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Foreword

The role of the ALG's Transport and Environment Committee (TEC) is wide ranging. At one level it provides the policy lead on a range of issues for the ALG on behalf of London's boroughs. This includes policy development, representation and lobbying over transport, environmental quality, waste, the public realm, licensing and regulation. But TEC is also responsible for delivering services to Londoners and the London boroughs.

Many of the services support London's older and disabled people through the negotiation and delivery of the Freedom Pass and Taxicard schemes. Others are to do with traffic, including the London Lorry Control scheme, TRACE (which provides information on towed away vehicles) and the Health Emergency Badge for doctors and other medical professionals attending emergencies. Amongst these traffic related services are the statutory responsibilities of TEC in setting parking and traffic enforcement penalty levels and operating the Parking and Traffic Appeals Service. TEC also supplies Consumer Direct London on behalf of the Department of Trade and Industry.

The delivery of these services helps to inform the policy development undertaken by TEC and gives added credibility to the views of the boroughs that we represent in these areas. This provides an added incentive for TEC to deliver its services effectively and efficiently, and many have been praised in this context.

These services also represent an approach to joint procurement which exemplifies the Gershon approach to efficiencies in local government. These services are, therefore, pan-London though not necessarily strategic.

Frequently, both policy development and service delivery is done in partnership with the Mayor of London and parts of the Greater London Authority family. For example, Taxicard is jointly funded by Transport for London and the boroughs, and TEC and the Greater London Authority were partners in securing the London Recycling Fund. While the different tiers of government in London each have their own tasks and responsibilities, it is clear that the best can only be achieved for London if this approach to partnership continues to be pursued vigorously wherever possible - accepting that this often presents challenges in ensuring that each partner secures their own goals.

This annual report sets out how these approaches to policy development, service delivery and partnership have been pursued during the year.

Nick Lester

Director of Transport and Environment

Introduction

The Association of London
Government is committed to
fighting for more resources for
London and getting the best
possible deal for London's 33
councils. Part think-tank and
part lobbying organisation, the
ALG also runs a range of services
all designed to make life better
for Londoners.

Many of those services are transportrelated and are run by the ALG's Transport and Environment Committee (ALG TEC) which includes Transport for London (TfL) as well as the 33 London boroughs. They include two concessionary fares schemes that provide benefits to more than a million Londoners, a lorry control scheme designed to keep heavy lorries away from residential roads at night and at weekends, various parking enforcement services and an adjudication service for appeals against parking and other penalty notices.

The policy unit is based at the ALG's main offices at 59½ Southwark Street, close to London Bridge. It provides a policy framework for the range of activities carried out by TEC.

The policy unit represents borough views to government, lobbies for more money and greater powers so that boroughs can tackle transport and environment issues effectively and develops London-wide initiatives.

The operational unit is based at New Zealand House in Haymarket, close to Trafalgar Square and is responsible for a number of transport functions, including:

Freedom Pass The Freedom Pass is the UK's most generous concessionary fares scheme and entitles 1.1 million Londoners over the age of 60 or with disabilities to travel free on the capital's buses, tubes and trains. London's 33 councils pay a total of £198 million a year to fund the scheme.

Taxicard A door-to-door transport service offering subsidised travel in licensed taxis and private hire vehicles for people with serious mobility impairment, who have difficulty in using buses, trains and tubes. It is available 24 hours a day, seven days a week and is paid for by the 32 participating councils, and the Mayor of London.

London Lorry Control Scheme

This is designed to protect the peace of Londoners by restricting the number of lorries using residential roads at night and at weekends.

Health Emergency Badge Scheme

A vehicle badging scheme to make it easier for doctors and health workers to park while attending medical emergencies.

Parking and traffic enforcement services ALG TEC is the approving authority for new parking and traffic enforcement services in London.
This includes managing a number of services on behalf of the London boroughs, including TRACE - a 24 hour, seven day a week telephone service giving information about cars that have been towed away.

Also based in New Zealand House:

The Parking and Traffic Appeals
Service (PATAS) uses a team of
independent adjudicators to
determine appeals against parking
and other penalty charge notices
(PCNs) issued by boroughs and TfL.
PATAS also handles appeals against
congestion charge penalties on
behalf of the Greater London
Authority.

As well as running services directly, the ALG works in partnership with other agencies on a variety of services including Capital Standards (improving the cleanliness of London's streets) and the London Safety Camera Partnership (providing and operating speed cameras at London's accident blackspots). It also has the contract to provide the Consumer Direct service in London for the Department of Trade and Industry which provides trading standards advice and information to the public.



Policy unit

The policy unit provides a policy framework for the range of activities which include working with government, the Mayor and the London Assembly, Transport for London (TfL) as well as other stakeholders to implement initiatives that improve the quality of life for London's residents, business and visitors.

Our work includes:

- Lobbying for more money for boroughs to spend on transport and environment initiatives
- Seeking new or improved powers for London councils to tackle common problems
- Running a comprehensive seminar and events programme on transport, planning, public protection and environment issues
- Representing borough views and concerns on government policies and the Mayor's strategies
- Developing new approaches, including new London-wide initiatives, on specific issues

During 2004/05...

We represented boroughs' views and concerns on central government policies and strategies. We worked and lobbied on several items of proposed legislation including ensuring that borough concerns were recognised in relation to the Traffic Management Act which received Royal Assent in July 2004. We ran a number of events during the year including the Liveable

London Conference on public realm issues and seminars on Consumer Direct and Operation Scrap It. We also made contributions to several European, national and regional conferences and seminars about our work.

Transport policy

One of our major successes was to work with TfL to lobby for more resources for London's transport. As a result, the Spending Review 2004 was a good settlement for transport in London with a five year package of measures. In addition we:

- Negotiated a three year Freedom
 Pass deal with TfL on behalf of the boroughs and agreed the settlement for 2005/06 before the statutory 31
 December 2004 deadline
- Carried out a Best Value review of the Freedom Pass
- Successfully transferred the Trip Rate Assessment database (TRAVL) to the ALG
- Established a borough group to identify the impact of the Traffic Management Act 2004 and boroughs' Network Management Duty in particular
- Published a report on the impacts of the congestion charging scheme
- Produced guidance and assistance

for boroughs on development of strategic environmental assessments for their local implementation plans

- Produced the ALG response to Department for Transport consultations on Network Management Duty Guidance
- Produced the ALG response to the Government Office for London (GOL) and TfL consultation on the Strategic Road Network
- Produced the ALG response to consultations on a number of proposed changes to the operation of the existing Central London Congestion Charging Scheme.

Planning policy

One of our major successes was to provide support to boroughs in interpreting and implementing the adopted London Plan. In addition we:

- Produced an action plan to improve the recruitment and retention of planners
- Submitted responses to the following Office of the Deputy Prime Minister (ODPM) consultations: s106 reforms, planning delivery grant allocations, amendment of the use classes order to facilitate casinos. We helped boroughs identify the impacts of the ODPM proposals

- Published findings and good practice from the ALG-commissioned research on planning for waste
- Held regular sub-regional development framework (SRDF) partnerships meetings with borough partners to ensure borough views are taken into account in the SRDF process.

Public protection policy

A key role for the ALG is to support boroughs with the implementation of the Licensing Act 2003. This has created a new duty for London boroughs to act as licensing authority for the regulation for entertainment and hospitality industry. Specifically we:

- Worked alongside other local government representatives to lobby government on the implementation arrangements for the new Licensing Act with particular regard to the statutory guidance and the fees regime
- Started work on a joint ALG/London Fire and Emergency Planning Authority protocol to support the implementation of the Licensing Act
- Worked very closely with the
 Department for Culture, Media and
 Sport on the potential impact on
 London of the Gambling Bill
 especially in relation to proposals
 for super casinos and large casinos.

The ALG, in association with London trading standards authorities, successfully bid to provide for Consumer Direct London, the London region contact centre for

consumer advice and information. The contact centre is provided under contract to ALG by bss. Following preparatory work in early 2005, the contact centre started taking calls in March 2005.

Environment policy

Our major achievement this year has been to develop pan-London approaches to public realm enforcement through the introduction of a new London Local Authorities Act and work on the 9th London Local Authorities Bill.

Our specific achievements in this area include:

 Holding the third ALG conference on the public realm (Liveable London) with a focus on the new London Local Authorities Act and the 9th London Local Authorities Bill and its





links to the impending implementation of the Licensing Act 2003

- Running a London-wide vehicle emissions testing programme and securing London-wide support for a borough fleet register and emissions inventory in response to proposal 65 of the Mayor's air quality strategy
- Preparing draft codes of practice on graffiti removal and the prevention of nuisance from birds (both now published)
- Contributing to the preparation of a London anti-social behaviour strategy (published July 2005) alongside a number of other regional stakeholders such as the GLA, GOL and the Metropolitan Police
- Holding two seminars on waste: a seminar to raise awareness amongst waste managers and finance directors on the changes to waste funding arrangements, and a seminar for members and senior officers on planning for waste
- Co-ordinating a free take back scheme for abandoned vehicles (funded through Operation Scrap-It).

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Operational unit

The operational unit manages the London concessionary fares scheme and a number of other transport-related services.

Freedom Pass

The concessionary fares scheme for London is funded by all the London boroughs and is badged as the Freedom Pass. It continues to be UK's most generous concessionary fares scheme and was a model for similar schemes now provided nationally in Scotland and Wales.

The scheme enables 1.1 million
Londoners over the age of 60 and
disabled people to travel totally free
of charge on buses, tubes, trams and
trains throughout the capital. The
statutory requirement set out in
legislation is for such schemes to
offer only half price travel on buses,
although the Government has made
a commitment to change this to
offering free travel on buses from
1 April 2006.

In 2004/05, London's 33 councils paid the two main transport operators (ATOC and TfL) £183 million to allow Freedom Pass holders to use their transport networks. How much each borough pays is linked to the number of Freedom Pass holders living in each borough.

The ALG negotiates and manages the delivery of the Freedom Pass scheme, being responsible for ticket issue and publicity. There is a variety of published information about the scheme and a dedicated website www.freedompass.org.

During 2004/05...

Due to delays in the delivery of the new smart card style passes, the 2004 pass reissue process was not completed until early June of that year. Over a million passes were issued between February and June through the post-office counter network and borough issuing points. However, once the reissue was complete the new smart card pass

proved to be highly popular with customers who found accessing the transport system much easier.

Hot-listing is the process that enables the ALG to stop the use of lost or stolen passes and it has proved to be extremely effective in reducing the number of fraudulent cards in circulation, to an extent that would have been extremely difficult with the old magnetic strip cards.

Taxicard

The Taxicard provides subsidised door-to-door transport in licensed taxis and private hire vehicles to nearly 58,000 Londoners with serious mobility problems. The scheme ensures that people who find it difficult to use public transport can still get out and about, travelling when and where they want, thereby offering them an improved degree of independence.









Taxicard is available 24 hours a day, seven days a week and is paid for by 32 of the 33 London councils (Westminster, the only borough not in Taxicard, has its own scheme). The Mayor of London now also makes a substantial budgetary contribution, bringing the total spending on Taxicard to more than £10 million a year.

Taxicard uses in excess of 6,000 licensed vehicles to make 950,000 trips annually. The ALG has a dedicated Taxicard team that processes membership applications, issues Taxicards to members and runs a weekday helpdesk. There is also a website www.taxicard.org.uk.

During 2004/05...

In 2004/05 we saw a 21.16 per cent increase in trips and a 11.01 per cent increase in membership. We continued working closely with TfL to ensure that the Mayor's supplementary funding for Taxicard offered real benefits to users. Building on this momentum, the contractor continued to introduce enhanced local supply to improve areas of poor service. This has meant that the scheme has moved far closer to ensuring that supply meets demand than was previously

possible, even though that demand continues to climb.

With TfL, we have continued the process of standardising the eligibility for Taxicard and other door-to-door services. Further to this, boroughs have begun to trial a new application form that they believe will reduce the need for medical evidence of disability and help move towards targeting transport resources to user requirement.

Lorry Control Scheme

The Lorry Control Scheme aims to ease traffic noise in residential areas by controlling the movement of lorries over 18 tonnes during the night (9pm to 7am) and at weekends (1pm Saturdays through to 7am Mondays). During the restricted times, hauliers need special permits to be allowed to use their lorries on all but a very limited number of roads on a regulated basis. A small number of main roads and individual access roads in London are excluded from the scheme

The ALG manages the scheme, publishing the London lorry map (which shows the roads affected by the scheme), advising hauliers on

appropriate routes and issuing permits for essential journeys. The ALG is also responsible for ensuring compliance with the scheme through the work of a team of enforcement officers who monitor vehicle movements at strategic locations across London, by the roadside and through mobile patrols and the use of cameras. Each year these officers observe and record sightings of over 8,000 lorries on restricted roads. Drivers and operators of vehicles who do not have a permit, or who are not complying with the permit conditions, may be issued with a Penalty Charge Notice (PCN).

During 2004/05...

Infringements of the Lorry Control Scheme and of the enforcement process were decriminalised on 1 April 2004 and the ALG issued approximately 3,700 PCNs over the course of year.

This also meant that cases were no longer heard in court and that appeals against PCNs were dealt with by the Parking and Traffic Appeals Service.

Health Emergency Badge Scheme

The ALG runs the Health Emergency Badge (HEB) scheme which provides badges for doctors and other health workers to display in their vehicles when attending emergency situations. Whilst it has no legal status, parking authorities will generally not issue tickets to a vehicle which is displaying the HEB badge.

Parking services

ALG TEC is the approving authority for new parking and traffic enforcement services in London. It also manages a number of services on behalf of the London boroughs. These include:

- TRACE, which provides a single point of contact to locate cars that have been towed away
- Computer links to the Traffic
 Enforcement Centre, which provides
 a system for parking authorities to
 initiate debt recovery proceedings
 in the County Court against people
 who have not paid their penalty
 charges
- Computer links to the Driver Vehicle Licensing Authority, which provides a gateway for boroughs wishing to obtain or check a vehicle's registered keeper
- Payment Information Exchange, which offers motorists the opportunity to pay fines at locations other than in the borough where the offence took place.

In addition, we publish a parking enforcement code of practice and the Parking Attendant's Handbook, both of which provide detailed advice and guidance on traffic enforcement issues to the boroughs and other interested parties.

We also provide large amounts of information to the public on parking, including leaflets in different languages aimed at tourists.

During 2004/05...

Guidance was issued on the implementation of the provisions contained within the London Local Authorities and Transport for London Act.

A pilot of the enforcement of moving traffic contraventions was carried out by six boroughs and TfL under the supervision of an ALG working group. The process of updating and reissuing ALG guidance leaflets relating to parking continued. The current version of all leaflets is available on the ALG website, www.alq.qov.uk.

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Parking and Traffic Appeals Service

ALG TEC, as a committee of London local authorities enforcing decriminalised parking and traffic restrictions, has a statutory duty to provide an administrative and hearing centre service for the Parking Adjudicators. The Adjudicators constitute the independent tribunal established by the 1991 Road Traffic Act to consider appeals against liability for penalty charge notices issued by the enforcing authorities. ALG TEC fulfils its statutory function via the Parking and Traffic Appeals Service (PATAS).

The ALG also provides, via PATAS and on behalf of the Greater London Authority, an adjudication service for motorists appealing to the Road User Charging Adjudicators against congestion charge penalties issued in central London. Parking and Road User Charging Adjudicators form separate tribunals with separate

jurisdictions. Whilst PATAS endeavours to provide a seamless service to all tribunal users, due regard is paid to their separate entities and their separate sitting and case management requirements.

Report for the year 1 April 2004 to 31 March 2005

The main issues for PATAS over the reporting year were a significant increase in total workload, the introduction of new areas of work, and the development of information gathered and published on the work of the service as recommended in the auditors report.

New areas of work

During 2004, the ALG began enforcing night-time and weekend lorry control on behalf of the London boroughs. Appeals against the penalty charges are made to the Parking Adjudicators. As predicted, the number of penalty charge

notices issued and the number of appeals received has been very low. It has, therefore, been decided to administer the appeals manually using paper files and PATAS staff. A total of 152 such appeals were received during the reporting year and 107 were decided.

A number of local authorities began enforcing various moving traffic restrictions that were decriminalised in the London Local Authorities and Transport for London Act 2003. The Parking Adjudicators are statutorily responsible for considering any appeals arising from this enforcement. In the first instance, it was decided to administer these appeals manually so that volumes and adjudicator requirements could be ascertained before committing to development of the automated adjudication system. During the reporting year a total of 365 such appeals were received and 239 were decided.

Case volumes

In addition to these new areas of work, the number of parking and bus lane appeals submitted to the Adjudicators increased significantly. The number of parking appeals lodged increased from 44,280 in 2003/04 to 54,526 in 2004/05. The number of bus lane appeals lodged increased from 3,158 in 2003/04 to 3,602 in 2004/05. In total, therefore, the caseload of the Parking Adjudicators increased from 47,438 to 58,645; an increase of 11,207 or 23 per cent. In response



to the increased workload an additional 12 Parking Adjudicators were appointed in autumn 2004 and a commitment to make a small increase in PATAS staff numbers from the start of the new financial year 2005/06 was agreed.

The number of appeals administered by PATAS on behalf on the Road User Charging Adjudicators dropped from 42,339 in 2003/04 to 34,065 in 2004/05. As a result of the large case backlog which built up during 2003/04 a further 21 Road User Charging Adjudicators were appointed during this reporting year. Therefore, whilst the workload has diminished slightly in this area, the focus of PATAS staff has been in assisting in the training of and the provision of high quality support services to a significantly larger tribunal panel.

Improving information provided by PATAS

ALG's external auditors, Price
Waterhouse Coopers, provided a
review of PATAS as part of their
audit plan for 2004/05. In summary,
the recommendations were that
performance measures and
indicators should be developed and
published on a regular basis
(including trends over time and
appeals upheld or rejected) and that
boroughs should be consulted on
what further information the ALG
could provide to assess its own
processes in relation to penalty
charge processing.

As a result of this report, boroughs were consulted at seminars for appeals officers and parking managers. Suggestions were invited on further statistical information that PATAS could provide. Although the consensus was that PATAS provided sufficient information on appeals and in appropriate format, a number of enhancements to the statistical information provided have been put in place. The appeals statistics are published in a regular newsletter which is sent directly to all boroughs and published on the PATAS website,

www.parkingandtrafficappeals.gov.uk. These statistics now include details of the number of appeals and statutory declaration referrals received, the number of cases allowed, refused, withdrawn by appellants and not contested by authorities and the percentage of appeals allowed and not contested, broken down by borough. Two newsletters have been produced so far this financial year and these now include headline performance statistics on PATAS including the average time taken to deal with a case and the percentage of personal hearings begun within 15 minutes of the appointed time.

In addition to this statistical information, two seminars have been held for local authority appeals staff dealing with ancillary applications to the tribunal (for review, costs, witness attendance etc.) and evidential issues surrounding CCTV enforcement.



PATAS staff have also been undertaking a round of visits to parking departments in individual authorities. Information on the borough's performance (over the previous year and the previous month so that trends can be identified) is taken to each meeting. Boroughs are given the opportunity to raise any issues particular to them. All boroughs visited have confirmed that these meetings are of value.

Adjudicators' annual report

The Parking Adjudicators' annual report for this period is presented separately to this report. They have made no recommendations this year.

A longer term view

In view of the fact that parking appeals have now been considered by adjudicators for 10 years - the first appeals were heard in October 1993, with 1994/95 the first full year of operations - it is appropriate to look back over that period to establish any broad trends. The number of appeals considered has, of course, grown substantially over that time; from 227 in 1993/94 and 4,869 in 1994/95 to 56,283 (excluding bus lanes and moving traffic) in 2004/05. However, the period has shown big changes in other factors such as the number of PCNs issued and, looked at as a percentage, the pattern is more consistent. For the first three years of operation, while the system settled down and motorists gradually understood how decriminalisation worked, the percentage of PCNs resulting in an appeal was very low. However, by 1997/98, 0.9 per cent of PCNs resulted in an appeal to the adjudicators. Since then, that proportion has remained within the range of 0.8 per cent to 1.0 per cent of PCNs issued, with peaks in 2000/01 and 2004/05 and troughs in 1999/00, 2001/02 and 2003/04.

Outcomes from appeals have also remained broadly constant with between 57 per cent and 64 per cent of appeals being allowed (peaks in 1994/95 and 2000/01, troughs in 1996/97 and 1997/98).

The percentage of appeals not contested by local authorities has increased slowly from about 20 per cent at the start of the period to about 30 per cent now (with a peak in 2001/02) but has been fairly consistent (29 per cent to 32 per cent) since 2000/01. At the same time, the percentage of personal appeals has marginally declined from just under 30 per cent at the start of the period to just over 20 per cent towards the end (although there has been a jump back to just under 30 per cent in 2003/04 and 2004/05).

Outcomes for individual authorities clearly vary more widely over the period but this is inevitable, particularly where appeal numbers from some authorities are very low. Put together, the consistency shown in this period shows a considerable degree of robustness in the appeals system and, by inference, with the parking enforcement system in London overall. We have consistently encouraged dissatisfied motorists to use their right to appeal by making access to the adjudicators as easy as possible. Long term trends which showed an increase in the appeal rate or the proportion of appeals allowed would have indicated causes for concern which, in practice, are not immediately apparent.

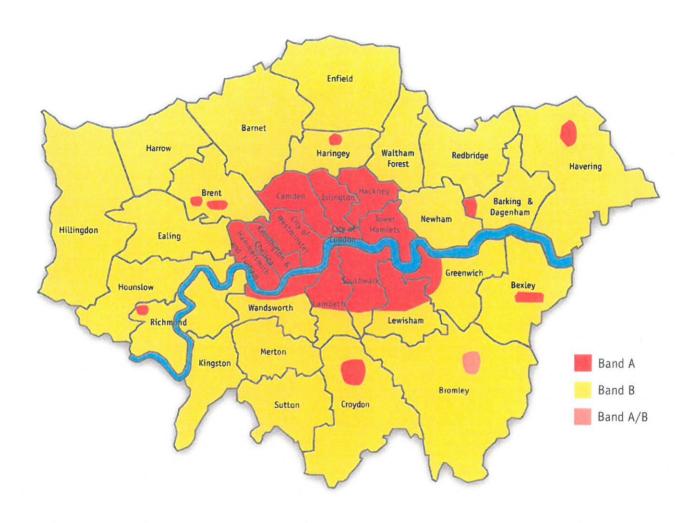
For more information contact Charlotte Axelson, Head of Parking and Traffic Appeals Service, Transport Environment and Planning. charlotte.axelson@alg.gov.uk (020 7747 4700)

TEC statistics for 2004/05

Parking enforcement stat	Parking	Bus lane	Moving	Total	Vehicles	Vehicles
	PCNs	PCNs	traffic PCNs	PCNs	clamped	removed
		(all Band A)	(all Band A)			to pound
Barking & Dagenham	46,587			46,587		
Barnet	155,919	16,425		172,344		
Bexley	63,118	10,822		73,940		
Brent	111,860	18,175		130,035		4,958
Bromley	67,633	10,369		78,002		12
Camden	463,944	45,778	52,091	561,813	26,070	4,833
City of London	43,853			43,853	1,173	495
Croydon	69,712	27,686	4,052	101,450	352	5,004
Ealing	178,592	63,967	5,335	247,894		23
Enfield	93,469	9,415		102,884		1,207
Greenwich	61,944			61,944		
Hackney	127,478	2,744		130,222	9,185	1,849
Hammersmith & Fulham	185,451	25,679		211,130		2,782
Haringey	145,971	54,659		200,630	4,375	4,986
Harrow	73,940	7,904		81,844		
Havering	37,944			37,944	36	28
Hillingdon	66,909	21,219		88,128		
Hounslow	98,869			98,869		
Islington	309,675	58,377		368,052	21,490	4,042
Kensington & Chelsea	29,1596			291,596	14972	8,869
Kingston	75,140	13		75,153		
Lambeth	243,667	65,907		309,574	6,759	8,362
Lewisham	77,264			77,264		
Merton	48,541	13,301		61,842		
Newham	168,390	52,218	16,195	236,803		2,429
Redbridge	94,641			94,641		
Richmond	98,986	19,996		118,982		
Southwark	130,901	10,846		141,747	4,786	2,357
Sutton	47,702			47,702		
Tower Hamlets	69,086			69,086	3,430	2,486
Transport for London	55,976	272,574	23,520	352,070		
Waltham Forest	134,767	15,522		150,289	7,274	3,978
Wandsworth	243,162	11,858	1,040	256,060		2,238
Westminster	817,596			817,596	47,463	13,23
Total for London	5,000,283	835,454	102,233	5,937,970	147,365	74,17!

Note: No figures are shown where the local authority does not carry out this type of enforcement.

Current on-street penalty charge bands



Lorry control enforcement statistics

Number of observations	7,939	
Number of PCNs issued to operators	3,679	
Number of PCNs issued to drivers	642	

Taxicard and Freedom Pass

Tavicard	and	Erondom	Dace	activo	members	
laxicard	and	Freedom	rass	active	members	5

	Taxicard	Freedom Pass	
	average number	average number	
	of members	of members	
Barking & Dagenham	1,987	22,209	
Barnet	1,593	51,481	
Bexley	804	40,163	
Brent	2,812	38,840	
Bromley	1,157	55,387	
Camden	3,448	30,058	
City of London	180	1,290	
Croydon	1,525	52,247	
Ealing	1,033	43,082	
Enfield	579	44,371	
Greenwich	791	31,729	
Hackney	2,732	24,217	
Hammersmith & Fulham	2,326	22,155	
Haringey	1,553	29,335	
Harrow	4,814	37,118	
Havering	2,237	43,430	
Hillingdon	1,066	38,708	
Hounslow	1,311	31,056	
slington	1,910	26,360	
Kensington & Chelsea	2,564	21,916	
Kingston Upon Thames	674	22,063	
ambeth	2,218	31,647	
_ewisham	815	34,843	
Merton	1,535	27,160	
Newham	3,403	30,414	
Redbridge	3,848	37,932	
Richmond Upon Thames	918	26,655	
Southwark	1,361	30,822	
Sutton	710	29,522	
Tower Hamlets	1,543	21,539	
Waltham Forest	2,740	30,790	
Wandsworth	1,837	34,309	
Westminster	0	31,456	
Total for London	56,489	1,074,297	

Appeals to the Parking and Traffic Adjudicators

	Appeals received	Appeals allowed	of which not contested	Appeals refused	of which withdrawn by appellant	of which withdrawn by adjudicator	Total appeals decided
Barking & Dagenham	580	306	62	175	1	3	481
Barnet	2,329	1,478	411	1,456	12	48	2,934
Bexley	429	228	60	209	9	4	437
Brent	1,507	1,007	250	731	8	3	1,738
Bromley	692	377	156	535	2	7	912
Camden	1,250	530	226	969	16	10	1,499
City of London	409	207	79	319	3	10	526
Croydon	601	295	81	514	7	10	809
Ealing	2,060	1,244	598	1,118	12	27	2,362
Enfield	257	89	42	179	1	7	268
Greenwich	579	226	102	352	3	3	578
Hackney	1,645	983	566	413	3	7	1,396
Hammersmith & Fulham	1,740	832	387	1,139	6	18	1,971
Haringey	1,168	827	552	176	3	7	1,003
Harrow	926	339	44	644	6	8	983
Havering	703	408	101	367	1	1	775
Hillingdon	746	649	542	180	1	2	829
Hounslow	1,432	889	317	607	37	10	1,496
Islington	7,477	6,032	3,736	700	18	26	6,732
Kensington & Chelsea	3,004	1,678	926	1,199	13	4	2,877
Kingston Upon Thames	569	226	67	338	2	3	564
Lambeth	3,102	2,346	1,301	934	33	47	3,280
Lewisham	560	225	82	309	1	3	534
Merton	151	76	38	35	0	1	111
Newham	1,097	465	181	487	1	14	952
Redbridge	349	145	69	222	1	4	367
Richmond Upon Thames	732	479	223	338	0	9	817
Southwark	1,779	1,261	903	755	3	20	2,016
Sutton	559	285	173	273	1	4	558
Tower Hamlets	805	371	109	404	1	2	775
Transport for London	50	1	1	0	0	0	1
Waltham Forest	858	428	154	223	5	2	651
Wandsworth	1,602	784	507	423	15	7	1,207
Westminster	12,779	8,520	3,917	5,324	59	81	13,844
Total for London	54,526	34,236	16,963	22,047	284	412	56,283

Parking appeals - cost decisions

	Application from appellant allowed	Amount awarded	Application from appellant refused	Application from local authority allowed	Amount awarded	Application from local authority refused
Barking & Dagenham	0	£0	0	0	£0	0
Barnet	9	£649.20	3	5	£225.00	0
Bexley	1	£250.00	0	0	£0	0
Brent	6	£472.53	6	0	£0	0
Bromley	1	£35.00	0	0	£0	0
Camden	2	£203.23	5	0	£0	0
Corporation of London	0	£0	0	3	£186.43	0
Croydon	0	£0	4	1	£27.93	0
Ealing	2	£36.58	5	1	£51.43	0
Enfield	0	£0	0	0	£0	0
Greenwich	0	£0	0	0	£0	0
Hackney	3	£274.14	1	0	£0	0
Hammersmith & Fulham	1	£15.00	5	1	£45.00	0
Haringey	2	£213.25	0	0	£0	0
Harrow	1	£24.62	3	0	£0	0
Havering	0	£0	0	0	£0	0
Hillingdon	3	£204.75	0	0	£0	0
Hounslow	2	£53.97	1	0	£0	0
Islington	16	£720.22	14	0	£0	0
Kensington & Chelsea	2	£118.00	12	0	£0	0
Kingston Upon Thames	0	£0	1	0	£0	0
Lambeth	16	£702.25	11	0	£0	0
Lewisham	1	£99.00	0	0	£0	0
Merton	0	£0	0	0	£0	0
Newham	0	£0	2	0	£0	0
Redbridge	0	£0	0	0	£0	0
Richmond Upon Thames	0	£0	0	2	£119.61	0
Southwark	1	£62.11	4	0	£0	0
Sutton	1	£18.40	2	0	£0	0
Tower Hamlets	1	£153.75	2	0	£0	0
Transport for London	0	£0	0	0	£0	0
Waltham Forest	2	£28.40	5	0	£0	0
Wandsworth	1	£104.00	2	0	£0	0
Westminster	18	£2,474.82	39	46	£2,304.50	0
Total for London	92	£6,913.22	127	59	£2,959.90	0

Parking appeals - review decisions

Parking appeals - review		A I	A 1	n- d	Review	Review
	Reviewed on application	Appeal allowed	Appeal refused	Review accepted	allowed	refused
	of appellant	on review	on review	from local	from local	from local
	, ,			authority	authority	authority
Barking & Dagenham	3	1	2	0	0	0
Barnet	41	17	17	0	0	0
Bexley	8	6	0	0	0	0
Brent	16	5	8	1	0	1
Bromley	3	0	2	3	1	2
Camden	16	2	13	0	0	0
Corporation of London	2	0	2	2	1	1
Croydon	10	4	6	5	2	3
Ealing	28	9	12	5	1	2
Enfield	0	0	0	0	0	0
Greenwich	3	0	3	0	0	0
Hackney	6	5	1	0	0	0
Hammersmith & Fulham	15	7	8	11	4	7
Haringey	5	3	1	0	0	0
Harrow	11	5	6	2	0	1
Havering	3	2	1	0	0	0
Hillingdon	1	0	1	0	0	0
Hounslow	13	7	2	0	0	0
Islington	13	7	4	1	1	1
Kensington & Chelsea	26	11	15	3	1	2
Kingston Upon Thames	14	6	8	2	1	1
Lambeth	19	11	7	0	0	0
Lewisham	6	3	3	1	1	0
Merton	0	0	0	0	0	0
Newham	8	3	3	1	0	1
Redbridge	2	0	2	0	0	0
Richmond Upon Thames	6	3	3	0	0	0
Southwark	14	6	5	0	0	0
Sutton	7	2	4	2	0	2
Tower Hamlets	7	1	6	0	0	0
Transport for London	0	0	0	0	0	0
Unknown	0	0	0	0	0	0
Waltham Forest	6	6	0	0	0	0
Wandsworth	6	3	3	0	0	0
Westminster	119	48	66	5	0	5
Total for London	437	183	214	44	13	29

Note: The number of review applications accepted does not equal the number of decisions in all cases because hearings/judgements may be pending.

Bus lane appeals

Bus lane appeals			of which	Appeals	of which	of which	Total
	Appeals received	Appeals allowed	of which not contested	refused	withdrawn by appellant	withdrawn by adjudicator	appeals decided
Barnet	201	93	21	221	0	4	314
Bexley	109	43	9	48	4	3	91
Brent	77	36	11	41	0	1	77
Bromley	70	26	17	28	0	0	54
Camden	115	36	12	90	2	0	126
Croydon	36	30	9	57	0	0	87
Ealing	518	235	104	396	7	7	631
Enfield	10	3	1	4	1	1	7
Hammersmith & Fulham	94	36	18	99	0	1	135
Haringey	169	110	70	30	1		140
Harrow	8	1	1	0	0		1
Hillingdon	52	24	19	6	0		30
Islington	269	169	40	61	1		230
Lambeth	281	143	54	159	2		302
Merton	0	0	0	0	0		0
Newham	202	84	47	136	1		220
Richmond Upon Thames	30	6	3	12	0		18
Southwark	101	52	36	70	2		122
Transport for London	1,131	757	334	1,054	12		1,811
Waltham Forest	70	41	9	15	(56
Wandsworth	59	28	16	44	1		72
Total for London	3,602	1,953	831	2,571	34	47	4,524

Bus lane appeals - cost decisions

	Application	Amount	Application	Application	Amount	Application
	from	awarded	from	from local	awarded	from local
	appellant		appellant	authority		authority
	allowed		refused	allowed		refused
Barnet	0	£0	0	0	£0	0
Bexley	0	£0	0	0	£0	0
Brent	0	£0	0	0	£0	0
Bromley	0	£0	0	0	£0	0
Camden	0	£0	0	0	£0	0
Croydon	0	£0	1	0	£0	0
Ealing	0	£0	1	0	£0	0
Enfield	0	£0	0	0	£0	0
Hammersmith & Fulham	0	£0	1	0	£0	0
Haringey	1	£27.75	1	0	£0	0
Harrow	0	£0	0	0	£0	0
Hillingdon	0	£0	0	0	£0	0
Islington	0	£0	0	0	£0	0
Lambeth	0	£0	0	0	£O	0
Merton	0	£0	0	0	£0	0
Newham	0	£0	0	0	£0	0
Richmond Upon Thames	0	£0	0	0	£0	0
Southwark	1	£127.5	0	0	£0	0
Transport for London	2	£1,000	0	1	£ 56	0
Waltham Forest	0	£0	4	0	£0	0
Wandsworth	0	£0	1	0	£0	0
Total for London	4	£1,155.25	9	1	£56	0

Bus lane appeals - review decisions

Bus lane appeals – review	Reviewed on application of appellant	Appeal allowed on review	Appeal refused on review	Review accepted from local authority	Review allowed from local authority	Review refused from local authority
Barnet	2	1	1	0	0	0
Bexley	0	0	0	0	0	0
Brent	0	0	0	0	0	0
Bromley	2	1	1	0	0	0
Camden	1	0	1	0	0	0
Croydon	0	0	0	1	0	1
Ealing	7	2	5	1	0	1
Hammersmith & Fulham	1	1	0	0	0	0
Haringey	0	0	0	0	0	0
Islington	0	0	0	0	0	0
Lambeth	6	2	3	0	0	0
Newham	2	1	1	0	0	0
Richmond Upon Thames	0	0	0	0	0	0
Southwark	0	0	0	0	0	0
Transport for London	32	14	16	5	3	2
Waltham Forest	1	0	1	0	0	0
Wandsworth	1	1	0	1	1	0
Total for London	55	23	29	8	4	4

Moving traffic appeals

	Appeals received	Appeals allowed	of which not contested	Appeals refused	of which withdrawn	Total appeals decided
Camden	110	41	26	36	5	77
Croydon	28	11	8	7	1	18
Ealing	26	14	2	2	1	16
Newham	32	7	2	2	2	9
Transport for London	169	83	60	36	3	119
Total for London	365	156	98	83	12	239

Moving traffic appeals - cost decisions

	Application from appellant allowed	Amount awarded	Application from appellant refused	Application from local authority allowed	Amount awarded	Application from local authority refused
Camden	One appellant	application fo	r costs scheduled	for 22/7 to be deci	ded	
Croydon	0	£0	0	0	£0	0
Ealing	0	£0	0	0	£0	0
Newham	0	£0	0	0	£0	0
Transport for London	0	£0	0	0	£0	0
Total for London	0	£0	0	0	£0	0

Moving traffic appeals - review decisions

3						
	Reviewed on application of appellant	Appeal allowed on review	Appeal refused on review	Review accepted from local authority	Review allowed from local authority	Review refused from local authority
Camden	3	1	2	0	0	0
Croydon	0	0	0	0	0	0
Ealing	0	0	0	0	0	0
Newham	0	0	0	0	0	0
Transport for London	1	0	1	0	0	0
Total for London	4	1	3	0	0	0

Lorry	contro	lani	peals

Lorry control ap	Appeals received	Appeals allowed	of which not contested	Appeals refused	of which withdrawn	Total appeals decided
ALG TEP	152	102	49	5	1	107

Lorry control anneals - cost decisions

Lorry control appe	ats - cost decisions					
	Application from appellant allowed	Amount awarded	Application from appellant refused	Application from local authority allowed	Amount awarded	Application from local authority refused
ALG TEP	0	£O	9	0	£O	0

,	Reviewed on application of appellant	Appeal allowed on review	Appeal refused on review	Review accepted from local authority	Review allowed from local authority	Review refused from local authority
ALG TEP	0	0	0	0	0	0

Appeals to the Road User Charging Adjudicators

Congestion charging appeals

	2004/05	
	Total	
Appeals received	34,065	
Appeals allowed	20,615	
of which not contested	13,160	
Appeals refused	19,514	
of which withdrawn	268	
Total appeals decided	40,129	
Review decisions	349	
Cost decisions	140	

ALG TEC Revenue Accounts

for the year ending 31 March 2005

		Operations (mobility)	Operations (traffic and parking) and Parking, Traffic and Congestion Charging Appeals Service		Policy and administration	
	2004/05	2003/04	2004/05	2003/04	2004/05	2003/04
	£000	£000	£000	£000	£000	£000
xpenditure						
mployee costs	267	276	879	716	891	872
Premises	3	4	112	124	714	793
ransport	0	0	30	13	5	4
Supplies and services	65	25	781	1,196	241	219
Agency payments	0	0	10,626	5,998	194	146
Vivista services	0	0	3,816	3,442	0	0
Adjudication	0	0	1,485	987	0	0
Fransfer payments Payments to transport operators Survey/reissue costs Central/technical support Fotal expenditure	193,668 62 0 194,065	177,972 280 0 178,557	0 0 0 17,729	0 0 0 12,476	0 0 473 2,518	0 0 424 2,548
Income						
Borough levies	188,662	174,570	11,313	10,733	249	196
Transfer (to)/from reserves	(126)	571	0	0	66	344
Court fees and other income	0	0	70	136	0	0
Interest	0	0	0	0	(85)	(7)
Contribution from TfL	5,424	3,883	1,893	1,508	32	30
Other income	19	92	7,297	2,524	597	115
Total income	193,979	179,116	20,573	14,901	859	678
		(559)	(2,844)	(2,425)	1,659	1,870

ALG TEC Consolidated Balance Sheet as at 31 March 2005

		2004/05		2003/04
	£000	£000	£000	£000
Current assets				
Debtors	5,420		5,079	
Prepayments	174		278	
Cash in hand and at bank	3,207		~	
Total assets		8,801		5,357
Current liabilities				
Creditors	(6,807)		(4,147)	
Cash overdrawn	-	(6,807)	(375)	(4,522)
Total assets less current liabilities		1,994		835
Reserves				
General reserves		1,401		368
Specific reserves		593		467
Total reserves		1,994		835

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Chief Adjudicator's foreword

I am pleased to present to the Committee this joint report of the Parking Adjudicators for the year 2004/05.

An important part of my responsibilities is to represent the Parking Adjudicators at a variety of events and this year has been no exception. In November 2004, with Charlotte Axelson, the Head of PATAS, I attended the Annual Conference of the Council on Tribunals. The main focus of the conference was once again the Government's Tribunals for Users Programme. Lord Falconer, the Secretary of State for Constitutional Affairs and Lord Chancellor, gave the keynote address. He spoke of the importance of the reform programme for providing accessible justice. He also placed emphasis on the fact that the creation of the new Tribunals Service will remove the present accountability of tribunals to the decision-making bodies whose cases they decide and so provide clear independence for tribunals. Another important aim, he said, is to improvement first tier decision-making through feedback mechanisms so that departments get decisions right first time. Our recommendation in our last annual report about feedback mechanisms in local authorities is very much in tune with this thinking.

The conference was also addressed by Lord Justice Carnwarth, the Senior President Designate of Tribunals, and Peter Handcock, the Chief Executive Designate. It was interesting to hear from Lord Justice Carnwarth that whilst there are over 1 million tribunal cases a year, only 20 tribunals hear more than 500 cases annually. This places in the context of tribunals as a whole our annual caseload of around 60,000 cases. We continue to be one of the busiest tribunals in the country; indeed, as is explained below, our workload continues to increase.

The intention is that the first tranche of tribunals, the "top ten" central government tribunals, will join the Tribunals Service between 2006 to 2008. Peter Handcock said they were not at the stage of having formed views or plans as to what will happen to the remaining tribunals, including local government tribunals. They will, however, be looking at these in time.

Lord Newton spoke about the future of the Council on Tribunals, which as part of the reform programme will become the Administrative Justice Council. It will have a wider role encompassing its present supervisory function and, additionally, keep the administrative justice system under review.

The conference was also addressed by Ann Abrahams, the Parliamentary Ombudsman, on the role of ombudsmen and where they fit in the

administrative justice landscape; and by Mr Justice Sullivan, the Chairman of the Judicial Studies Board's (JSB) Tribunals Committee, who launched three new JSB publications: the revised Training Handbook, the Equal Treatment Pack and the JSB Training Prospectus.

This conference is always an invaluable occasion both for its formal programme and for the opportunity to meet other tribunal heads informally, giving a wider perspective on the administrative justice system of which we form a part, enabling me to keep up-to-date with developments in the tribunal world.

I took part in a consultation exercise on automatic enforcement arranged for the Department for Transport by the Tomorrow Project, a charity undertaking a programme of research about people's lives in Britain in the next twenty years. The aim of the consultation was to explore the benefits, risks and consumer issues associated with the extended use of automatic enforcement in relation to UK transport; and to consider the long-term implications for the framing of legislation and the design of processes in ways that best serve the public interest and effectiveness. The results of the consultation will inform the department's thinking on these issues. I also attended a Department of Constitutional Affairs seminar on improving the judicial appointments process.

In March I spoke at the conference "Enforcement - Not Just the Ticket" organised by Transport for London. This conference considered a wide range of subjects relating to the operation of civil traffic enforcement in the light of 10 years of experience since its first implementation in London. The conference was perhaps a timely one given the considerable focus there has recently been on the enforcement operations. We say more about this later.

But of course most of my time is spent on heading the tribunal in carrying out its day-to-day work of deciding appeals. As I foreshadowed last year, our workload has continued to grow. More detail on this follows.

Finally, may I express the Adjudicators' thanks to Charlotte Axelson and her staff for their support to the Adjudicators during the year.

Cases decided this year and referred to in the report are set out more fully in the Digest of Cases at the end of this report.

Martin Wood Chief Parking Adjudicator August 2005

Scrutiny of parking enforcement

The parking enforcement regime has been subject to scrutiny in a number of ways. There has, of course, been a certain amount of press interest, fuelled by perceived public dissatisfaction with the way enforcement is carried out. The extent of and justification for this are open to debate, but there is undoubtedly a measure of dissatisfaction, which is indeed from time to time expressed to Adjudicators by appellants. In this climate, some open examination of the enforcement regime addressing the areas of concern is to be welcomed.

In December 2004, the Local Government Ombudsmen issued a special report, Parking Enforcement by Local Authorities. This report examined the practice of local authorities in exercising their discretion to waive parking penalties. Authorities have the power as a matter of discretion to cancel a Penalty Charge Notice at any stage. In our annual report for 2001/02 we recommended that local authorities should revise their Notice to Owner to explain their discretion relating to extenuating circumstances. This is because unless motorists are aware of the discretion, they are not in a position to make a fully informed decision whether to pay the penalty or make representations. The Ombudsmen's report endorsed the Adjudicators' views and

commended local authorities to "look critically at their documentation, advice and procedures...to ensure that pleas of mitigation are not unreasonably deterred and are given proper consideration."

The issue of such pleas being given proper consideration is an important one. Adjudicators remain concerned that not all local authorities fully understand the nature of their discretion to waive penalties in appropriate circumstances. Cancellation as a matter of discretion is relevant. where there has been a contravention and therefore liability in law for the penalty. The guestion for the exercise of discretion is whether the Penalty Charge Notice should be cancelled even though there is legal liability for the penalty. By contrast, where the motorist has put forward grounds establishing that there is no legal liability, cancellation is not a matter of discretion, it is a matter of right. This important distinction does not seem to be understood in all local authorities. Adjudicators from time to time see "discretion" used in correspondence in a context where cancellation would be a matter of right; for example relating to exemptions such as loading.

The Ombudsmen's report concerned a specific aspect of enforcement.

During the year there have been three other studies that have carried out wide-ranging reviews of the enforcement regime. These are:

- The London Assembly Transport
 Committee (LATC) investigation
 into parking controls and their
 enforcement in London. The
 starting point for this investigation
 was to examine whether the right
 balance had been achieved between
 the need for parking controls and,
 at the same time, ensuring that the
 process was operated fairly and
 effectively
- A research project by the Institute of Local Government Studies at the University of Birmingham to investigate the nature of quality in local authority parking enforcement, financially supported by National Car Parks Ltd
- A review of decriminalised parking enforcement by Richard Childs, former Chief Constable of Lincolnshire, commissioned by the British Parking Association.

The Chief Parking Adjudicator gave evidence at the second evidentiary hearing held by LATC in February 2005, and was consulted by the Birmingham University researchers and Mr Childs.

The reports of each of these studies have now been published. This is not the place for an extensive examination of the many recommendations and conclusions they contain. Each of them makes a valuable contribution to the consideration of how decriminalised parking enforcement has operated and how it might develop in the future. The common theme that underlies much of the content of the reports is the need for enforcement to be carried out to high standards of quality. That two of the reports were sponsored by the parking industry demonstrates a recognition of the public concern (whether justified or not) and a desire to ensure that enforcement is carried out fairly and to those high standards.

The Chief Parking Adjudicator also gave evidence to Camden Council's Parking in Camden Scrutiny Panel whose report, making 45 recommendations, was published in August 2005.

This process now moves on a further stage. The Traffic Management Act 2004 provides for the existing legislation relating to civil traffic enforcement to be replaced by regulations, and for the Secretary of State to publish guidance to local authorities about any matter relating to their functions in connection with the civil enforcement of traffic

contraventions. In exercising those functions a local authority will have to have regard to any such guidance. The Department for Transport has established a steering group to assist it in drafting the regulations and guidance. The Chief Parking Adjudicators for both London and England and Wales are members of the steering group, which also includes representation from motoring groups, local government and the parking industry.

Training

The 12 new Adjudicators received their induction training. This is a three-day course covering the law relating to the jurisdiction, general legal skills including equal treatment and decision writing, and technical training on our computerised adjudication system. They also spent time observing experienced Adjudicators conducting hearings. After they have been sitting for a suitable period, the Chief Adjudicator conducts a progress review with each new Adjudicator to discuss their progress and any issues that may arise.

We held two further training meetings for all Adjudicators covering current issues of law and practice, including our new red route, moving traffic and lorry ban jurisdictions.

Competence framework

We have completed the drawing up of our Competence Framework for Parking Adjudicators. This framework is based on the Competence Framework for Chairmen and Members of Tribunals published by the Judicial Studies Board (JSB) in October 2002. It adopts and adapts the competencies in the JSB framework so far as applicable to the Parking Adjudicators. It also adds to them, particularly in relation to IT skills. It thus sets out the skills, knowledge and behavioural attributes needed to perform the Parking Adjudicators' function.

The framework:

- provides a self-development aid for individuals
- assists in the design of training programmes, which ensure that adjudicators acquire the skills and knowledge necessary to undertake their role
- sets out the criteria against which to conduct appraisal, enabling individual needs to be accurately identified and met through training where appropriate
- assists in settling the criteria for the recruitment of new adjudicators.

Seminars for local authority staff

During the year we held two seminars for local authority staff covering practice issues on a number of topics, including ancillary applications to the tribunal, CCTV enforcement and moving traffic enforcement.

Workload

The number of appeals received was as follows, with 2003/04 figures in brackets.

Total	58,645	(47,438)
Lorry ban	152	
Moving traffi	365	
Bus lane	3,602	(3,158)
Parking	54,526	(44,280)

This represents a 23 per cent increase in our intake overall, a substantial increase from one year to the next. Even so, at the beginning of 2005 the increase looked likely to be greater still. At that point the number of parking appeals received in each of the first nine months of the financial year was well above the same month for the previous year, and the overall increase was running at over 30 per cent. However, in each of the final three months ending with March 2005 the intake was below that for 2004, although still above the 2003 intakes. As a

result, the overall increase in parking appeals was 23 per cent, still a considerable rise and perhaps a surprising one, given that civil parking enforcement has applied across London for many years. The decriminalisation of red routes, which took place in November 2004, had little impact on the figures; to the end of the year only 50 appeals were received. We do not know the reasons for the increase. However, the fall in the last three months and intakes since suggest that the peak may have been passed.

The number of moving traffic and lorry ban appeals has so far been small, although the former, in particular, has the potential to increase considerably, depending on the amount of enforcement undertaken by local authorities.

61,033 appeals were disposed of, compared with 45,278 in 2003/04, an increase of 35 per cent. 2,166 more cases were disposed of than were received.

The considerable increase in our intake, which had started at the beginning of 2004, inevitably put a strain on our resources. As a result, the backlog of postal cases waiting to be decided rose from 4,700 in April 2004 to over 9,000 by October. In the autumn of 2004 the 12 new adjudicators started to sit. This extra resource enabled us

greatly to increase our output and so reduce the postal backlog to about 6,000 by the end of the year. 21,561 (37 per cent) of appeals were decided at a personal hearing, a substantial rise on the 20 per cent of the previous year. This increase in the proportion of personal appeals decided meant that the postal backlog was still greater at the end of the year than the beginning even though more appeals were disposed of than were received. The postal backlog is continuing to fall from its October 2004 peak.

Judicial reviews

Two appellants commenced judicial review proceedings to challenge the Adjudicator's decision in their appeal. In both cases, the High Court refused to grant permission for the application to proceed.

Extended jurisdiction

The extent of our jurisdiction has increased in two ways.

First, parking on red routes has been decriminalised and is being enforced by Transport for London. Whilst this is a widening of our parking jurisdiction, the contraventions are different: the general position is that stopping is prohibited on red routes, rather

than waiting as is mainly the case in relation to other parking contraventions. This means that, unlike on ordinary yellow line restrictions, loading and unloading and the picking up and setting down of passengers are not allowed. There are however, red and white boxes that make varying provision for loading and unloading and short-term parking, the exact conditions of which are shown on the signs for the particular box.

Second, the London local authorities and Transport for London Act 2003 decriminalised the London lorry ban and a wide range of moving traffic offences. We look at each of these in more detail below.

Lorry ban

The London lorry ban is contained in the Greater London (Restriction of Goods Vehicles) Traffic Order 1985 made by the Greater London Council under section 6 of the Act of 1984, as amended. In substance, this prohibits large goods vehicles from using the prescribed restricted streets in London during the prescribed hours: 9pm to 7am during the week, 1pm to 7am on Saturday nights and at any time on Sundays. There is, however, provision for permit holders who may use the restricted roads subject to certain conditions. The decriminalised scheme under the

London Local Authorities and Transport for London Act 2003 makes both the operator and the person in control of the vehicle liable for a penalty charge for a contravention of the lorry ban. The operator is defined as the holder of any operator's licence under section 2 of the Goods Vehicles (Licensing of Operators) Act 1995. The fixed penalties are £500 for the operator and £100 for the person in control. Enforcement is carried out on behalf of the local authorities by the Association of London Government Transport and Environment Committee.

Early appeals have revealed difficulties with the enforcement process prescribed by the 2003 Act, particularly in the case of permit holders. Gilder's Transport v ALGTEC is set out in detail in the Digest of Cases. The key point in the decision is that the mere fact that a vehicle with a permit is seen on a restricted road is not of itself sufficient to support a belief that it is in contravention of the lorry ban, since it may well be acting in conformity with the permit. ALGTEC must therefore obtain further information from the operator, as it has power to do, in order to form a proper view as to whether there has been a contravention. However, subject to certain exceptions, a Penalty Charge Notice must be served within 28 days of the

contravention. Any necessary additional information must therefore be gathered in time to allow compliance with this time limit.

Moving traffic violations

The 2003 Act made provision for local authorities to adopt civil enforcement of 21 moving traffic contraventions relating to failing to comply with specified traffic signs. These include yellow box junctions, entry to a pedestrian zone and prohibited turns. A full list is set out in the appendix to this report.

A number of local authorities have commenced enforcement under these powers. Most appeals have related to the enforcement of yellow box junctions. The basic prohibition is that no person shall cause a vehicle to enter the box so that it has to stop within the box due to the presence of stationary vehicles. So if the vehicle has to stop for other reasons, there will be no contravention. A vehicle, however, that enters the box to turn right (other than one at a roundabout) may stop within the box for so long as it is prevented from completing the right turn by oncoming vehicles or other vehicles that are stationary whilst waiting to complete a right turn. Place Invaders Ltd v TfL concerned this exception to the prohibition.

A particular issue that has arisen is that Adjudicators have seen numbers of appeals where it has transpired that the box has not complied with the detailed specification specified on diagram 1043 to the Traffic Signs Regulations and General Directions 2002. Non-compliant road markings mean that the prohibition cannot be enforced.

There have been some appeals relating to other contraventions. Bancroft-Hendricks v Croydon concerned blue directional arrows. The Adjudicator found that the signage was unlawful.

It seems likely that there will be other cases where the Adjudicator will be required to examine the lawfulness of the signage. In this respect moving traffic contraventions differ from parking contraventions in that the motorist will commonly be in the position of having to observe and decipher signs rapidly whilst on the move. It is, therefore, all the more important for the signage to be readily comprehensible.

Kennedy v Camden is an example of an appeal relating to a no right turn sign.

A number of procedural issues have come to our attention. In *Kasap v TfL* the evidence was insufficient to prove the contravention. It is

important for the local authority to think carefully about what evidence is required to prove any particular case. The Penalty Charge Notice in that case was also defective in giving for the location of the contravention the location of the camera that had been used to observe the incident rather than the location of the incident. This has been a frequent defect. There have been other defects in documentation, such as incorrect dates being given and one local authority issuing a document described as an "enforcement notice" when no such document is provided for under the moving traffic enforcement scheme; it was plainly intended to be a charge certificate. These perhaps suggest that computer systems designed for one enforcement regime are being applied to this scheme without adequate adaptation.

Adjudicator's powers

In Lavall v Hammersmith & Fulham, the local authority sought to exclude the Adjudicator from considering the validity of the Penalty Charge Notice by arguing that this was not within his jurisdiction. The local authority contended that its validity could only be challenged by judicial review in the High Court. The Adjudicator rejected this argument.

This is not the first time such an argument has been put forward. We reported last year on a case in which Transport for London brought judicial review proceedings alleging that the Adjudicator did not have the power to consider the adequacy of signage, although the proceedings were later withdrawn, with Transport for London accepting the Adjudicator could consider the signage.

We do not believe Parliament can have intended the powers of the Adjudicators to be limited in this way. They are there to provide an economical and proportionate means of determining liability for penalty charges. That purpose would be defeated if they did not have the power to adjudicate upon all the issues relevant to that liability. It would in our view be unfortunate, and in the interests neither of local authorities nor, plainly, appellants, if this were the case.

Faber v Westminster, on the other hand, illustrates that the Adjudicator is concerned with matters of legality. Council policy is therefore not a matter for the Adjudicator, unless it is unlawful according to general legal principles.

Costs

Under regulation 12 of the Road Traffic (Parking Adjudicators) (London) Regulations 1993, the Adjudicator has power to award costs and expenses against a party who, broadly, has acted vexatiously, frivolously or wholly unreasonably. There is no limit on the amount of costs the Adjudicator may award. Selby v Westminster illustrates the general approach adopted by the Adjudicators. However, Briggs v Westminster shows that in an appropriate case, such as a clear instance of fraud, the Adjudicator may well be prepared to award costs at a much higher level.

Parking adjacent to a dropped kerb

Section 14 of the London Local Authorities and Transport for London Act 2003 introduced a new parking contravention of parking adjacent to a dropped kerb. This is defined as any part of the footway or verge where it has been lowered to meet the level of the carriageway for a road for the purpose of (a) assisting pedestrians to cross or (b) assisting vehicles to enter or leave the road across the footway or verge. Clearly, the purpose is to stop vehicles blocking these lowered kerbs and preventing them being used for their intended purpose.

In the case of residential premises with a driveway not shared with other premises, where the purpose of the dropped footway is to assist vehicles to enter or leave the road from or to the driveway, a Penalty Charge Notice may not be issued unless requested by the occupier of the premises. Without this, a Penalty Charge Notice might be issued to the occupier's own vehicle.

A number of exemptions apply to this prohibition; for example, for boarding and alighting and loading and unloading.

Davis v Waltham Forest was a case in which a Penalty Charge Notice was issued to a vehicle, and the vehicle removed, where in fact there was no dropped kerb within the statutory definition.

Taxis and private hire vehicles

An issue the Adjudicators have had to consider on a number of occasions in recent years is the status of private hire vehicles and whether they are allowed to use bus lanes that can be used by "taxis". An Adjudicator had already found that London private hire vehicles could not use bus lanes: TFL v Faw (Case Number 203013556A). In Collins v TfL, the Adjudicator found that private hire

vehicles licensed outside London could not use bus lanes in London. As the Adjudicator said, it would have been a curious anomaly if they had been permitted to do so. The issue in Ehsani v Hammersmith & Fulham was whether local authorities could issue a Penalty Charge Notice under the civil enforcement regime to a taxi parked in a taxi rank to enforce the conditions under which taxis use such ranks. The Adjudicator found they could not do so since breaches of those conditions had not been decriminalised.

Training of local authority staff

Regrettably we still see numbers of cases where it appears that the local authority staff considering representations from the public are not conversant with relevant basic law. ERAC v Ealing and Shahzad v Waltham Forest are examples of such cases. It would seem that the training such staff receive is still not universally adequate. Davis v Waltham Forest would appear to be a case of inadequate training of a parking attendant. We continue to have concerns in this area. We are pleased to note that all three of the reports referred to under Scrutiny of Parking Enforcement address the issue of adequacy of training and recognise that there is room for improvement.

Posting delays

In *Pena v Hounslow* the Adjudicator criticised the local authority for delay in posting a letter setting a time limit. As he said, it is particularly important for such letters to be posted the day they are dated.

Digest of cases

Lorry ban

Gilders Transport Ltd V ALGTEC (PATAS Case No. LB65)

The vehicle was seen on a restricted street during prescribed hours. A permit under the Greater London (Restriction of Goods Vehicles) Traffic Order 1985 had been granted for the vehicle, allowing it to use restricted streets subject to the permit conditions.

ALGTEC issued a Penalty Charge Notice (PCN/1) to the appellant requiring the haulier of the vehicle to produce documentary evidence to substantiate the journey in compliance with permit condition 6. No such evidence was supplied. In addition, as no driver details were supplied, a further Penalty Charge Notice was issued (PCN/2). PCN/1 was an Operator's Notice and PCN/2 a Driver's Notice. Both were directed at the appellant and alleged that the vehicle was used on a restricted street during prescribed hours in breach of permit conditions.

The appellant responded to PCN/2, indicating that no contravention occurred. The Notice of Rejection issued by ALGTEC said that these representations were rejected because no journey documents had been supplied and no driver details had been supplied.

The appellant's Notice of Appeal to the Adjudicator named the driver and indicated what he was doing on the road and his destination.

The Adjudicator said she was not satisfied that PCN/1 was valid. The London Local Authority and Transport Act 2003 ("the Act") section 4(1), provided that where the issuing authority "have reason to believe" that a penalty charge was payable, it may serve a Penalty Charge Notice on the operator and/or driver. Section 4(8) provided that a Penalty Charge Notice must state "the grounds on which [ALGTEC] believe that the Penalty Charge Notice is payable".

The language of the statute required that ALGTEC should not issue a Penalty Charge Notice until it had a belief that a contravention might have occurred. The Adjudicator said she could not conclude that ALGTEC could have had any cause to believe that a contravention occurred at the date of issue of the Penalty Charge Notice. That a vehicle is seen on a restricted road, during restricted hours, and displaying a permit, does not of itself suggest that a contravention has occurred. ALGTEC did not have sufficient information to lead them to believe a contravention had occurred. The better course would be for it to require the information to be supplied, as required by

condition 6, and then decide whether any contravention had occurred.

The Penalty Charge Notice was also defective for lack of particularity, in that it failed to specify what condition was alleged to have been broken. This was perhaps an inevitable consequence of the Penalty Charge Notice being issued before the contravention was identified. However, there were 16 conditions attached to the permit. How was the recipient of the Penalty Charge Notice to know specifically what was alleged? How did he decide what detail should be given in the representations? How was he to decide whether to pay the Penalty Charge Notice or to contest?

ALGTEC's complaint was that the haulier failed to provide the information as to the planned stopping places - but the failure depended on a request being made and received. It was doubtful whether a request for such information could be appropriately made in the Penalty Charge Notice.

PCN/2 was a Driver's Notice, but had been issued to the Operator. Section 4(17) of the 2003 Act defined a Driver's Notice as one served on the person appearing to have been in control of the vehicle at the time of the alleged contravention. There may be circumstances in which the operator could also be the driver. However, PCN/2 was in any event defective as it suffered the same lack of particularity as PCN/1.

The Notice of Rejection rejected the representations for two reasons:

- 1. That no journey documents had been supplied. However, when was the request made for documents to substantiate the journey? They were not asked of the driver at the roadside and the driver had no other obligation to provide them. So to reject representations on that basis was not rational where the rejection was made in response to a Driver's Notice.
- 2.That no driver details were supplied. How could ALGTEC proceed against the driver by issuing a Driver's Notice, alleging that no driver's details had been supplied? The rejection was totally illogical. If no driver's details had been supplied, ALGTEC would have no person to issue a Driver's Notice against.

ALGTEC had an obligation to follow the statutory process. This involved considering representations made in response to PCN/2. In this case it was patently obvious that the Notice of Rejection was aimed at rejecting an operator's representations. ALGTEC had failed to appreciate the difference between the status of the two legal people (operator and driver) to whom separate and different Penalty Charge Notices were issued.

Appeal allowed.

Moving traffic

Place Invaders Ltd v Transport for London (PATAS Case No. MV0001GT01)

The contravention alleged was causing a vehicle to enter a yellow box junction so that the vehicle had to stop within the box due to the presence of stationary vehicles. The appellant had entered the box to turn right. TfL said that in its view one factor was that it considered the vehicle was causing an obstruction to the flow of traffic. The Adjudicator said that that was irrelevant as the terms of the prohibition made no mention of it and it was therefore not an element in the contravention. On the evidence TfL had not proved the contravention.

Appeal allowed.

Bancroft-Hendricks v Croydon (PATAS Case. No. MV0008CR01)

The contravention alleged was failure to comply with blue direction arrows directing all traffic, except buses in the left hand bus lane, to turn right.

The Adjudicator said that the junction was controlled by four sets of traffic lights. All four sets had a blue directional arrow pointing to the right. Both sets of left hand lights also had a sign saying "local buses only". The first left hand set did not give any indication as to what that meant and, at first glance, suggested that local buses only should turn right. The second left hand set looked exactly the same, until the lights changed, when ordinary green lights showed for three sets and the second left hand set showed a green arrow pointing ahead only.

The totality of the signage was such that, with the benefit of unhurried observation, the Council's intention was ascertainable: all traffic except local buses was to turn right. However, this was by no means clear and unambiguous to a driver approaching the junction without previous knowledge of it and with only a few seconds to think whilst negotiating Croydon centre. The mandatory blue signs were lawful but were hidden by the haystack of

other signs and inconstant lights around them. The traffic lights needed to be re-designed so that it was plain which set applied either to a dedicated traffic lane or specific traffic.

Appeal allowed.

Kennedy v Camden (PATAS Case No. MV0005CD01)

The contravention alleged was failing to comply with a no right turn sign prohibiting turning right from Malet Place into Byng Square.

The vehicle was driven along Malet Place across the junction in question, stopped, reversed around the corner into Torrington Place, then driven across the junction into Byng Square.

The Adjudicator found that this manoeuvre, whilst potentially dangerous, did not constitute a failure to comply with the sign. The term "turn" suggested a change of direction directly from the prohibited place, in broadly one sweeping motion, as opposed to a series of individual movements in which direction is changed.

Appeal allowed.

Kasap v TFL (PATAS Case No. MV0008GT01)

The contravention alleged was causing a vehicle to enter a yellow box junction so that the vehicle had to stop within the box due to the presence of stationary vehicles. The Penalty Charge Notice described the location of the contravention as "Upper Street/Islington Green".

The Adjudicator said that the three still images put in evidence by TfL were not sufficient to establish that the contravention occurred, since they did not show that the vehicle was stationary at any point. It was not sufficient that they showed the vehicle in "roughly the same positions", as TfL submitted.

Furthermore, contrary to the Penalty Charge Notice, the vehicle was in fact seen at the junction between Upper Street and Berners Road. The London Local Authorities and Transport for London Act 2003 required the Penalty Charge Notice to state the grounds on which TfL believed a penalty charge was payable. The location of the yellow box was an essential part of those grounds.

Appeal allowed.

Adjudicator's powers form and purpose of PCN: duplicity

Lavall v Hammersmith & Fulham (PATAS Case No. 2040135996)

This was an application for review by the local authority of the original Adjudicator's decision that the Penalty Charge Notice was bad for duplicity. The local authority also contended that in any event the Adjudicator did not have power to consider the validity of the Penalty Charge Notice.

The original Adjudicator had found that the Penalty Charge Notice was bad for duplicity because it stated that the vehicle was seen "at 11.17 and 11.22" and so effectively alleged two contraventions.

The Adjudicator's powers

The local authority argued that the Adjudicator had no power to consider the validity of the Penalty Charge Notice as a challenge to the validity of the Penalty Charge Notice did not fall within any of the grounds on which representations can be made by the recipient of a Notice to Owner specified in paragraph 2(4) of Schedule 6 to the Road Traffic Act 1991. It contended that a challenge to the validity of the Penalty Charge Notice could only be made by judicial review in the High Court.

The reviewing Adjudicator said that prior to decriminalisation, parking contraventions were a criminal offence dealt with in the Magistrates' Courts. Indeed, that remained the case in many parts of England and Wales.

In a criminal case the defendant would be entitled to raise the validity of the summons in his defence. A defendant in criminal proceedings may raise public law issues in his defence and is not obliged to resort to judicial review: Boddington v British Transport Police [1998] 2 All ER 203. As Lord Slynn of Hadley said in that case:

"For magistrates to be required to convict when they are satisfied that an administrative act is unlawful is unacceptable. It is not a realistic or satisfactory riposte that defendants can always go by way of a judicial review."

It would be an absurdity if in the decriminalised regime the judicial body charged with deciding appeals against liability did not have the power to decide on the validity of the Penalty Charge Notice, thus putting motorists in a different and less favourable position than in the Magistrates' Court.

As to the statutory grounds of challenge, the circumstances fell within ground (f): that the penalty charge exceeded the amount applicable in the circumstances of the case. If the Penalty Charge Notice were not valid, the penalty payable would be nil and therefore that claimed would exceed that payable. In any event, in R v Parking Adjudicator Ex p. Bexley [1998] RTR 128, the Court rejected the argument that challenges on collateral matters of law could only be brought by way of judicial review and held that parking adjudicators had the power to consider issues of collateral challenge.

The Adjudicator therefore did have the power to consider the validity of the Penalty Charge Notice and whether it was bad for duplicity.

The Adjudicator added that on the face of it this was an attempt by a public body having the power to impose penalties on the public to fetter the ability of the public to protect itself against unlawful use of those powers and to limit the extent of judicial control of them. That seemed to him to be a highly unattractive position for it to adopt.

The duplicity issue

Under section 66 (3) of the Road Traffic Act 1991, a Penalty Charge Notice must state "the grounds on which the parking attendant believes that a penalty charge is payable with respect to the vehicle". It must do so in a way that is not bad for duplicity.

The rule against duplicity meant that a Penalty Charge Notice must not allege more than one contravention.

Blackstone's Criminal Practice 2005 summarised the rule as follows:

"...a count is not to be held bad on its face for duplicity merely because its words are logically capable of being construed as alleging more than one criminal act ... if the particulars of a count can sensibly be interpreted as alleging a single activity, it will not be bad for duplicity, even if a number of distinct criminal acts are implied. Thus, the rule...rests ultimately on common sense and pragmatic considerations of what is fair in all the circumstances."

This was not a criminal matter but the proper approach was the same.

The Adjudicator referred to the local authority's argument that:

"A PCN is a multi-purpose document; it makes an allegation; it records evidence in support of the allegation; it notifies the recipient that a penalty is due; it specifies the penalty, the deadline by which it must be paid, and the address to which it must be sent. The description of the contravention

relates to the allegation. The record of observation times [the two times recorded on the Penalty Charge Notice] relates to evidence in support of the allegation."

He said that this passage was accurate except in one important respect. It is not the purpose of the Penalty Charge Notice to record evidence. Of course, the statement of the allegation was bound in a sense to contain evidence in support of the allegation, since the fact that it would contain details of the vehicle showed that the parking attendant was in possession of those details. But this was a by-product of the fundamental purpose of the Penalty Charge Notice to state the allegation, rather than the recording of evidence being one of the purposes of the Penalty Charge Notice.

As the original Adjudicator said, the inclusion of two times would not necessarily render the Penalty Charge Notice bad for duplicity; and the local authority conceded that the inclusion of two times might in some cases render the Penalty Charge Notice bad for duplicity. So there was agreement on the general principle. The question in this appeal, therefore, was a narrow one: was this Penalty Charge Notice bad for duplicity?

The two times recorded on the Penalty Charge Notice were only five minutes apart. The Penalty Charge Notice was doing no more than stating as a fact that the parking attendant saw the vehicle at these two times, close together, and having done so concluded that as no pay and display ticket was clearly displayed the vehicle was unlawfully parked. Applying the test as set out in Blackstone, this interpretation seemed to the Adjudicator to be entirely fair and sensible, and to lead to the conclusion that it was not to be read as alleging two contraventions. It was not bad for duplicity.

Original decision set aside. Appeal refused.

Lawfulness of council policy

Faber v Westminster (PATAS Case No. 2040125777)

This was an application by the local authority for review of the original decision to allow the appeal.

The Appellant parked in a pay and display bay the controlled hours for which were Monday to Saturday 08:30 to 18:30. He bought a pay and display ticket at 08:23, outside the controlled hours,

paying £4.50, for 68 minutes parking. The pay and display machine issued a ticket commencing at 08:23 and so expiring at 09:31. The Penalty Charge Notice was issued at 09:36.

The appellant contended that the time he had paid for should have been timed from 08:30, when the controlled hours started, and therefore expired at 09:38. He argued that a pay and display ticket bought outside the controlled hours should commence at 08:30, not the time it is bought since until the controlled hours start parking is free.

The local authority said that it was their policy not to encourage overnight parking, mainly to address the shortfall in residents' spaces. The Adjudicator said it was difficult to see how the present arrangement did discourage overnight parking, given that parking overnight was free. What it did do was inconvenience motorists who wished to arrive early in the morning, park before 08:30 and leave their vehicle until into the controlled hours. At present they either had to buy a ticket when they arrived, meaning that they paid for free time and that the free time bought ate into the period of parking allowed; or return to their vehicle at 08:30 to buy a ticket. Other local authorities did provide advance payment

arrangements. No doubt the local authority will take these points into account in its review of parking policies it was conducting.

The Adjudicator said, however, that in making these remarks he was not saying the local authority should change its policy. No doubt there were factors other than those he had identified that might influence the policy. In any event, policy was a matter for the local authority, not for him. The question for him was whether the present arrangements were unlawful; and he would only be concerned with the local authority's policy if that itself were unlawful according to general public law principles.

There could be no doubting that the restrictions created by the Traffic Management Order were valid. In any event, even if there were grounds for challenging the Traffic Management Order, the statutory six-week period for doing so, prescribed by the Road Traffic Regulation Act 1984 Schedule 9 Part VI paragraph 35, had long passed. So the issue was whether the practical payment arrangements were unlawful.

Whilst the arrangements were inconvenient for some motorists, he did not consider that was sufficient to render them unlawful. To find that, he would have to find that they were irrational, illegal or

that there was procedural irregularity. He did not consider any of these was the case, either as to the policy or the practical arrangements.

The other question was whether the information provided was adequate to convey the arrangements to the motorist. The controlled hours for which payment had to be made were clearly stated on both the signs and the pay and display machines. The machine displayed the expiry time of the ticket before the ticket was issued and before the motorist was irrevocably committed to buying a ticket; and the instructions stated "See display for fee paid and expiry time". So a motorist who inserted money outside the controlled hours and followed the instructions on the machine would be aware that the machine did not accept advance payment. The information given was adequate and lawful.

Accordingly the parking arrangements were lawful.

Original decision set aside. Appeal refused. Costs

Selby v Westminster (PATAS Case No. 2040111014)

In allowing the appeal the Adjudicator was critical of the council's failure to carry out a site inspection to check what signage was in place.

The appellant subsequently applied for costs against the council. It acknowledged that an award of costs was justified, saying that it should not have contested the appeal. However, it disputed the amount of £392.98 claimed, which it described as excessive. This sum comprised £243 loss of earnings, £21 for train tickets, £8 for two films, £5 for one DV tape and £100 miscellaneous expenses, such as phone calls.

Under Regulation 12 of the Road Traffic (Parking Adjudicators) (London) Regulations 1993, the Adjudicator shall not normally make an order awarding costs and expenses but may make such an order against a party if he is of the opinion that that party has acted frivolously or vexatiously or that his conduct in making or pursuing or resisting an appeal was wholly unreasonable.

It is, therefore, only in exceptional circumstances that an award may be made - and in the vast majority of cases an award will not be made.

In this case the Adjudicator agreed with the council that an award of costs would be appropriate. The decision to pursue the appeal in the teeth of the evidence produced by the appellant was wholly unreasonable. It was to the council's credit that it had agreed to an order being made.

As to quantum, the regulations did not contain any provisions as to the rate to be awarded. However, Adjudicators take as their guidance the Civil Procedure Rules as applied to Small Claims in the County Court. The Adjudicator accordingly awarded £50 for a day's loss of earnings for attending the hearing, £30 travelling expenses and £10 for the photos produced.

Costs and expenses awarded: £90

Briggs v Westminster (PATAS Case No. 2040330437)

The allegation was that the vehicle was re-parked in the same parking place within one hour of leaving. On its face the parking attendant's record looked full and impressive. It showed the vehicle at 10:36 parked at meter bay M1385 where the meter showed three minutes unexpired time. The parking attendant then recorded that at 10:54 the vehicle was parked at meter bay M1386 where the meter showed 63 minutes penalty. The notebook extract then shows a

diagram depicting the two adjacent meter bays.

The appellant was represented by solicitors. He produced in evidence CCTV footage from a camera operated by a business in the road. This showed the vehicle parked initially on the far side of the road from the camera. The vehicle is seen to drive off and shortly afterwards to park on the near side of the road to the camera. The parking attendant is seen to attend the vehicle and to go through the process of issuing the Penalty Charge Notice. During this he walks away towards the meter bay the vehicle was initially parked in. He then returns and issues the Penalty Charge Notice.

The Adjudicator said that on the face of it the CCTV footage showed the fraudulent issue of a Penalty Charge Notice. He was satisfied that the contravention did not occur and allowed the appeal.

The appellant subsequently applied for an order against the local authority for his solicitors' costs and disbursements of £3,772.56

The Adjudicator said this was a proper case for an award of costs.

As to quantum, he was satisfied that the appellant's case could have been conducted by a Grade 3 fee earner. He awarded costs at the

rate of £13 per 10-minute unit as follows.

£247 for 19 units of correspondence and telephone attendance £130 for 10 units of pre-hearing preparation £520 for 40 units for travel to and conduct of the hearing £65 for 5 units for preparation of the costs schedule £78.88 for disbursements

Costs and expenses awarded: £1,040.88

Dropped kerb

Davis v Waltham Forest (PATAS Case No. 2040204556)

The local authority alleged that the vehicle was parked adjacent to a dropped kerb.

Section 14 of the London Local
Authorities and Transport for
London Act 2003 prohibits parking
adjacent to a dropped kerb. This is
defined as "any part of the footway
or verge where it has been lowered
to meet the level of the
carriageway for a road for the
purpose of assisting pedestrians to
cross or assisting vehicle to enter
or leave the road across the
footway or verge."

The Adjudicator said that the local authority had not adduced any evidence to show that the area underwent work to lower it. The photographs submitted by the appellant showed that the area in question was a pavement, with a brick wall running parallel - so it was not a kerb dropped to enable vehicular access. Further, it showed the kerb appeared to have been poorly maintained and damaged probably as a result of the work done by a utilities company, who had reinstated the pavement next to it. This was supported by the appearance of the road, which had a dip in it. The appearance of the kerb did not suggest that it had been intentionally dropped.

On the evidence the Adjudicator was satisfied that the kerb could not be said to be a "dropped kerb" within the meaning of the statute.

The Adjudicator said she was satisfied that the Penalty Charge Notice should not have been issued, that the enforcement by way of removal should not have taken place, and that the local authority should have accepted the appellant's representations at an earlier stage when her detailed representations were made (accompanied by photographs). She said that on its face the appeal was one in which a costs order could be made.

Appeal allowed.

Private hire vehicles: bus lanes

Collins v Transport for London (PATAS Case No. 2040149458)

The question was whether a private hire vehicle (PHV) from outside London was a "taxi" for the purposes of bus lane control. If it was, it could be driven in those bus lanes that "taxis" were allowed to use.

In *TfL v Faw (Case Number 203013556A)* the Adjudicator found that a London PHV was not a "taxi" and therefore could not use bus lanes. The Adjudicator said it would be a curious anomaly if London PHVs could not use bus lanes in London but PHVs from outside London could. In fact there was no such anomaly.

A vehicle was a taxi if licensed under section 37 of the Town Police Clauses Act 1847, section 6 of the Metropolitan Public Carriages Act 1868, or under any similar enactment. This vehicle was licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976. The question therefore was whether the vehicle was a hackney carriage, the distinguishing feature of which was that it could ply for hire in the street. To do so, it had to be positively licensed to do so under one of the relevant enactments.

The vehicle in this case was a PHV. It was a fundamental feature of the relevant legislation that it distinguished between hackney carriages, which could ply for hire in the street, and PHVs, which could not: see Brentwood BC v Gladen (The Times 1 November 2004). Section 80(1) of the 1976 Act expressly excluded hackney carriages from the definition of a PHV. The vehicle in this case was a PHV. It therefore was not a hackney carriage and could not ply for hire in the street. Accordingly it was not a "taxi" for the purposes of the use of bus lanes.

However, as it was the principle of the decision that TfL were interested in, not the individual case, the Adjudicator did not consider it in the interests of justice to review the original decision and set it aside, and so place the appellant in the position of being liable to pay the penalty after receiving a favourable decision in the first place. The appellant could, however, be in no doubt that he could not drive a PHV in a bus lane.

Original decision to allow the appeal confirmed.

Taxi rank

Ehsani v Hammersmith & Fulham (PATAS Case No. 2040065857)

The appellant's vehicle was a licensed hackney carriage. It was parked in a taxi rank. The Penalty Charge Notice stated that it was issued for the contravention of parking in a taxi rank. The appellant responded that as his vehicle was a taxi he was permitted to park there.

The local authority alleged that the vehicle was parked in breach of the terms and conditions of use of the taxi rank. It stated that the evidence from the CCTV camera showed that the appellant was not actively plying for hire as the vehicle was parked at 11:19 and was still parked at 11:52, and that during this time the driver was seen to leave the vehicle and return.

The rank was created under the provisions of the London Hackney Carriages Act 1850. The Licensed Taxi Regulations referring to the conditions of use stated, in essence, that the rank was for the purposes of allowing a taxi to ply for hire. These regulations referred to the penalty in each case as level 3 which, the Adjudicator said, related to the level of fines in the Magistrates' Court rather than a penalty charge for a parking contravention. The local authority had not provided any Traffic

Management Order that referred to the specific terms of the contravention.

The issue therefore was whether the local authority was entitled to issue a Penalty Charge Notice to the vehicle for being parked in breach of the regulations prescribing the conditions of use of the taxi rank.

Parking enforcement in London was decriminalised by the Road Traffic Act 1991. Section 76 of that Act did not refer to the London Hackney Carriages Act 1850 in setting out the various provisions that relate to decriminalisation of provisions that had previously been offences enforceable in the Magistrates' Courts. The local authority was therefore not authorised to enforce a contravention against a taxi driver for breaching the conditions of use of the taxi rank.

Appeal allowed.

Hire vehicles

ERAC v Ealing (PATAS Case No. 2040466938)

This case concerned a hire vehicle. Whilst the general rule is that the owner of a vehicle is liable for penalty charges, a vehicle hire firm may transfer liability to the hirer provided certain conditions are

satisfied, including as to the form of the hiring agreement.

The appellant, a vehicle hire firm, produced the hiring agreement to the council. The council's Notice of Rejection of the appellant's representations stated that the hiring agreement contained "insufficient information to pass liability for any Penalty Charge Notice incurred on to the hirer". The Adjudicator commented that they did not seem to consider it necessary to identify the respect in which the agreement was said to have been defective.

In the appeal to the Adjudicator, the council finally stated that their objection to the agreement as follows: "The Council is unwilling to transfer liability for the PCN to the named driver on the hire agreement supplied by the appellant due to the fact that the named driver's home address is outside the United Kingdom".

The Adjudicator said that the council's objection was wholly misconceived. The regulations required that the hirer's permanent address be provided. The only qualification or extension to that requirement was that the address at the time of the hiring must also be provided, if different from the permanent address, and the hirer's stay was likely to be more than two months from date of hiring. There

was no evidence from either party as to the actual or likely duration of the hirer's stay in this case, and consequently no basis for the council to require that any address other than the hirer's permanent address be provided.

The fact that the hirer's address was outside the United Kingdom was wholly immaterial to the issue of compliance with the regulations, and hence to the issue of transfer of liability. That this might present practical problems of enforcement for the council was also completely irrelevant; the council did not have a choice to accept or reject a hiring agreement simply because it might be easier to enforce against the hire firm than the hirer.

Appeal allowed. Council directed to cancel the Notice to Owner.

Loading/unloading

Shahzad v Waltham Forest (PATAS Case No. 2040304379)

The appellant was delivering two missing doors for a kitchen installation to a customer. The council's Notice of Rejection gave the following reasons for rejecting the representations:

"Loading is when a vehicle stops briefly to unload bulky or heavy goods. The goods must be of a type that cannot be carried by one person in one trip...Picking up items that can be carried does not constitute a loading operation. Therefore the item being carried by you does not fall into the loading category."

The Adjudicator said this was incorrect it several respects. First, since this was a commercial delivery, the requirement that the goods should be bulky or heavy did not apply; this applied only to private deliveries. Second, there was no requirement that the goods must be of a type that could not be carried in one trip. Third, picking up items that could be carried plainly could be within the exemption, provided all the requirements of the exemption were satisfied. In so far as this statement appeared to draw a distinction between loading and unloading it was misconceived. The unloading exemption applied.

Appeal allowed.

Practice on posting

Pena v Hounslow (PATAS Case No. 2040093105)

The issue was whether the council was bound to accept payment of the penalty at the reduced rate. The Penalty Charge Notice was issued on 17 January 2004. The statutory entitlement to pay at the reduced rate therefore expired on 30 January. However, in its reply to

informal representations received from the appellant, the council very fairly, as a non-statutory concession, allowed the appellant a further 14 days from the date of the letter to pay at the reduced rate. The Adjudicator said that the council was not obliged to do this, and commended it for doing so.

The council's letter was dated 23 January. Unfortunately, it was not posted until 27 January and even then was posted second class. As a result, the appellant did not receive it until 30 January. It was not good practice to post letters that impose time limits from the date of the letter second class, since the delivery time would eat substantially into the time. What was of even greater concern was that the letter was not posted for four days. This was quite unacceptable. For very obvious reasons, letters should be posted the day they were dated. This was even more crucial when they imposed time limits.

Nevertheless, despite these inadequacies, the appellant still had ample time to pay the penalty within the time limit. In fact, she did not post the payment until 9 February and the council did not receive it until after the time limit had expired. The council was therefore not obliged to accept payment at the reduced rate.

Appeal refused.

APPENDIX

London Local Authorities & Transport for London Act 2003 Moving Traffic Contraventions, Schedule 3 - signs and descriptions

Description of traffic sign	Diagram Number¹	Sign
Vehicular traffic must proceed in the direction indicated by the arrow	606	
Vehicular traffic must turn ahead in the direction indicated by the arrow	609	9
Vehicular traffic must comply with the requirements prescribed in regulation 15	610	
No right turn for vehicular traffic	612	
No left turn for vehicular traffic	613	
No U turns for vehicular traffic	614	B
Priority must be given to vehicles from the opposite direction	615, 615.1	Give way to oncoming vehicles

No entry for vehicular traffic N.B. There is a condition attached to this sign which means that it is only included in this list when it indicates a restriction or prohibition which may also be indicated by another sign in the list.	616	
All vehicles prohibited except non-mechanically propelled vehicles being pushed by pedestrians	617	No vehicles
Entry to pedestrian zone restricted (alternative types)	618.2	PEDESTRIAN ZONE No vehicles Except for loading by Continuous properties of the prop
Entry to and waiting in pedestrian zone restricted (alternative types)	618.3	PEDESTRIAN ZONE No rehists Except for loading At any time PEDESTRIAN A say three persons and the persons are persons and the persons and the persons and the persons are persons and the persons and the persons and the persons and the persons are persons and the persons and the persons are persons and the persons and the persons are persons are persons and the persons are persons and the persons are persons are persons are persons are persons and the persons are pers
Entry to and waiting in pedestrian zone restricted (variable message sign)	618.3A	PEDESTRIAN ZONE No vehicles Except for loading by At any Blace At any Time At any Time At any Time At any Time Tim
Motor vehicles prohibited	619	
Motor vehicles except solo motorcycles prohibited	619.1	

Solo motorcycles prohibited	619.2	
Goods vehicles exceeding the maximum gross weight indicated on the goods vehicle symbol prohibited	622.1A	7.51
One way traffic	652	
Route for use by buses and pedal cycles only	953	Only
Route for use by tramcars only	953.1	Only
Part of the carriageway outside a school entrance where vehicles should not stop	1027.1	Mark of the state
Marking conveying the requirements prescribed in regulation 29(2) and Part II of Schedule 19 of the Traffic Signs Regulations and General Directions 2002	1043, 1044	

¹ This refers to the diagram number and the diagram in the Traffic Signs Regulations and General Directions 2002.

Parking Adjudicators

April 2004 - March 2005

Robin Allen Jane Anderson

Michel Aslangul Teresa Brennan Michael Burke Anthony Chan

Hugh Cooper Richard Crabb Neeti Dhanani Anthony Edie Mark Eldridge Susan Elson Anthony Engel

Christine Glenn

Henry Michael Greenslade

Usha Gupta Caroline Hamilton John Hamilton Andrew Harman

Angela Black Hedegard Monica Hillen Keith Hotten

Edward Houghton Tanweer Ikram Verity Jones

Anju Kaler

Therese Kamara

Andrew Keenan

John Lane

Michael Lawrence Francis Lloyd Paul Mallender

Alastair McFarlane Kevin Moore

Michael Nathan Ronald Norman Joanne Oxlade Mamta Parekh Belinda Pearce Susan Pitt Neena Rach

Everton Robertson Christopher Rayner Jennifer Shepherd Caroline Sheppard Sean Stanton-Dunne

Gerald Styles
Carl Teper
Timothy Thorne
Susan Turquet
Andrew Wallis
Austin Wilkinson

Martin Wood (Chief Parking Adjudicator)

Paul Wright

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