Mini that was recorded on the CCTV clips underlying the pair of penalty charge notices with which I have been concerned."

REVIEW:

"This is an application by the Appellant for a review of the decision of the Adjudicator Mr Gerald Styles who refused the Appellant's appeal on 25 May 2017. The basis of the Appellant's application is that the Adjudicator had previously allowed his appeal under the same grounds.

An inherent part of the scheme is to ensure that the Adjudicator's decision is final and conclusive, save in very exceptional cases. A party is not able to seek a review of a decision merely because that party believes the decision is wrong.

The fact that another Adjudicator may have come to a different decision is not a ground for review. Furthermore, a mere apparent inconsistency of decisions does not mean that a decision is wrong, and is certainly not in itself a ground of review.

The adjudication extended over two oral hearings on 11 February and 4 March 2017. I have read the Adjudicator's decision as well as the adjournment notification letter dated 22 April 2017.

The Appellant has made two points in his appeal. The first point is to do with signage. The second is to do with ownership of the vehicle. He has not made clear whether he objects to the Adjudicator's findings on both points. I shall treat his application as an objection to both points.

The Adjudicator did not accept the argument on the signage. He was clearly entitled to make this finding.

The main point of the Appellant's case is ownership. It is clear from the adjournment notice and the decision that Mr Styles took great care to analyse the submissions and supporting evidence.

The Adjudicator recorded that he had particular regard to the copy of the V5C sent to this Tribunal from the appellant at the Adjudicator's direction. He made a finding that section 5 of the V5C which should normally show the date when the vehicle was acquired appears to have been deliberately and totally obscured. This is a finding of fact which the Adjudicator was entitled to make on the evidence before him.

The Adjudicator also found that a reference number indicated that the V5 document was processed on 8 June 2013 registering a cherished number plate T17 HRA to this vehicle. He was entitled to make this finding of fact.

These findings led the Adjudicator to conclude that the Appellant's evidence on ownership was unreliable. The logic of this conclusion cannot be faulted.

The original Adjudicator made a finding that he was entitled to make on the evidence before him. The decision discloses no error of law. Considering carefully everything before me in this case, I cannot find any ground under the Regulations for review and thus the original decision must therefore stand.

The Authority has sought an order for costs for the appeal. I think that it would be prudent for me to remit the issue of costs to Mr Styles. I am

making a further direction that the Authority is at liberty to submit within 14 days of my decision an application for costs of the review application and that the determination of such an application should be heard with the current cost application.”

JUDICIAL REVIEW: The application was refused, it being found to have no merit.

4. TRAINING AND APPRAISAL

(a) TRAINING

Our new adjudicators were recruited in March 2017 with the then Lord Chancellor providing her consent to the appointments on 19th April 2017. Training included a close study of the Traffic Management Act 2004, The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 as well as referencing the key cases and definitions. All key cases can be viewed on our website at www.londontribunals.gov.uk

(b) APPRAISAL

All adjudicators participate in the tribunal’s mandatory appraisal programme which is based on the Judicial College’s scheme, adapted for the particular needs of our tribunal.

The objectives for the appraisal scheme are to:

- ensure the maintenance of the tribunal’s standards and consistency of practices,

- ensure that the tribunal's training programme is informed by the identification of particular needs,
- maintain public confidence in judicial performance as a result of regular monitoring,
- ensure that all adjudicators demonstrate the competences necessary for their role,
- measure individual performances against the tribunal's standards,
- identify individual and general training and development needs,
- use the collected experience of adjudicators to identify ways of improving the service that the tribunal provides to appellants and the overall efficiency of the tribunal, and
- provide an opportunity for adjudicators to raise issues relating to their experience in sitting, training and tribunal procedures.

The next round of appraisals is due to commence in October 2018.

The Environment and Traffic Adjudicators

1. Alderson Philippa
2. Anderson, Jane
3. Aslangul, Michel
4. Black, Angela
5. Brennan, Teresa
6. Brownhill, Ian
7. Burke, Michael
8. Chan, Anthony
9. Eldridge, Mark
10. Greenslade, Henry Michael
11. Hamilton, Caroline
12. Hamilton, John
13. Harman, Andrew
14. Harris, Richard
15. Hillen, Monica
16. Houghton, Edward
17. Kaler, Anju
18. Lane, John
19. Lawrence, Michael
20. Lloyd, Francis
21. McFarlane, Alistair
22. Moore, Kevin
23. Oxlade, Jo
24. Oliver, Michael
25. Patel, Dharmesh
26. Parekh, Mamta
27. Pearce, Belinda
28. Prokofiev, Cordelia
29. Rach, Neena
30. Rayner, Christopher
31. Iqbal, Samina
32. Shepherd, Jenny
33. Sheppard, Caroline
34. Stanton-Dunne, Sean
35. Stott, Matthew
36. Styles, Gerald

37. Silk, Susan
38. Teper, Carl
39. Thorne, Tim
40. Udom, Ini
41. Walsh, Jack
42. Wright, Paul

This reporting year saw the retirement of adjudicator Hugh Cooper and the appointment of Neeti Haria to the first tier tribunal (Immigration Chamber) Colleagues wish them well.

*The Environment and Traffic Adjudicators
London Tribunals 2017-18*