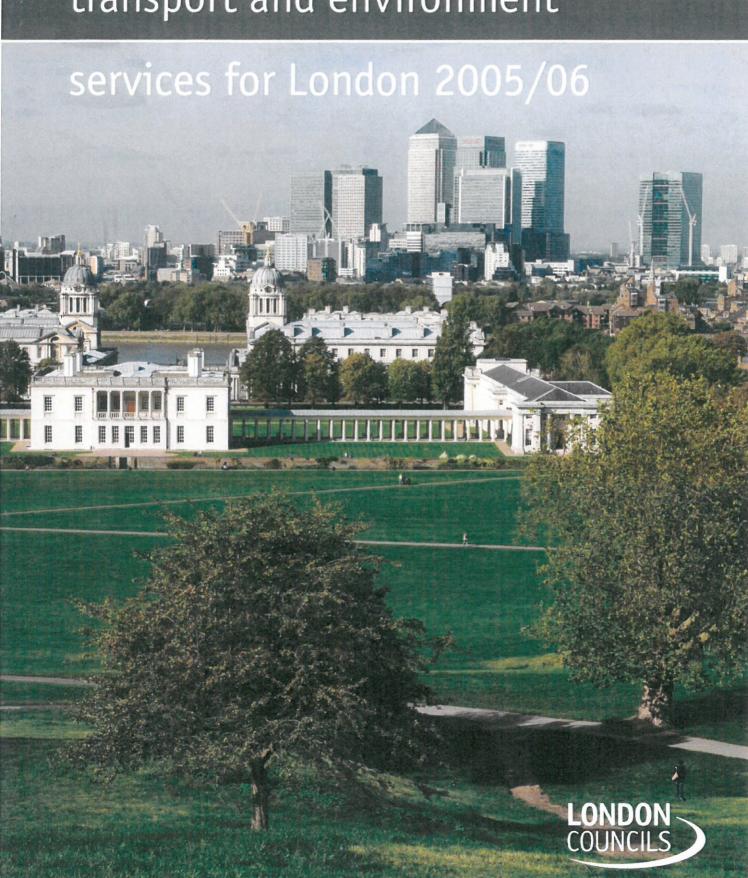
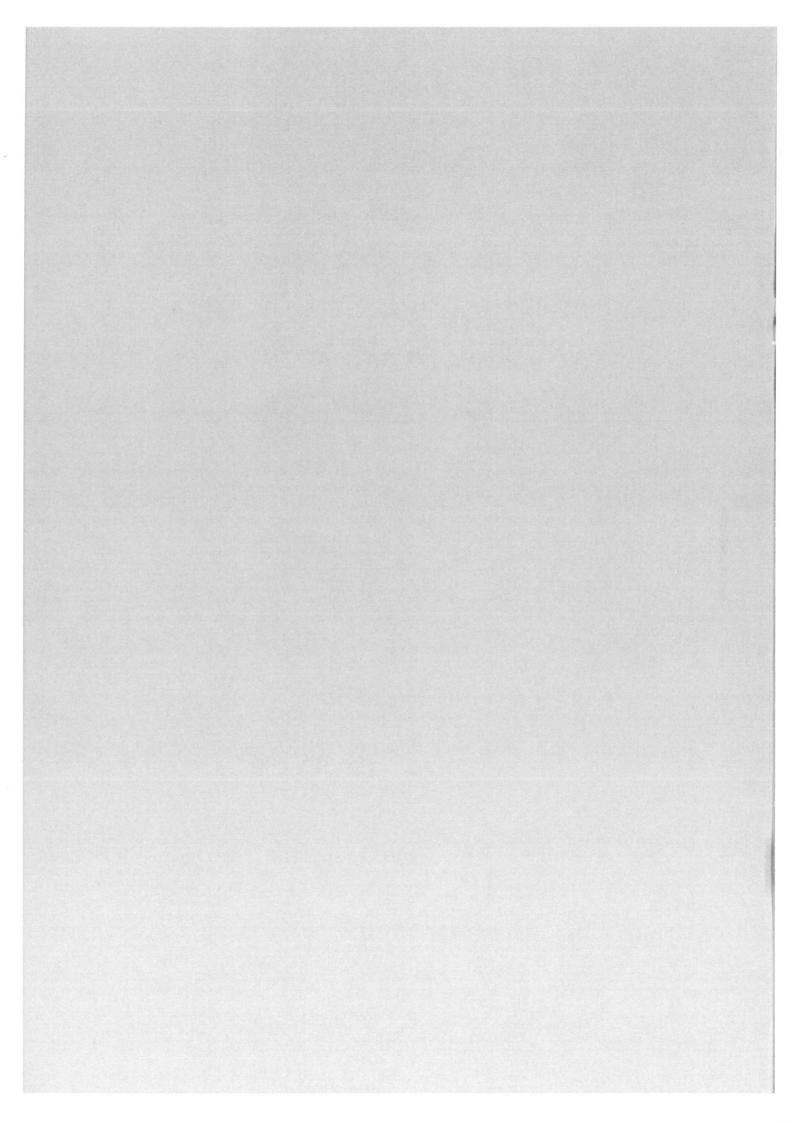
# transport and environment





Foreword	3
Introduction	5
Policy Unit	6
Operational Unit	8
Parking and Traffic Appeals Service	11
TEC statistics for 2005/06	14-24
ALG TEC revenue accounts	25
ALG TEC consolidated balance sheet	26





2005/06 represented another year of considerable achievement for the ALG's Transport and Environment Committee (TEC) over the wide range of its work. Individual sections of this report highlight the many activities undertaken both in terms of policy development, lobbying and influencing, but also in terms of the services we provide.

Increasingly, the ALG is being seen as a useful body for boroughs to house services which are pan-London but not strategic, and the successful launch of Consumer Direct - our first non-transport related service - during the year highlights this point. Other new services are being taken up by other parts of the ALG.

Relationships with partners and stakeholders continue to be a large element of our activities and this is one of the main ways in which the ALG can influence decisions in other parts of government. These stakeholders include business and voluntary organisations who are also important clients for us.

Comparing this year with previous years we can see a distinct change of emphasis in our work on policy development with more focus on waste and other environmental issues compared to previous years, and this change is likely to be longer lasting than just the one year. Issues such as climate change are likely to play a larger role in our activites in the future.

Looking forward into 2006/07, the issue of waste, together with planning, is likely to be a major focus of our relationships with the Mayor and the Greater London Authority (GLA) as the review of the GLA's powers comes to its conclusion.

The year is also likely to see a new challenge as borough elections in May 2006 will lead to a significant change in membership of the Committee, whether or not the political composition changes.

#### Nick Lester

Director of Transport, Environment and Planning

The Association of London Government (ALG) changed its name to London Councils on 1 October 2006. The new name better reflects the membership. London Councils is committed to fighting for more resources for London and getting the best possible deal for London's 33 councils. It develops policy, lobbies government and others, and runs a range of services designed to make life better for Londoners.



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 transport-related 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 work includes:

- lobbying for more money for boroughs to spend on transport and environmental 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.

ALG TEC Operations 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 a 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 taxicabs 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 London councils, and the Mayor.

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 works 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-hours a day, seven-days a week telephone service giving information about cars that have been towed away.

The Parking & Traffic Appeals Service (PATAS) - also based in New Zealand House - 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, ALG TEC 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 black spots). It also has the contract to provide the Consumer Direct service in London (providing trading standards advice and information to the public) on behalf of the Government.

P\*\*



The Policy unit provides a policy framework for the range of activities carried out by ALG TEC. This includes working with government, the Mayor and the London Assembly, Transport for London (TfL) and other stakeholders to implement initiatives to improve the quality of life for London's residents, businesses 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 Londonwide initiatives - on specific issues.

### During 2005/06...

We represented boroughs' views and concerns on government policies and strategies. We worked and lobbied on several items of proposed legislation including the London Olympic Games and Paralympic Games Bill.

We have developed a comprehensive seminar and conference programme and we ran a number of events during the year, including the Liveable London Conference on public realm issues and seminars on changes to the licensing legislation. We also made contributions to several European, national and regional conferences and seminars about our work.

## Transport policy

In 2005/06, we:

- agreed the Freedom Pass settlement for 2006/07 before the statutory 31 December 2005 deadline, with the TfL element being the second year of the current three year deal
- developed a transport recruitment and retention project (BETTER)
- changed the method of apportioning traffic signal costs to better reflect the cost of on-going maintenance
- · responded to consultations on
  - Heathrow and Stansted master plans;
  - revised road safety targets (GLA);
  - revised hours for the Tube and the TfL Private Bill (TfL);
  - Eddington inquiry into transport funding;
  - Network Rail Rail Utilisation Study (RUS) consultation for South West rail;
  - Network Rail RUS consultation for Cross London rail.

Also the number of nuisance vehicles was reduced and public perception of abandoned vehicles (as shown in the ALG survey of Londoners) reduced by 9 per cent. Despite substantial efforts, additional funding for operation Scrap-it was not secured beyond March 2006, though elements of the programme are continuing in boroughs.

## **Planning policy**

In 2005/06, we:

- represented boroughs at the examination in public of the early alterations to the London Plan
- submitted evidence to and appeared at the examination in public for the East of England Regional Spatial Strategy
- undertook research to identify potential initiatives to improve the recruitment and retention of planners
- submitted responses to the following Government consultations:
  - New powers for the Mayor and Assembly;
  - Planning delivery grant criteria for 2007/08;
  - Planning Policy Statements 3 (Housing) and 25 (Development on the Flood Plain);
  - Responded to the HM Treasury consultation on proposals for the introduction of a Planning Gain Supplement;



held regular Sub-Regional Development Frameworks
Partnerships meetings with borough partners to
ensure borough views are taken into account in SRDF
process and submitted responses to the GLA
consultation on SRDFs.

## Public protection policy

In 2005/06, we:

- supported boroughs with the implementation of the Licensing Act 2003, which created a new duty for London boroughs to act as licensing authorities for the regulation for entertainment and hospitality industry
- 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
- met with and gave evidence to the Elton Panel on licensing
- initiated work on alternative approaches to licensing fees
- published a joint ALG/LFEPA protocol to support the implementation of the Licensing Act 2003
- worked very closely with the Government on the potential London impacts 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 government 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 was formally launched in June 2005.

#### **Environment Policy**

In 2005/06, we:

- continued to develop pan-London approaches to public realm enforcement through the introduction of a new London Local Authorities Act and work on the ninth London Local Authorities Bill
- responded to government proposals to review the powers of the GLA in relation to planning, waste management and waste planning, TfL, energy, sustainability, and water resources. We continued to negotiate with government and the GLA over future waste management arrangements
- published guidance for boroughs on joint waste planning and held seminars to support its introduction
- progressed work on the best practice guidance for the Control of Dust and Emissions from Construction and Demolition
- held the fourth ALG conference on the public realm (Liveable London) with a focus on new legislation and enforcement, the Olympics and our approach to the public realm and open spaces
- achieved London-wide sign up to the Local Agreement on Flytipping and worked to promote it through borough officer groups
- publishing Codes of Practice on Graffiti Removal and the Prevention of Nuisance from Birds under the London Local Authorities Act 2004
- contributed to the London Anti-social Behaviour Strategy (published July 2005) alongside a number of other regional stakeholders such as the GLA, GOL, and the Metropolitan Police and helped deliver the London Clean-Up initiative.

For more information contact Stephen Benton, Head of Policy, Transport Environment and Planning, on 020 7934 9908 or stephen.benton@londoncouncils.gov.uk



The Operational Unit is based at New Zealand House, from where it manages the London concessionary fares scheme and a number of other transport/traffic-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 is a model for similar schemes now provided nationally in Scotland and Wales.

The scheme enables more than a million Londoners over the age of 60, and people with disabilities, 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 free travel on only buses).

In 2005/06 London's 33 councils paid the two main transport operators (ATOC and TfL) £210 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 a borough.

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

#### During 2005/06...

- Freedom Pass became a smart ticket using Oyster technology. It has proved to be highly popular with customers who found accessing the transport system much easier.
- Hot-listing, the process that enables the ALG to stop the
  use of lost or stolen passes, has proven extremely
  effective in reducing the number of these cards in
  circulation. This has had as substantial impact on the
  potential level of fraud.
- Work started with the Post Office on developing a method of issuing passes via their Horizon electronic counter system. This was to be in place for the 2006

renewal that was due to start in February 2006. It improves the quality of the data entered at the point of issue and the aggregate data can be sent to London councils overnight. This has the further benefit of enhancing the hot-listing process.

- In order to process the data a new Oracle-based system was developed both to clean the pass data and provide information for the apportionment of scheme costs.
- In February the reissue process began. As the passes have an electronic end date of 2010, we renew by applying a new 2008 date sticker to the passes. Any passes that are not renewed are hot-listed.
- A major advertising campaign began to support the reissue. Posters were placed at bus shelters, tube and rail stations and on the majority of London buses. There was also a substantial advertising campaign in newspapers across London.
- The own-issue boroughs and the Post Office re-issued about 900,000 passes in the February-March 2006 period.

#### **Taxicard**

The Taxicard scheme provides subsidised door-to-door transport in licensed taxicabs and private hire vehicles to nearly 65,000 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 holders use in excess of 6,000 licensed vehicles to make 1.12 million 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 2005/06...

There was a further year-on-year growth of around 18 per cent increase in trips and 10 per cent in membership. We continued working closely with TfL to ensure that their funding contribution offered real benefits to users. Building on this momentum, the contractor continued to introduce enhanced local supply to overcome areas of poor service. While this was successful in that vehicles are available to meet demand there was a counter-effect that they more frequently arrived late for pick-up. While supply and demand remain close in overall terms, work will have to be done to deal with problems of lateness.

Given the sustained growth of the scheme we continue to explore how to improve supply.

# **London Lorry Control Scheme**

The London 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.

ALG TEC 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. ALG TEC 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 7,500 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 2005/06...

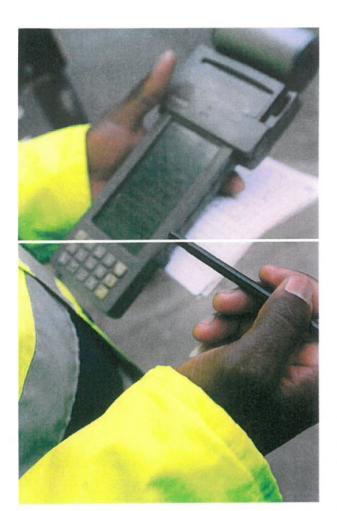
ALG TEC processed around 360 new applications, which resulted in 252 new operators joining the scheme, bringing the total number of operators with permitted vehicles to 9,650. In total, ALG TEC issued some 54,482 permits and the ALG TEC enforcement team issued approximately 3,600 PCNs.

# Health Emergency Badge Scheme

ALG TEC 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. Badges, which are valid for two years, are issued on a limited basis to qualifying practices in order to help eligible health workers perform their duties. Whilst it has no legal status, parking authorities will generally not issue tickets to a vehicle which is displaying the HEB badge.

# During 2005/06...

Applications for 2,461 HEBs were received, which resulted in 2,332 badges being issued.



# **Parking Services**

ALG TEC also manages a number of parking and traffic enforcement 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 DVLA (Driver Vehicle Licensing Authority), which provides a gateway for boroughs wishing to obtain or check a vehicle's registered keeper
- PIE (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 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 2005/06...

- revised versions of the Code of Practice on Civil Parking and Traffic Enforcement and the Code of Practice for Operation of CCTV Enforcement Cameras were produced and issued to boroughs
- advice and guidance to the boroughs continued particularly with regard to the wording on penalty charge and other parking notices
- 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.

For more information contact Ron Beckett, Head of Operations, Transport Environment and Planning, on 020 7747 4780 or ron.beckett@londoncouncils.gov.uk



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 Parking Adjudicators constitute an independent tribunal established by the 1991 Road Traffic Act to consider appeals against liability for Penalty Charge Notices (PCNs) issued by the enforcing authorities. ALG TEC fulfils its statutory function via the Parking and Traffic Appeals Service (PATAS).

ALG TEC 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. While 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 2005 - 31 March 2006

The main issue for PATAS over the reporting year has been the strategic development of systems and procedures to deliver support in the most efficient and cost effective way to the Parking Adjudicators and the Road User Charging Adjudicators. When PATAS was first established, it handled only appeals to the Parking Adjudicators against parking PCNs and clamp/removal. As decriminalised traffic enforcement by local authorities has developed, so has the work of PATAS. It now also deals with appeals concerning PCNs issued for bus lane and other moving traffic contraventions as well as lorry control and congestion charging. The workload has therefore increased significantly, although the number of cases lodged fluctuates from year to year. It is clear that PATAS' procedures, systems and resources need to be dynamic to handle a developing and fluctuating workload efficiently and cost effectively.

#### Case volumes

Although the Parking Adjudicators' case load has dropped slightly from the high levels of last year, case volumes are still significantly greater than the year before and, at the time of writing this report, seem to be growing again as more authorities enforce moving traffic.

The number of Congestion Charging appeals being handled for the Road User Charging Adjudicators has dropped dramatically from 34,252 in 2004/05 to 12,134 in 2005/06. It seems that the drop has occurred partly because of increased familiarity and compliance with the Congestion Charging scheme, but is also due in large part to fundamental changes introduced by TfL in Autumn 2005 for the handling of challenges, representations and appeals against penalty charges. Increased resources invested by TfL in the earlier stages of the challenge process have meant that fewer people have appealed to the independent Adjudicators.

#### **PATAS** developments

One of the main areas of development has been the inclusion of moving traffic appeals into the computerised case management and adjudication system. When this area of work was introduced, volumes were small and the issues were new. As the caseload grew, with more authorities taking on enforcement, it became clear that it was no longer efficient or cost effective to handle these appeals manually: they were therefore included in the automated case management and adjudication system during this reporting year.

Authorities have stated in the past that they would like to be able to submit and receive information from PATAS electronically. In November 2005, after an intensive period of development with TfL and their contractor, Capita, an application enabling TfL Congestion Charging Department to submit and receive appeal documentation electronically was introduced. TfL's appeals manager demonstrated, in a presentation given at a PATAS seminar for local authority staff, that the development has brought increased efficiency and costs savings to their operations, and has therefore enabled





them to devote more resource to quality issues in their representations and appeals section. Unfortunately, none of the other local authorities has yet been in a position to implement this development. However, work is continuing with groups of authorities and their software suppliers to enable them to to incorporate the application into their systems.

As the number of statutory declaration referrals received across the two tribunals has increased (now counted separately in the statistics attached), it was decided to develop the Adjudication system to enable Adjudicators to handle these more expeditiously and with the least possible administrative input. The opportunity has been taken at the same time to enhance the system by which applications and enquiries regarding existing appeals are dealt with. Although these developments present no changes to external users of the service, it is hoped that the efficiencies they bring will be demonstrated to users over the next year.

#### Contract re-let

As has been stated in previous annual reports, ALG TEC fulfils its statutory function to provide administrative staff to the Adjudicators via PATAS. However, IT, processing and basic enquiries are carried out by SunGard Vivista under contract to ALG TEC. The current contract comes to an end in July 2007. Therefore a major element of work this year had been in the letting of the new contract. There has been extensive consultation with Adjudicators and other users of the service: the procurement is being managed by two specialist staff employed on a fixed term contract by ALG TEC. At the time of writing this report the procurement is running well and to the agreed schedule.

#### Communication strategy

Last year's annual report showed that, partly in response to auditors' recommendations, work was being done to develop the PATAS communications strategy. That work has continued during this reporting year. PATAS newsletters, incorporating service updates, statistics and key cases, were published in May, October and December 2005. In addition, two seminars were held for local authority parking staff dealing with appeals - one on communications with PATAS in November 2005 and one on the PATAS Electronic Data Interface in March 2006.

The other main areas of communications work this year have been:

- revising scripts and information given by call centre and processing staff.
- work on PATAS information leaflets. There is now a consistent portfolio of information: leaflets are issued with the appeal application form, with the hearing schedule letter (prepared during the reporting year, implemented at the time of writing this report), and with the Adjudicator's decision.
- there has been a significant amount of development to the PATAS website. The development work was completed during the reporting year and the new site was launched in Summer 2006. The website now incorporates all types of appeals, more detailed and more easily accessible information, key Adjudicator decisions, reports, newsletters and links to other sites which may be of use to users. When this development work was done, a new e-mail address for users to contact the PATAS team (PATAS.team@tcfl.gov.uk) was also introduced.
- the Parking Adjudicators also began to issue Practice
  Directions to authorities on various judicial matters. It
  is hoped that using this more formal method of
  communicating judicial issues to authorities will help to
  define the boundaries between the Adjudicators as the
  independent tribunal, PATAS as its administrative staff
  and the authority as a party to the appeal.



# Adjudicators' annual reports

The Parking Adjudicators' report for the year 2005/06 is presented separately to this committee. The Parking Adjudicators have made no recommendations this year.

For more information contact Charlotte Axelson, Head of Parking and Traffic Appeals Service, on 020 7747 4700 or charlotte.axelson@tcfl.gov.uk

# Taxicard and Freedom Pass

	Taxicard average number of members	Freedom Pass average number of members	
Barking and Dagenham	2,515	22,209	
Barnet	2,231	51,481	
Bexley	818	40,163	
Brent	3,374	38,840	
Bromley	1,393	55,387	
Camden	3,971	30,058	
City of London	197	1,290	
Croydon	2,008	52,247	
Ealing	1,541	43,082	
Enfield	864	44,371	
Greenwich	1,122	31,729	
Hackney	3,023	24,217	
Hammersmith & Fulham	2,647	22,155	
Haringey	1,853	29,335	
Harrow	5,325	37,118	
Havering	2,724	43,430	
Hillingdon	1,299	38,708	
Hounslow	1,615	31,056	
Islington	2,238	26,360	
Kensington and Chelsea	2,638	21,916	
Kingston Upon Thames	993	22,063	
Lambeth	2,558	31,647	
Lewisham	1,076	34,843	
Merton	1,835	27,160	
Newham	3,686	30,414	
Redbridge	4,701	37,932	
Richmond Upon Thames	1,085	26,655	
Southwark	1,939	30,822	
Sutton	882	29,522	
Tower Hamlets	1,672	21,539	
Waltham Forest	3,138	30,790	
Wandsworth	2,217	34,309	
Westminster	0	31,456	
Total	69,178	1,074,297	

# enforcement activity 2005/06

Enforcing Authority	Parking PCNs	Bus lane PCNs	Moving Traffic PCNs	London Lorry Control Scheme (Operators)	London Lorry Control Scheme (Drivers)	Total PCNs	Total vehicles clamped	Total Vehicles removed to pound
ALG				3,096	526	3,622		
Barking & Dagenham	42,416	8,945				51,361		
Barnet	168,681	33,417				202,098		
Bexley	65,739	6,197				71,936		
Brent	113,561	12,235				125,796		5,781
Bromley	69,538	19,858				89,396		9
Camden	448,085	24,514	106,479			579,078	26,453	8,005
City of London	37,478	16,304				53,782	1,407	620
Croydon	86,534	3,428	12,018			101,980	75	4,727
Ealing	212,656	70,265	100,746			383,667	3	676
Enfield	100,087	48,014	3,113			151,214	40	1,978
Greenwich	48,892					48,892		
Hackney	140,966	22,221				163,187	7,666	2,384
Hammersmith & Fulham	165,196	18,822	3,975			187,993		2,981
Haringey	134,551	25,218	43,684			203,453	5,611	5,246
Harrow	83,303	16,914				100,217		
Havering	40,141					40,141	115	72
Hillingdon	61,211	27,532				88,743		
Hounslow	92,764					92,764		853
Islington	210,685	43,517	16,620			270,822	5,868	1,137
Kensington & Chelsea	294,932					294,932	15,381	9,433
Kingston	63,980	4,951				68,931		
Lambeth	255,066	36,938	2,574			294,578	8,212	8,059
Lewisham	63,250	1,603				64,853		
Merton	56,860	12,413				69,273		
Newham	188,465	32,891	34,667			256,023		2,587
Redbridge	95,966					95,966		
Richmond	72,526	16,376				88,902		
Southwark	135,045	5,818				140,863	5,393	2,640
Sutton	48,965					48,965		
Tower Hamlets	72,858	8,164				81,022		3,149
Waltham Forest	140,216	12,352				152,568	8,470	4,072
Wandsworth	245,475	12,837	3,136			261,448		3,349
Westminster	715,085	790	6,201			722,076	12,907	19,126
Transport for London	304,305	155,282	55,842			515,429		945
TOTAL	5,075,478	697,816	389,055	3,096	526	6,165,971	97,601	87,829

# appeals to the parking and traffic adjudicators

# Parking appeals 2005/06 (PCN, clamp, remove)

	Appeals recieved	Statutory declarations received	Appeals allowed	Of which not contested	Appeals refused	Of which withdrawn	Total sealed	% allowed (inc dnc)	% not contested
Barking and Dagenham	662	0	400	52	344	2	744	54%	7%
Barnet	1,915	243	1,265	382	1,106	8	2,371	53%	16%
Bexley	470	20	197	41	266	3	463	43%	9%
Brent	937	109	602	160	606	5	1,208	50%	13%
Bromley	853	107	367	156	482	3	849	43%	18%
Camden	2,384	65	731	255	1,092	11	1,823	40%	14%
City of London	581	8	400	159	129	1	529	76%	30%
Croydon	551	102	202	57	434	7	636	32%	9%
Ealing	1,734	306	1,067	462	960	5	2,027	53%	23%
Enfield	396	40	114	53	261	2	375	30%	14%
Greenwich	479	0	175	67	355	6	530	33%	13%
Hackney	1,686	79	1,345	891	408	1	1,753	77%	51%
Hammersmith & Fulham	1,339	148	566	245	961	5	1,527	37%	16%
Haringey	1,021	0	530	143	465	3	995	53%	14%
Harrow	862	152	320	32	703	5	1,023	31%	3%
Havering	309	31	193	70	192	2	385	50%	18%
Hillingdon	570	18	344	268	242	5	586	59%	46%
Hounslow	819	51	520	158	530	9	1,050	50%	15%
Islington	3,130	77	2,456	1,421	1,224	15	3,680	67%	39%
Kensington and Chelsea	3,042	44	1,498	647	1,498	59	2,996	50%	22%
Kingston Upon Thames	370	26	140	37	262	3	402	35%	9%
Lambeth	3,191	0	2,184	956	940	31	3,124	70%	31%
Lewisham	498	46	183	35	348	0	531	34%	7%
Merton	335	0	168	60	157	1	325	52%	18%
Newham	1,338	196	727	269	838	3	1,565	46%	17%
Redbridge	471	42	219	97	250	1	469	47%	21%
Richmond Upon Thames	651	79	359	166	308	1	667	54%	25%
Southwark	1,817	127	1,160	709	666	2	1,826	64%	39%
Sutton	617	26	240	124	369	3	609	39%	20%
Tower Hamlets	623	119	324	96	441	0	765	42%	13%
Transport for London	2,313	49	1,020	436	709	13	1,729	59%	25%
Waltham Forest	1,467	0	1,004	424	469	3	1,473	68%	29%
Wandsworth	3,199	3	1,525	818	1,288	37	2,813	54%	29%
Westminster	7,647	550	5,576	2,129	3,190	29	8,766	64%	24%
Totals for London	48,277	2,863	28,121	12,075	22,493	284	50,614	56%	24%

<sup>\*</sup>due to enhancements to our systems we are now able to show the number of Statutory Declarations received

Parking appeals – costs	Costs applications from appellant	Costs applications from local authority	Allowed from appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
Barking and Dagenham	1	0	0	£0	0	£0	1	0
Barnet	12	5	6	£732.73	4	£294.92	6	1
Bexley	0	0	0	£0	0	£0	0	0
Brent	4	0	1	£10.00	0	£0	3	0
Bromley	2	0	0	£0	0	£0	2	0
Camden	6	0	0	£0	0	£0	5	0
City of London	4	25	1	£125.10	23	£1,436.58	3	2
Croydon	0	0	0	£0	0	£0	0	0
Ealing	6	2	2	£493.88	2	£557.13	4	0
Enfield	0	0	0	£0	0	£0	0	0
Greenwich	0	0	0	fO	0	£0	0	0
Hackney	11	0	4	£318.50	0	£0	6	0
Hammersmith & Fulham	3	0	0	£0	0	£0	3	0
Haringey	5	0	3	£72.58	0	£0	2	0
Harrow	1	3	0	£0	3	£141.39	1	0
Havering	2	0	1	£45.00	0	£0	1	0
Hillingdon	0	0	0	£0	0	£0	0	0
Hounslow	8	0	5	£590.79	0	£0	3	0
Islington	31	0	6	£251.50	0	£0	25	0
Kensington and Chelsea	4	1	1	£105.00	0	£0	3	1
Kingston Upon Thames	2	1	1	£100.00	1	£50.00	1	0
Lambeth	24	0	12	£668.13	0	£0	12	0
Lewisham	0	0	0	£0	0	£0	0	0
Merton	3	0	0	£0	0	£0	3	0
Newham	7	0	1	£57.10	0	£0	6	0
Redbridge	2	0	0	£0	0	£0	2	0
Richmond Upon Thames	1	0	0	£0	0	£0	1	0
Southwark	2	0	1	£7.95	0	£0	1	0
Sutton	0	0	0	£0	0	£0	0	0
Tower Hamlets	3	0	0	£0	0	£0	2	0
Transport for London	1	0	0	£0	0	£0	1	0
Waltham Forest	7	0	6	£331.11	0	£0	1	0
Wandsworth	7	0	2	£62.64	0	£0	5	0
Westminster	51	2	19	£1,202.45	2	£121.93	31	0
Totals for London:	210	39	72	£5,174.46	35	£2,601.95	134	4

Parking appeals – review	Applications ps s from appellant moist	Applications by local authority	Accepted from appellant	Accepted from local authority	Rejected from appellant	Rejected from local authority	Review allowed from appellant	Review allowed from local authority	Review refused from appellant	Review refused from local authority
Barking and Dagenham	21	0	4	0	16	0	4	0	1	0
Barnet	114	2	37	2	86	0	37	0	12	1
Bexley	20	0	7	0	11	0	7	0	2	0
Brent	55	0	12	0	41	0	12	0	4	0
Bromley	30	3	9	3	21	0	9	0	4	2
Camden	68	7	17	5	52	1	17	0	9	4
City of London	20	3	2	3	17	0	2	2	1	1
Croydon	23	3	6	2	16	1	6	1	3	1
Ealing	88	7	20	3	64	2	20	1	11	1
Enfield	16	0	2	0	14	0	2	0	0	0
Greenwich	19	3	1	2	18	1	1	0	1	1
Hackney	32	1	6	0	27	1	6	0	2	0
Hammersmith & Fulham	61	4	18	3	43	0	18	0	6	1
Haringey	39	2	9	2	27	0	9	1	4	1
Harrow	32	5	7	2	25	2	7	1	0	1
Havering	12	1	0	1	12	0	0	0	1	0
Hillingdon	13	3	3	0	10	3	3	0	8	0
Hounslow	39	0	15	0	27	0	15	0	9	1
Islington	100	8	21	1	78	6	21	2	11	1
Kensington and Chelsea	119	6	22	3	94	3	22	0	1	0
Kingston Upon Thames	15	0	3	0	12	0	3	0	11	0
Lambeth	75	1	26	0	49	1	26 9	0	5	2
Lewisham	31	3	9	2	25	2	4	0	1	0
Merton	15	1	4	0	9	1	14	0	6	0
Newham	58	0	14	0	43	0	6	0	4	
Redbridge	18	1	6	0	12	1	11	0	7	7020
Richmond Upon Thames	28		11	0	17	0	20	0	4	
Southwark	68		20	0	50	0	7	0	5	
Sutton	20		7	0	12	0	10	0	12	
Tower Hamlets	36		10	0	25 45	1	13			
Transport for London	6		13	0	17	0	11			
Waltham Forest	2		11	0	51	1	8			
Wandsworth	6		8	0		0	68			
Westminster	27		68	4	215	27	428			
<b>Totals for London</b>	171	6 70	428	38	1281	21	450			

# Bus lane appeals 2005/06

	Appeals received	Statutory declarations received*	Appeals allowed	Of which not contested	Appeals refused	Of which withdrawn	Total appeals decided	% allowed (inc dnc)	% not contested
Barnet	210	43	112	33	174	1	286	39%	12%
Bexley	54	3	22	2	44	1	66	33%	3%
Brent	69	1	29	9	32	0	61	48%	15%
Bromley	92	17	42	15	52	2	94	45%	16%
Camden	92	7	48	34	54	1	102	47%	33%
City of London	5	0	3	2	0	0	3	100%	67%
Croydon	13	10	5	1	21	0	26	19%	4%
Ealing	297	33	126	59	180	3	306	41%	19%
Enfield	18	0	5	1	16	0	21	24%	5%
Hackney	87	2	65	52	7	1	72	90%	72%
Hammersmith & Fulham	83	39	25	11	79	0	104	24%	11%
Haringey	117	0	76	33	46	0	122	62%	27%
Harrow	58	10	10	0	37	1	47	21%	0%
Hillingdon	58	5	48	38	20	0	68	71%	56%
Islington	152	4	80	34	113	0	193	41%	18%
Kingston Upon Thames	9	0	3	2	1	0	4	75%	50%
Lambeth	175	0	106	33	109	0	215	49%	15%
Merton	44	0	31	15	2	0	33	94%	45%
Newham	158	32	87	34	124	0	211	41%	16%
Richmond Upon Thames	68	6	25	2	39	0	64	39%	3%
Southwark	35	17	23	13	50	0	73	32%	18%
Tower Hamlets	18	0	5	4	3	0	8	63%	50%
Transport for London	803	139	277	78	651	12	928	30%	8%
Waltham Forest	30	0	19	9	13	0	32	59%	28%
Wandsworth	28	0	13	6	22	1	35	37%	17%
Westminster	1	1	0	0	0	0	0	N/A	N/A
Totals for London:	2,774	369	1,285	520	1,889	23	3,174	40%	16%

 $<sup>^{\</sup>star}$ due to enhancements to our systems we are now able to show the number of Statutory Declarations received

Bus lane appeals – cost d	Costs applications cost from appellant su	Costs applications from local authority	Allowed for appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
Barnet	1	1	0	£0.00	1	£47.13	1	0
Bexley	0	0	0	£0.00	0	£0.00	0	0
Brent	0	0	0	£0.00	0	£0.00	0	0
Bromley	0	0	0	£0.00	0	£0.00	0	0
Camden	0	0	0	£0.00	0	£0.00	0	0
City of London	0	0	0	£0.00	0	£0.00	0	0
and the control of th	0	1	0	£0.00	1	£47.13	0	0
Croydon	0	0	0	£0.00	0	£0.00	0	0
Ealing Enfield	0	0	0	£0.00	0	£0.00	0	0
	2	0	2	£89.62	0	£0.00	0	0
Hackney Hammersmith & Fulham	0	0	0	£0.00	0	£0.00	0	0
	3	0	1	£100.00	0	£0.00	2	0
Haringey	0	0	0	£0.00	0	£0.00	0	0
Harrow	1	0	0	£0.00	0	£0.00	1	0
Hillingdon	0	0	0	£0.00	0	£0.00	0	0
Islington	0	0	0	£0.00	0	£0.00	0	0
Kingston Upon Thames	1	0	0	£0.00	0	£0.00	1	0
Lambeth	1	0	0	£0.00	0	£0.00	1	0
Merton	0	0	0	£0.00	0	£0.00	0	0
Newham	0	0	0	£0.00	0	£0.00	0	0
Richmond Upon Thames	0	0	0	£0.00	0	£0.00	0	0
Southwark	0	0	0	£0.00	0	£0.00	0	0
Tower Hamlets	7	0	2	£213.40	0	£0.00	5	0
Transport for London		0	0	£0.00	0	£0.00	0	0
Waltham Forest	0	0	0	£0.00	0	£0.00	0	0
Wandsworth	0	0	0	£0.00	0	£0.00	0	0
Westminster	0	2	5	£403.02	2	£94.26	11	0
Totals for London	16	2	5	740105				

Bus lane appeals – review decisions											
	Applications from appellant	Applications by local authority	Accepted from appellant	Accepted from local authority	Rejected from appellant	Rejected from local authority	Review allowed from appellant	Review allowed from local authority	Review refused from appellant	Review refused from local authority	
Barnet	19	0	12	0	10	0	4	0	3	0	
Bexley	4	0	3	0	1	0	2	0	1	0	
Brent	2	0	0	0	2	0	0	0	0	0	
Bromley	4	1	3	1	2	1	0	0	3	1	
Camden	7	0	4	0	3	0	0	0	1	0	
City of London	0	0	0	0	0	0	0	0	0	0	
Croydon	2	1	0	1	2	0	0	0	0	1	
Ealing	8	1	1	0	8	1	0	0	1	0	
Enfield	1	0	0	0	1	0	0	0	0	0	
Hackney	0	0	0	0	0	0	0	0	0	0	
Hammersmith & Fulham	5	0	2	0	3	0	1	0	1	0	
Haringey	6	0	2	0	3	0	0	0	2	0	
Harrow	3	0	1	0	2	0	0	0	0	0	
Hillingdon	0	0	0	0	0	0	0	0	0	0	
Islington	6	1	3	1	4	0	1	0	1	0	
Kingston Upon Thames	0	0	0	0	0	0	0	0	0	0	
Lambeth	10	0	1	0	9	0	1	0	0	0	
Merton	1	0	1	0	0	0	0	0	0	0	
Newham	14	0	3	0	11	0	3	0	0	0	
Richmond Upon Thames	2	0	0	0	2	0	0	0	0	0	
Southwark	4	0	0	0	4	0	0	0	0	0	
Tower Hamlets	1	0	0	0	1	0	0	0	0	0	
Transport for London	74	0	23	0	54	0	8	0	9	0	
Waltham Forest	0	0	0	0	0	0	0	0	0	0	
Wandsworth	2	0	1	0	1	0	0	0	1	0	
Westminster	0	0	0	0	0	0	0	0	0	0	
Totals for London	175	4	60	3	123	2	20	0	23	2	

# Moving traffic appeals

	Appeals received	Statutory declarations received*	Appeals allowed	of which DNC	Appeals refused	of which withdrawn	Total sealed	% allowed inc DNC
	640	1	145	101	167	4	312	46%
Camden	108	3	8	7	54	2	62	13%
Croydon		0	63	37	18	0	81	78%
Ealing	137	2	1	0	0	0	1	100%
Hammersmith & Fulham	31			4	0	0	4	100%
Haringey	15	0	4		1	0	13	92%
Islington	22	0	12	11	0	0	1	100%
Lambeth	4	0	1	1			106	
Newham	167	6	85	57	21	2		
Transport for London	465	19	156	91	116		272	
Wandsworth	18	0	4	1	5	0	9	44%
	3	0	0	0	0	0	0	0%
Westminster  Totals for London	1,610	31	479	310	382	26	861	56%

<sup>\*</sup>due to enhancements to our systems we are now able to show the number of Statutory Declarations received

# 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
	1	£263.10	0	0	£0	0
Camden	0	£0	0	0	£0	0
Croydon	0	£0	0	0	£0	0
Ealing	0	£0	0	0	£0	0
Hammersmith & Fulham		£0	0	0	£0	0
Haringey	0	£0	0	0	£0	0
Islington		£0	0	0	£0	0
Lambeth	0	£0	0	0	£0	0
Newham	0	£88.58	0	0	£0	0
Transport for London	2		0	0	£0	0
Wandsworth	0	£0		0	£0	0
Westminster	0	£0	0		£0	0
Totals for London	3	£351.68	0	0	10	

# Moving traffic appeals – review decisions

	Appellant's application accepted	Appeal allowed on review	Appeal refused on review	Local authority application accepted	Appeal allowed on review	Appeal refused on review	% not contested
Camden	3	1	2	1	0	1	32%
Croydon	0	0	0	0	0	0	11%
Ealing	0	0	0	0	0	0	46%
Hammersmith & Fulham	0	0	0	0	0	0	0%
Haringey	0	0	0	0	0	0	100%
Islington	0	0	0	0	0	0	85%
Lambeth	0	0	0	0	0	0	100%
Newham	0	0	0	0	0	0	54%
Transport for London	0	0	0	0	0	0	33%
Wandsworth	0	0	0	0	0	0	11%
Westminster	0	0	0	0	0	0	0%
Total for London	3	1	2	1	0	1	36%

# London lorry control statistics

Lorry control appeals

zony contract up	Appeals	Appeals allowed	of which DNC	200	of which withdrawn	Total Sealed decided	% allowed including not contested	% not contested
ALG TEP	103	74	29	11	2	85	87%	34%

Lorry control appeals - review decisions

	Appellant's application accepted	Appeal allowed on review	Appeal refused on review	Local authority appeal	Appeal allowed on review	Appeal refused on review
				accepted		
ALG TEP	0	0	0	0	0	0

Lorry control appeals - cost decisions

,	Application from appellant allowed	Amount awarded	Application from appellant refused	Application from local authority allowed	Amountl awarded	Application from local authority refused
ALG TEP	0	0	0	0	0	0

# Congestion Charging Statistics 2005/06

Congestion charging appeals statistics 2005/06

	Appeals received	statutory declarations received*	Appeals allowed	of which DNC	Appeals refused	of which withdrawn	total appeals decided	% allowed including not contested	% not contested
TfL	12.124	4,459	9.643	5,084	15,306	420	24,949	39%	20%

<sup>\*</sup>due to enhancements to our systems we are now able to show the number of Statutory Declarations received

Congestion charging appeals costs 2005/06

Congestion charging Costs applications from appellant	Costs applications	Allowed for appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
	authority		£2,588.65	1	64	£138.00	0

Congestion charging appeals reviews 2005/06

Appli	cation from pellant	Application from local authority		Accepted from local authority	Rejected from appellant	Rejected from local authority	Review allowed from appellant	Review allowed from local authority	Review refused from appellant	Review refused from local authority
TfL	581	100	575	100	6	0	147	7	357	70

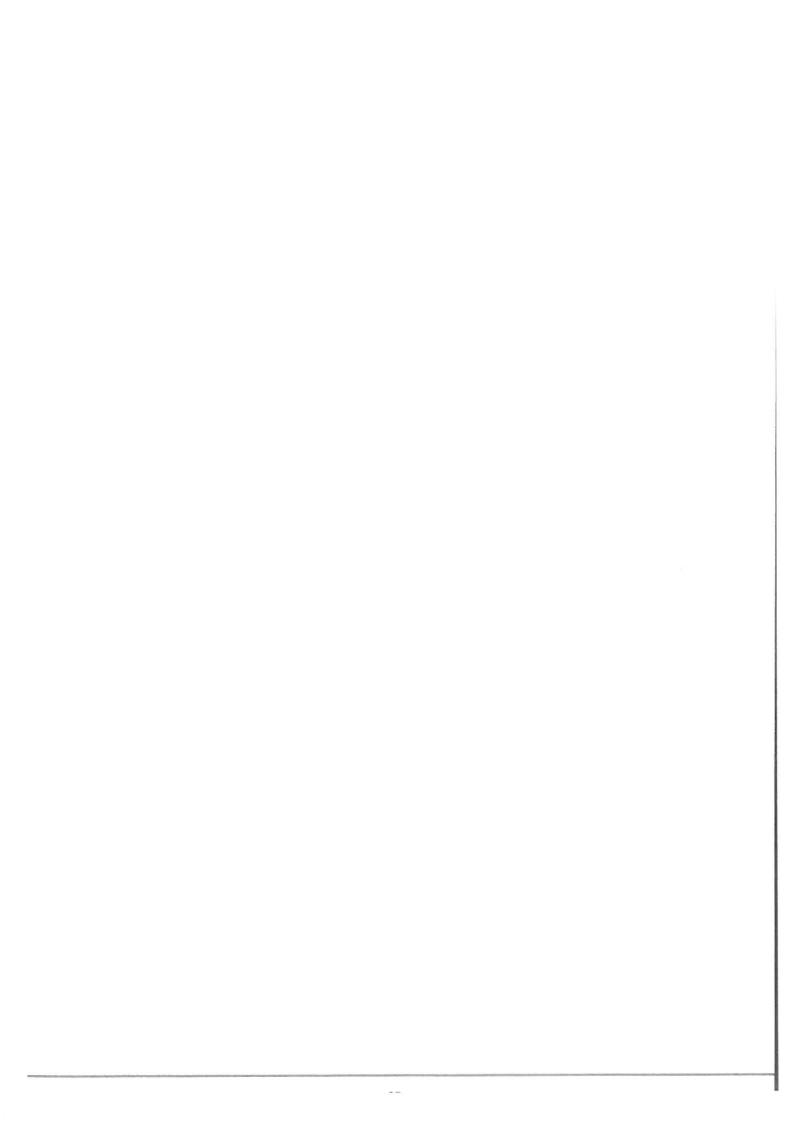
# **ALG TEC Revenue Accounts** for the year ending 31 March 2006

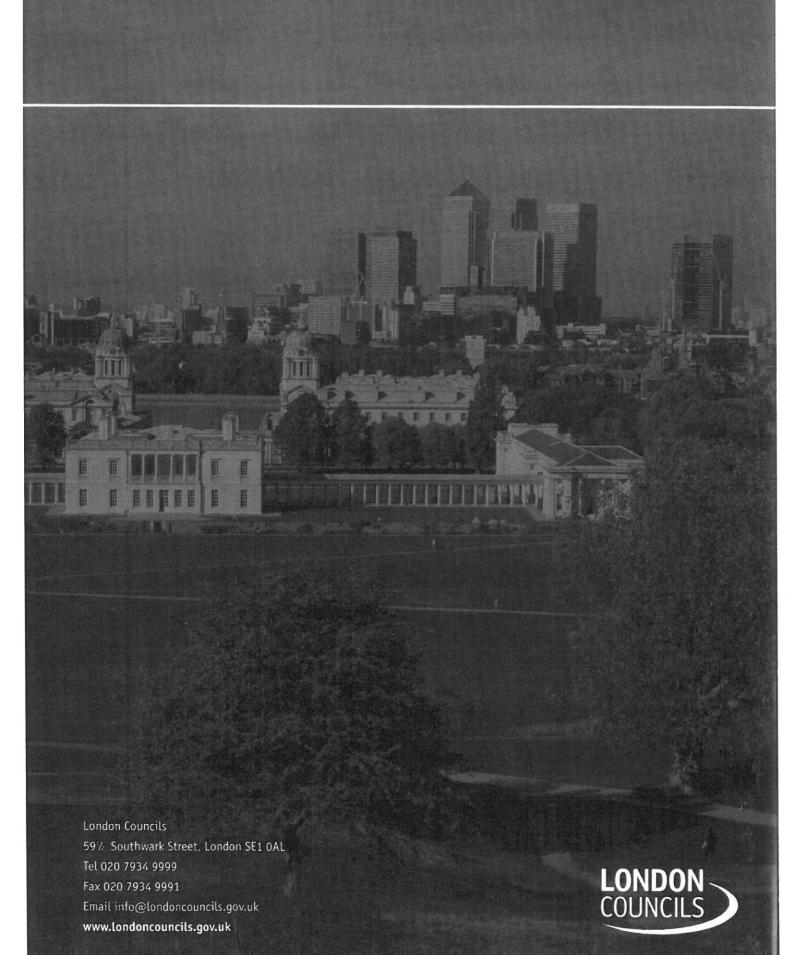
	Operations (mobility)		Operations (traffic and parking) and Parking, Traffic and Congestion Charging Appeals Service		Policy and administration	
	2005/06	2004/05	2005/06	2004/05	2005/06	2004/05
	£000	£000	£000	£000	£000	£000
Expenditure						
Employee costs	353	267	1,073	879	828	891
Premises	77	3	654	112	181	714
Transport	1	0	28	30	5	5
Supplies and services	289	65	151	781	265	241
Agency payments and other costs	0	0	8,487	10,626	1,356	194
Vivista services	14	0	3,929	3,816	0	0
Adjudication	0	0	1,921	1,485	0	0
Transfer payments						
Payments to transport operators	210,919	193,668	0	0	0	0
Survey/reissue costs	225	62	0	0	0	0
Central/technical support	0	0	0	0	411	473
Total Expenditure	211,878	194,065	16,243	17,729	3,046	2,518
Income						
Borough levies and charges	204,203	188,662	6,079	11,313	265	249
Transfer (to)/from reserves	306	(126)	300	0	69	66
Court fees and other income	0	0	2	70	0	0
Interest	0	0	(67)	0	(118)	(85)
Contribution from TfL	7,157	5,424	1,280	1,893	173	32
Other income	12	19	9,303	7,297	1,394	597
Total income	211,678	193,979	16,897	20,573	1,783	859

. .

# ALG TEC Consolidated Balance Sheet as at 31 March 2006

	2005/06	2005/06	2004/05	2004/05
	£000	£000	£000	£000
Current assets				
Debtors	6,947		5,420	
Prepayments	217		174	
Cash in hand and at bank	1,462		3,207	
Total assets		8,626		8,801
Current liabilities				
Creditors	(2,372)		(6,807)	
Cash Overdrawn	(5,744)			
Total Current liabilities		(8,116)		(6,807)
Total assets less current liabilities		510		1,994
Reserves				
General reserves		223		1,401
Specific reserves		287		593
Total reserves		510		1,994





joint report of the parking adjudicators

2005/05

LONDON COUNCILS

# Chief Adjudicator's foreword

I am pleased to present to the Committee this joint report of the Parking Adjudicators for the year 2005/06.

As is apparent from this report, reform is very much in the air at every level. At the highest level, there are the constitutional reforms under the Constitutional Reform Act 2005, a major element of which is enhancing the independence of the judiciary. The Department for Constitutional Affairs, reform of the tribunals' system has borne practical fruit with the launch of the Tribunals' Service.

Then there is the forthcoming implementation of the civil enforcement provisions of the Traffic Management Act 2004, which will touch us very directly. The introduction of this new legislation, which will probably take place in 2007, will be a significant challenge for both local authorities and the Parking Adjudicators in terms of training and familiarisation. We hope that those responsible for the implementation will take on board the messages from the House of Commons Transport Committee's report, which we mention below.

As to the work of the Parking Adjudicators, there are the important decisions of the Court of Appeal in R (Walmsley) v Transport for London and others [2005] EWCA Civ 1540 and of the High Court R (Barnet) v Parking Adjudicator. The first clarified the powers of the Adjudicators; the second highlighted the importance of local authorities ensuring that their procedures are legally compliant, a matter that has been of continuing concern to the Adjudicators.

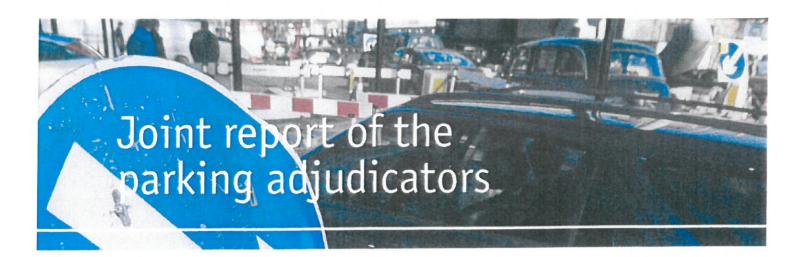
Among all these important issues, at the day-to-day level we continue to be one of the busiest tribunals in the country. While our intake of appeals fell, it appears that the current trend is once again upwards.

I would wish to record my thanks to the Adjudicators for the support they have given to the tribunal this year. On a personal note, I would particularly thank those who have enthusiastically given assistance to me in various ways. Their support and advice has been invaluable.

We congratulate our colleague Usha Gupta on her appointment as a Circuit Judge. Sadly from our point of view, this has necessitated her resigning as a Parking Adjudicator. Usha was appointed in 1993 as one of the first three Parking Adjudicators, and so has been highly instrumental in the development of the tribunal. I would thank her for her 12 years of valuable service. We all wish her every success in her new appointment.

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

Martin Wood Chief Parking Adjudicator October 2006



# Council on tribunals annual conference 2005

As in recent past years, the conference was largely concerned with the creation of the new Tribunals Service. Baroness Ashton of Upholland, the Parliamentary Under Secretary of State at the Department for Constitutional Affairs, giving the keynote address, referred to the forthcoming Tribunals Bill, which will give full effect to the programme of reform of tribunals.

Lord Justice Carnwath, the Senior President Designate of Tribunals, remarked that tribunals were not in the forefront of anyone's mind when the Constitutional Reform Act 2005 was drafted. He called for a "Tribunal concordat" because there are fundamental questions that need to be sorted out.

Peter Handcock CBE, the Chief Executive designate of the Tribunals Service, referred to the launch of the Tribunals Service on 1st April 2006, bringing together the largest tribunals under unified management. He said that there were agreements with other tribunals keen to join in 2008. What happens to the other tribunals is not yet known. This was the first significant reform of tribunals in 50 years involving 12,000 people. Changes would be driven by providing better access to justice and improved services.

The Rt. Hon. the Lord Newton of Braintree, the Chairman of the Council on Tribunals, spoke about the transformation of the Council into the Administrative Justice and Tribunal Council under the forthcoming legislation and the changes this would bring. These would include stronger emphasis on promoting and publishing research, a general look at tribunals from the point of view of the system user and a new group to provide advice to the Senior President.

The Hon. Mr Justice Jeremy Sullivan, chairman of the JSB Tribunals Committee, introduced two new documents: the Tribunals Training Prospectus 2006 and the Framework for Induction of New Chairmen and

Members of Tribunals. The latter is to assist tribunals in providing effective induction training for new members.

## Constitutional reforms

We should note that the constitutional reforms contained in the Constitutional Reform Act 2005 were implemented in April 2006. The Lord Chancellor ceased to be the head of the Judiciary. The Lord Chief Justice is now head of the judiciary in England and Wales. The new arrangements include the establishment of the Directorate of Judicial Offices for England and Wales, to support the Lord Chief Justice and senior judiciary in their new roles; and the Judicial communications Office, to support the judiciary in its communications with the media, the public and individually.

# Implementation of civil enforcement under the Traffic Management Act 2004

Part 6 of The Traffic Management Act 2004 makes provision for the introduction of a new, comprehensive, nationwide code for the civil enforcement of traffic contraventions, covering parking, bus lanes, moving traffic and the London lorry ban (but curiously, not congestion charging). This will replace the existing legislation that has grown up in a mixture of public and local Acts, including the Road Traffic Act 1991 and a number of London Local Authorities Acts. Parking attendants will become known as "civil enforcement officers". The detail of the code will be largely set out in regulations made under the Act.

In the summer of 2005 the Department for Transport started the process of bringing the new regime into force. In June it commenced a review of the existing system of Decriminalised Parking enforcement by

holding a stakeholder seminar attended by a wide group of interested parties, including the PATAS and NPAS Chief Parking Adjudicators. A wide range of issues was considered at this seminar. The Department also established a smaller Working Group, again including the two Chief Parking Adjudicators, to assist it in taking the review forward. This Working Group met a number of times between the summer of 2005 and the spring of 2006. Following on from the review, in July 2006 the Department issued its consultation package on the implementation of Part 6 in relation to parking. The package includes a consultation paper, draft regulations, draft statutory guidance and a partial regulatory assessment. The consultation period ends on 25 September 2006. It should be emphasised that whilst the Working Group assisted the Department, the package is the Department's alone. We have submitted our response to the consultation.

We have in the past drawn attention to the lack of coherence in the overall civil enforcement scheme that has resulted from its piecemeal legislative history. There are a number of inconsistencies between the enforcement of the different types of contravention for which there is no obvious justification. For example, there is generally provision for the owner of a vehicle that is hired out to pass liability to the hirer - but not in the case of bus lanes in London. Such inconsistencies are liable to cause confusion to the motoring public and even to local authorities, and have the potential to bring civil enforcement into disrepute. We would reiterate our view that it is self-evident that all civil enforcement of traffic penalties should be enforced through a core set of principles and processes. Differences in detail may be necessary, but should be the result of need and planning, not accident. There is, for example, a justified difference in the case of the London lorry ban, which makes the operator and driver liable rather than the owner.

The implementation of the Traffic Management Act 2004 provides the opportunity for this coherent approach. We hope that the Department for Transport will grasp it. It is not entirely encouraging that the Department has chosen first to single out parking, rather than look at civil enforcement as a whole. We hope that this will not lead to a perpetuation of the current unsatisfactory position.

# House of Commons Transport Committee enquiry into parking policy and enforcement

In parallel with the Department for Transport Review, the House of Commons Transport Committee initiated, in August 2005, an enquiry into the current effectiveness of parking provision and enforcement policy. The Chief Parking Adjudicators for both London and England and Wales were amongst the witnesses who gave evidence to the Committee. Members of the Committee also visited the Hearing Centre where they heard presentations from the Chief Parking Adjudicator and Nick Lester of the Association of London Government.

In their report, published in June 2006, the Committee strongly supported the principle of civil enforcement. They said that transferring responsibility for parking enforcement from the police to local government had succeeded in raising the levels of enforcement and compliance and that to retain two parallel parking systems, criminal and civil, was irrational. It was high time, they said, to move to a single country-wide system of civil parking enforcement.

However, they considered that, despite its success, serious flaws remained in the civil system, and concluded that in addition to the main task of introducing a unified system, the following action was required:

- clear performance standards in applying parking restrictions must be established
- it must be made clearer to drivers what regulations are in force and how compliance is to be achieved
- appropriate recruitment, remuneration and training is needed to ensure a professional parking service throughout the country
- tthe process for challenging penalty charge notices must be made much more transparent
- the impact of the parking adjudication service must be increased and its profile heightened
- scrutiny of local authority parking departments is woefully inadequate and needs to be strengthened
- local authorities must develop parking strategies which meet local objectives fully, focusing particularly on congestion, road safety and accessibility.

They said that detailed, not generalised, guidance from the Department was necessary to address the key shortcomings of the system. Using this guidance as a basis, they expected the Department vigorously to encourage improved standards in all local authorities.

This report is timely, given the moves to implement the Traffic Management Act. Clearly everyone involved in civil parking enforcement needs to take on board the messages from this report in planning for the future, both in terms of the preparation of the regulations and guidance and of the day to day enforcement operation.

In terms of the raising of the profile of the adjudication service, whilst the Notice to Owner is required to inform the recipient of the ultimate right of appeal to a Parking Adjudicator, the Penalty Charge Notice, the first document in the enforcement process, is not required to do so. It seems to us that it would be appropriate that it should.

# Managed services contract re-let

Much of the administrative support provided for the Parking Adjudicators by the Committee is provided by SunGard Vivista Limited under an outsourced managed services contract, most notably the development and management of the computerised adjudication process that is central to our operation. The contract also includes other services provided by the Committee, not connected with the Parking Adjudicators. The current contract expires in July 2007. In the autumn of 2005 a Project Board was established to aid the Committee in the procurement exercise for the re-letting of the contract. We are represented on the Board by the Chief Parking Adjudicator. At the time of writing, the process is on schedule. It is of course a matter for the Committee to whom the contract is let. Our interest is that the appropriate administrative support should be provided for the Adjudicators and that the transition to the new contract is a smooth one.

# Operational developments

Since February 2006, Moving Traffic Violation cases have been dealt with through the computerised adjudication system. Until then they had been dealt with through paper files. Adding them to the computerised system has brought them into the mainstream of the adjudication process. They are presented automatically to Adjudicators, who are able to adjudicate them using the, to them, familiar computerised process. There is no need for manual tracking, scheduling or allocation of these cases by the administrative staff. These appeals are now included in the automated management and statistical reporting. All of this assists our operational efficiency.

Only Lorry Ban cases are now dealt with through paper files. Their very small numbers has to date not justified the cost of their being added to the computerised system. However, it is to be hoped that the re-letting of the contract may present an opportunity for this to be done.

Evidence from Transport for London to the Road User Charging Adjudicators for congestion charging appeals is now transmitted electronically by Electronic Data Interchange (EDI), rather than as paper. A similar development for appeals to the Parking Adjudicators has been under consideration for some time, but efforts to introduce it have proved difficult. This is partly because unlike congestion charging where Transport for London is the only enforcing authority, there are 34 authorities that fall under our jurisdiction, using a variety of computer systems of their own. However, progress is now being made and it is hoped that the first wave of authorities will be submitting evidence to us electronically by the end of the year.

EDI has a number of advantages:

- reduced operating costs such as postal charges
- reduced staff costs depending on the processes employed
- dispenses with the need for the local authority to produce paper copies of appeal related documents to send to PATAS
- dispenses with the need for PATAS to produce paper copies of reports and correspondence to send to the local authorities
- provides the local authority with a secure and reliable mechanism to send appeal related documents to
- provides PATAS with a secure and reliable mechanism to send reports and correspondence to the local authority

- · reduces the need for scanning of evidence at PATAS
- provides a more reliable quality of image for viewing on the computer screen, thus reducing the need for unscannable evidence to be made available for the adjudicator to examine
- facilitates the more efficient disposal of appeals by reducing the need for adjudicators to adjourn cases to obtain the originals of poorly scanned evidence.

We strongly support the efforts to introduce EDI into our jurisdiction.

Considerable work has also been done on improvements to the computerised system, mainly relating to ancillary matters such as statutory declarations. These changes will enable Adjudicators to deal with these matters more efficiently.

The increasing number of bus lane and moving traffic violation appeals, as well as the greater use of cameras for enforcing parking controls, has lead to a considerable increase in the number of video recordings submitted in evidence by local authorities. There has been an insufficiency of equipment for viewing these. We are therefore pleased that all our hearing rooms have now been equipped with video/DVD players.

# Communications strategy

We have conducted a comprehensive review of our website and have launched a new version, which we hope will provide improved information for both appellants and local authorities. It includes comprehensive information about the overall process for challenging penalties, details of the appeals process, key decisions and annual reports and newsletters.

Appellants already receive a leaflet with their decision explaining What Happens Next. We have also now prepared a pre-appeal leaflet for issuing to personal appellants giving general guidance about preparing for an appeal, providing information about the Hearing Centre and explaining what they can expect at the hearing. For many people, attending before an Adjudicator will be their first experience of any court or tribunal. It is natural for some appellants to feel nervous at the prospect. We hope that this will help to make the experience less intimidating.

We issued three of our regular Newsletters to local authorities. These include appeal statistics and items of interest, ranging from staff and organisational changes to recent key decisions.

# Introduction of practice notes

From time to time PATAS writes to Local Authorities drawing to their attention matters of practice or concern that have arisen. In September 2005 we formalised these arrangements somewhat by introducing "Practice Notes for Local Authorities" for the dissemination of this information. This format is intended to be more effective in drawing the importance of the information to local authorities and so to assist them in taking any necessary action on it. Four such Practice Notes were issued in 2005/2006.

# Seminars for local authority staff

During the year we held two seminars for local authority staff. The first looked at communication between PATAS and local authorities, including the procedures for submitting evidence. The second considered EDI and heard presentations from Tony Presland of SunGard Vivista, who explained how EDI would operate, and Paul Cowperthwaite of Transport for London, who spoke of the advantages EDI had brought for Transport for London in relation to congestion charging appeals.

# Training

We held two training meetings for all Adjudicators covering current issues of law and practice.

Four of the more recently appointed Adjudicators attended the Judicial Studies Board Tribunal Skills Development Course. All the Parking Adjudicators have now attended this course. This is a valuable addition to the internal induction training they receive as it allows them to meet members of other tribunals and provides them with a wider perspective on their role.

# Workload

The number of appeals received was as follows, with 2004-5 figures in brackets.

Total	52,764	(58,645)
Lorry Ban	102	(152)
Moving Traffic	1,610	(365)
Bus Lane	2,774	(3,602)
Parking	48,277	(54,526)

This represents a reduction of 10 per cent in our total intake. All types of appeal showed a decrease apart from Moving Traffic. This increased by over 300 per cent, no doubt reflecting an increase in enforcement, although the total appeals still represent a small proportion of all appeals received. It is likely the number of such appeals will continue to grow.

Whilst less than 2004/05, the intake of appeals was still well above the intake for 2003/04. If current trends continue the intake for 2006/07 will return to near the 2004/05 level.

54,734 appeals were disposed of, 1,970 more than the intake.

# Judicial Reviews

Eleven appellants commenced judicial review proceedings to challenge the Adjudicator's decision in their appeal.

In eight cases, the High Court refused to grant permission for the application to proceed.

In one case the High Court quashed the decision of the Adjudicator and remitted the case for reconsideration. On further review by an Adjudicator, the appeal was allowed.

In two cases, the proceedings were settled on the basis that an Adjudicator would conduct a further review. In each case, on further review, the appeal was allowed.

# Adjudicator's Powers

# R (Walmsley) v Transport for London and others [2005] EWCA Civ 1540

This judicial review concerned the powers of the Road User Charging Adjudicators, who decide appeals against London congestion charging penalties. They also sit at the PATAS hearing centre.

The issue was whether a Road User Charging Adjudicator could allow an appeal on the basis of mitigation. The issue was therefore the same as that in *R* ( Westminster) v The Parking Adjudicator [2002] EWHC 107 (Admin), in which Mr Justice Elias considered the true construction of ground (f) in paragraph 2(4) of Schedule 6 to the Road Traffic Act 1991 "that the penalty exceeded the amount applicable in the circumstances of the case". He held that a Parking Adjudicator did not have power to take extenuating circumstances into account when determining the amount payable for a parking penalty and did not have discretion as to the amount of the penalty payable.

The Walmsley case concerned the proper interpretation of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001, which govern appeals to the Road User Charging Adjudicators and are worded similarly. The Court of Appeal approved the judgment of Mr Justice Elias in Westminster and held that Road User Charging Adjudicators did not have power to give directions that go beyond such directions as are necessary to give effect to a determination whether one or other of the statutory grounds of appeal has been established. This case therefore confirms the position established in the Westminster case.

# Validity of Penalty Charge Notices

#### R (Barnet) v Parking Adjudicator

Mr Moses appealed against two Penalty Charge Notices issued by Barnet council.

The adjudicator allowed both appeals on the facts. However, he also held in each case that the Penalty Charge Notice did not comply with the requirements as to form prescribed by section 66(3) of the *Road Traffic Act 1991*; in particular, they did not specify the date of the notice. In doing so, he followed the

decision of a Parking Adjudicator of the National Parking Adjudication Service in McArthur v Bury (NPAS Case No. BC 188), itself following the decision in Al's Bar & Restaurant v Wandsworth (PATAS Case No. 2020106430). Barnet council applied under regulation 11 of the Road Traffic (Parking Adjudicators) (London) Regulations 1993 for a review of those decisions, contesting the decision on the compliance issue but not the decisions on the facts. The reviewing adjudicator upheld the decisions of the first adjudicator and rejected the applications for review. Barnet then applied to the High Court for judicial review of the decisions of the reviewing adjudicator. It sought a declaration that the Penalty Charge Notices complied wholly or substantially with the requirements of section 66(3).

On 2 August 2006 Mr Justice Jackson dismissed the claim. In upholding the decisions of the reviewing adjudicator, he held:

- 1 that on its proper construction or by necessary implication, section 66(3) requires a Penalty Charge Notice to state the date of the notice;
- 2 that if a Penalty Charge Notice does not do so, it is invalid and unenforceable;
- 3 that prejudice to the motorist is irrelevant;
- 4 that the date of the contravention included within the statement of the reasons why the parking attendant believed a penalty charge to be payable does not satisfy the requirement to state the date of the notice.

He cited with approval the reasoning of the adjudicators in the Al's Bar and McArthur cases.

## Procedural compliance

The Barnet case illustrates the critical importance of local authorities carrying out enforcement in strict compliance with the procedural requirements of the statutory scheme. This is an issue that has caused the Adjudicators concern for some time and to which we have drawn attention before in our annual reports. Yet we continue to see cases where local authorities have failed to comply with the requirements.

The *Barnet* case concerned the issue of the required content of a Penalty Charge Notice. But it should be understood that local authorities need to ensure that

the notices they issue at all stages of the process are compliant as to form.

Compliance also includes complying with the prescribed time scales. In this connection, it is apparent that some local authorities have still not grasped the distinction between the date of despatch of a document and the date of its service. A document is not served on the date it is posted. Section 7 of the Interpretation Act 1978 provides that service is deemed to be effected by properly addressing, prepaying and posting a letter containing the document and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post. So where the next stage of the enforcement process is timed from the service of a document, local authorities must build into their administrative processes sufficient time to allow for service to be effected. For example, the periods after which a Charge Certificate may be served under paragraph 6(2) of Schedule 6 to the Road Traffic Act 1991 are calculated from service, not despatch. We are aware of cases where a Charge Certificate has been despatched 28 days after the date of posting of a Notice to Owner. This is serious, as the local authority is purporting to increase the penalty by 50% several days before it is empowered to do so.

It is to be hoped that the Barnet case will bring home to all local authorities the consequences of failing to ensure that their administrative procedures comply in every respect with the statutory scheme.

## Moving Traffic violations

A number of Authorities are increasing enforcement in this area, some using mobile video cameras from Smart cars parked temporarily near a sign. Certain locations appear to generate exceptionally high levels of appeals. The signs with which the motorists have failed to comply in these cases may themselves be compliant with the requirements of the Traffic Signs Regulations and General Directions 2002. However the apparent degree of non-compliance by motorists does give rise to an anxiety among Adjudicators that the signing schemes as a whole at such locations are inadequate. This may be because of other confusing or even contradictory signs, or simply the road layout, combined in one case with large scale building and road works in the vicinity.

It is entirely proper to enforce penalty charges against motorists who knowingly breach the regulations; but where there is consistent non-compliance by large numbers of motorists, authorities need to look at how a motorist, who by definition is in a moving vehicle, can take in all the information necessary to know which way to turn or which route to follow. An authority that simply issues large numbers of Penalty Charge Notices in such cases without improving the signing or road layout is liable to be perceived by the public as being more interested in raising revenue than in maintaining public safety and traffic flow.

#### Yellow Box contravention

The case of Jennings v Transport for London (see Cases Digest) demonstrates the importance of understanding the precise nature of the contravention, as defined in legislation or regulations. A contravention does not occur simply because a vehicle stops in a yellow box; it only occurs when it does so due to the presence of stationary vehicles. Authorities need to assess if this has occurred before they issue a Penalty Charge Notice, and should also ensure that the wording on the Penalty Charge Notice reflects this second element of the contravention.

### Lorry ban

The London-wide lorry ban prohibits vehicles of 18 tonnes or more from using restricted roads during restricted hours without a permit. Where a permit is issued, the conditions attached to the permit must be met. The purpose of the scheme is to alleviate the effects of heavy vehicles on London residential roads, at night and at weekends.

The Parking Adjudicators acquired jurisdiction to hear cases of alleged contraventions of the ban in April 2004 when the scheme was decriminalised. Enforcement is carried out by ALGTEC on behalf of the participating London local authorities.

In the last year the Adjudicators have identified two main themes: appeals alleging a breach of condition 5 by permit holders, namely a failure to minimise use of restricted roads; and those where the Operators/Drivers claim a general ignorance of the London-wide lorry ban.

#### Minimising Use

Drivers and Operators holding permits are required to minimise use of restricted routes. This condition is frequently misinterpreted by Operators/Drivers as entitling permit holders to minimise the length of their journey, but without having regard to the need to minimise the use of restricted roads. There appears to be a lack of understanding amongst those who have a permit as to the practical effect of the conditions. ALGTEC, on the other hand, has failed to prove in many cases that a vehicle has failed to minimise use of restricted roads by, for example, comparing the distance which the vehicle did travel to the distance which could have been travelled had the vehicle minimised use. The Adjudicators have indicated that ALGTEC should be able to give specific evidence that the route which should have been taken was [x] miles longer than the route that was taken, taking into account the height and weight restrictions on certain routes, which make some impassable for larger vehicles. The Adjudicators have received comparisons as percentages, fractions, and sometime simply a bare statement that the suggested route is shorter without specific comparable evidence.

Initially, the Adjudicators heard cases where ALGTEC apparently believed that the mere presence of a vehicle on a road proved a failure to minimise, and so issued a Penalty Charge Notice. Following the decision in *Gilders v ALGTEC (PATAS Case number LB65)*, reported last year, ALGTEC appears to have adapted its procedure: requiring the Operator (as soon as the vehicle is seen) to specify the journey travelled, and once the route has been disclosed in response, **then** determining whether a vehicle failed to minimise use.

#### Signage

Many Operators/Drivers assert ignorance of the London wide lorry ban, and it is not clear how much information is disseminated by the various haulage associations, or to prospective drivers when passing their HGV tests. Others assert inadequate signage.

It was clear from a review of four cases that the signage in London was far from adequate. This has an obvious impact on public knowledge and understanding of the scheme. A summary of the decision in *Carboclass v ALGTEC* is included in the cases digest.



The Cases Digest below contains cases decided during the year on the following topics of interest.

#### Bill of Rights 1689

There has been some publicity in the press about claims that the civil enforcement of traffic contraventions was in breach of the Bill of Rights and was consequently unlawful. This argument was dismissed in *Townsend v Transport for London*.

#### Removal

Under the Removal and Disposal of Vehicles Regulations 1986, local authorities have the power to remove vehicles parked in contravention of parking controls. This power was considered in the cases below.

Schouwenburg v Hammersmith & Fulham and Holder v Westminster concerned the lawfulness of the exercise of the power and the extent of judicial control over it. In Bennet v Kensington and Chelsea, the Adjudicator expressed concerns about the inadequacy of the arrangements for notifying TRACE, the central facility enabling motorists to find the location of their vehicle. It is plainly imperative for TRACE to be notified without delay, so that they are in a position to give motorists accurate information.

### Signs

Regulation 18(1) of the Local Authorities' Traffic Orders (Procedure) (England & Wales) Regulations 1996 requires local authorities to place and maintain adequate traffic signs of restrictions. Traffic signs must either comply with the Traffic Signs Regulations and General Directions 2002 or have been specially authorised by the Secretary of State under sections 64 and 65 of the Road Traffic Regulation Act 1984.

Adjudicators often have to consider cases where the basis of the appeal is that the signs, including road markings, were unlawful. The cases in the Case Digest are examples of such cases. In *Cukier v Barnet* the

Adjudicator considered the effect of a Controlled Parking Zone entry sign not being in place. In *Thornburn v Camden*, the Adjudicator rejected the local authority's argument that certain signs were for information only and that any defect in them did not matter.

Where authorisation by the Secretary of State is relied on, the local authorities need to be aware that they may need to produce the authorisation: Carboclass v ALGTEC and Aidiniantz v Westminster.

#### Procedures for issuing permits

The three cases cited illustrate the need for local authorities to ensure that their procedures for issuing permits are carefully thought through, both from the point of view of lawfulness and administrative adequacy.

#### Paying for parking

Appeals relating to difficulties experienced by motorists in paying for parking are common. A motorist is allowed a reasonable time to obtain a pay & display ticket or voucher. Callaghan v Waltham Forest considered the application of this principle to a voucher scheme. Pope v Wandsworth was an interesting case about an unusual scheme for allowing holders of a resident's permit a discount on pay and display parking.

### Ownership

The owner of the vehicle, not the driver, is normally liable for civil traffic penalties (although different rules apply to the London lorry ban). The registered keeper is presumed to be the owner. However, the registered keeper may rebut this presumption by showing that they were not the owner at the time of the contravention. This most commonly applies where the registered keeper sold the vehicle before the contravention occurred. There continues to be misunderstanding in some local authorities about what is required for the registered keeper to rebut the

presumption. The registered keeper must provide the name and address of the buyer or seller if they have it. It seems, however, that some local authorities refuse to accept a rebuttal of the presumption where the registered keeper fails to provide the purchaser's details because they do not have them. There is also unjustified rigidity in relation to the evidence of a sale that local authorities require. Liverpool Motor Auction v Ealing is an example of such a case.

There are no hard and fast requirements. Local authorities should simply consider any evidence the registered keeper produces on its merits.

Another common misunderstanding arises where a registered keeper provides details of a sale to a third party and the local authority seek to enforce a penalty charge against that person. Whilst the registered keeper has to rebut a statutory presumption that he is the owner of the vehicle, the nominated purchaser does not. The burden of proving, on the balance of probabilities, that the nominated purchaser is actually the owner falls back onto the local authority. However some authorities proceed as if the burden still lay on the nominated purchaser to prove that he was not the owner. If the nominated purchaser denies ownership, the authority can often be in difficulties in proving the contrary if their only evidence is the word of the registered keeper.

#### Procedural defects

We have discussed this issue earlier in our report. The two cases in the digest are examples of defective procedures. *Miah v Westminster* was a particularly serious case.

### **Utilities: Dispensation procedures**

Assetco Vehicles Ltd v Kensington and Chelsea concerned a gas utility vehicle, the issue being whether it was parked to deal with an emergency. It seems regrettable that the time of the tribunal should be taken up with such cases. We would have thought it ought to be possible for standard arrangements to be agreed between the major utilities and local authorities, rather along the lines of the Health Emergency Badge, to minimise the number of disputed cases.

#### Evidence

Many appeals turn on conflicts of evidence. It is the

Adjudicator's role to resolve such conflicts by making findings of fact on which to base the decision. We have commented in previous reports on the value of photographic evidence in reducing the potential for such conflicts and assisting the Adjudicator in resolving them. Gorman v Wandsworth is an example of such a case.

#### Taxis in Bus Lanes

We have dealt in previous reports with the use of bus lanes by taxis. The general position is that a hackney carriage is a "taxi" for the purposes of the relevant law and is permitted to use bus lanes open to taxis, whereas a private hire vehicle is not a "taxi". Thorpe v Transport for London confirms that a taxi may use bus lanes outside its home area: that is, the area in which it can ply for hire.

### Yellow Box contravention

# Jennings v Transport for London (PATAS Case no. MV0285GT01)

The local authority issued a Penalty Charge Notice, asserting that the vehicle entered and stopped in a yellow box junction when prohibited.

The local authority relied on contemporaneous videotape, which did show the vehicle approaching the box junction and substantially crossing it, so that the vehicle could draw up at the lights beyond the box as the first vehicle in the queue. However, because of the length of the vehicle, part of it was left in the vellow box.

The Regulations provided that, "no person shall cause a vehicle to enter the box junction so that the vehicle has to stop within the box junction due to the presence of stationary vehicles". The contravention is only established when the subject vehicle stops due to the presence of stationary vehicles. In this case the vehicle stopped in order to comply with a red light. The contravention was therefore not established.

The Adjudicator was not satisfied that the local authority had accurately asserted in the Penalty Charge Notice the contravention. The function of a Penalty Charge Notice was to make an allegation so that the recipient was aware of the allegation against them and in a position to deny or accept it. Here the local authority failed to assert an essential element of

the allegation, namely that the vehicle stopped due to the presence of stationary vehicles. Where there are other reasons for stopping (as here) the allegation was not made out. It was vital that an allegation was correctly stated – otherwise a recipient might well concede an allegation where an essential element was not made out.

Appeal allowed.

## Lorry Ban signage

#### Carboclass v ALGTEC (PATAS Case No. LB47)

Lorries over a specified weight are banned from entering certain restricted roads in Greater London at weekends and overnight. An exception applied for vehicles displaying a permit. One condition of using the permit was a requirement to minimise use of the restricted roads.

A number of Appellants raised as an issue the adequacy of signage, the essential nature of their complaint being that either there was no signage in place at all to warn of the existence of the prohibition, or that the signage was partial, or contradictory in nature.

The Enforcing Authority's (ALGTEC) initial position had been that although there was 98 per cent coverage, there was no obligation to provide any signage at all. One Appellant adduced in evidence a map published by the enforcing authority which advised that the maps could not be relied on to be up to date, and so the driver of the vehicle should check for signs on the road. The information given was manifestly contradictory to the Enforcing Authority's position.

At the adjourned hearing, the Enforcing Authority conceded the requirement to provide adequate signs, and asserted that there was (in effect) signage in place that created a ring around Greater London. It argued that the Secretary of State had authorised such an arrangement and adduced in evidence two authorisations made by the Secretary of State. These provided for erection of signs at specific places.

The Adjudicator held that in principle such a scheme might adequately sign the restrictions, but that the

Authority had not adduced all of the approvals necessary to show that a zone had in fact been created.

Further, the Adjudicator expressed some concern that as the Enforcing Authority had conceded only "98 per cent coverage" of signage - without defining what that actually meant - the zone was in all likelihood incomplete. Therefore, it remained open to an Adjudicator when considering any appeal in future, to consider whether signage was adequate. The Adjudicator reminded the Enforcing Authority that the burden of proving adequacy remained on it. In view of the concession of only 98% coverage, any future Adjudicator might well require evidence that works had been done to remedy the incomplete signage, require a map and all other authorisations to be adduced, to show that the zone had been created. Further, although the Enforcing Authority might show that the signs were placed in the spot authorised by the Secretary of State, this would not absolve the Enforcing Authority of showing that each and every sign was adequate. The Adjudicator noted that the Enforcing Authority had made no reference to signing the exit points to show the commencement of the unrestricted roads.

Finally the Adjudicator indicated that as drivers and operators are required to plan their routes in advance, and as the Enforcing Authority had not adduced in evidence any source of public information to enable advanced planning, the Adjudicator may be reluctant for the Enforcing Authority to enforce a Penalty Charge Notice based on a failure to plan a route where such information is not publicly available.

The appeals were allowed: the Enforcing Authority conceding that signage was not adequate in two of the four appeals; in respect of the remaining two the Adjudicator was not satisfied that the Enforcing Authority had shown the signage to be adequate.

## Bill of Rights

# Townsend v Transport for London (PATAS Case No. 2050330626)

The Appellant argued that the penalty charge was a "fine" and that he could not be fined without having first been convicted. He referred to the Bill of Rights 1689 and the declarations constituting the preamble,

### including that:

"All grants and promises of fines and forfeitures of particular persons before conviction are illegal and void".

The Adjudicator said that the Bill of Rights Act needed to be understood in the light of the contemporary language and the meaning of the context. The preamble declarations were very plainly addressing the limitation of the Crown prerogative and the imposition of law only by consent of Parliament. The Appellant argued that the use of the word "conviction" must mean that the Act was denying entitlement by any authority to impose any financial sanction without a criminal conviction, and that any subsequent legislation so creating an imposition breached the entrenched nature of the constitutional statute without a provision for express repeal.

The Adjudicator said that this narrow interpretation was not sustainable. What the declaration was doing was describing a general intent that the Crown had no power to impose fine or forfeiture without the consent of Parliament and the Rule of Law by the courts.

There have, in this country, been many situations where a financial sanction can be imposed by law without the situation being a criminal one.

The Adjudicator agreed with the view of the Adjudicator in *Higgins-v- Sefton (NPAS Case No.SF272)*:

"The intention of the 1689 Act was to provide the citizen with certain rights and to prevent the imposition of any financial penalty without there being a right of challenge, which certainly in the areas of criminal law, is one purpose of the more modern European Convention on Human Rights...To that end the Road Traffic Act 1991 provides for a system of challenge and, if appropriate, appeal to this tribunal against the issue of the Penalty Charge Notice.

It is clear therefore that the 1991 Act does clearly establish a right of challenge to the Penalty Charge Notice which, it must be recognised, is to be regarded as a civil debt and not a fine."

The Adjudicator was not persuaded that the 1689 Act imposed any entrenched prohibition upon the

imposition of a financial penalty for breaches of Traffic Management Orders or other laws relating to traffic. They were subject to a legal regime of independent judicial scrutiny created by statute and compatible with the European Convention on Human Rights.

The question of repeal, therefore, was irrelevant. The intention of the Bill of Rights was applied by the current law.

As to whether the scheme was a criminal one for the purposes of the European Convention on Human Rights, the Adjudicator agreed with the view of the Adjudicator in *Williams -v-City of Stoke on Trent (NPAS Case No. SK690)*:

"The fact of decriminalisation means that the penalty charge is neither a fine nor a forfeiture requiring conviction. It is a civil penalty, with the penalty going to the council rather than to the Crown and it lacks many of the features of a criminal sanction. For instance, a penalty charge cannot result in imprisonment even if not paid."

Moreover an understanding of the nature of a penalty charge must have regard for the realities of modern life. London citizens in 1689 would have had no concept of the essential need for traffic management to the extent required today. It was appropriate to look to more modern constitutional principles. In the leading Human Rights case of Engel-v- Netherlands (1980 1 EHRR 706) the European Court of Human Rights considered that the question of whether or not a person was facing a "criminal charge" would be assessed by reference to three criteria:

- 1 the classification of the proceedings in the law of the country concerned,
- 2 the nature of the offence or conduct in question,
- 3 the severity of the penalty.

In the instant case, the Appellant had driven in a bus lane in contravention of a bye-law and the enforcement of the bye-law was expressed by Statute to be by the imposition of a fixed penalty (currently £100) enforceable by civil means.

It was instructive to compare this scenario with that in the case of Air Canada -v- U.K (1995 20 EHTR 150)

where the Court determined that the impounding of an aircraft of several million pounds value, (in a Customs and Excise drug smuggling action) was not evidence of criminal proceedings. The criminal courts were not involved and there was no criminal charge.

Accordingly, the imposition of the penalty was not a criminal charge and liability arose other than by a conviction.

### Removal

# Schouwenburg v Hammersmith & Fulham (PATAS Case no. 2050483682)

A Penalty Charge Notice (PCN) was fixed to the vehicle for being unlawfully parked in a loading gap marked by a single yellow line. The Parking Attendant recorded that a resident's permit was displayed, but that the vehicle was "parked on SYL (single yellow line) causing obstruction to others vehicle (sic)". The car was then removed to the pound.

The Appellant did not contest the legitimacy of the PCN, but challenged the removal of his vehicle. The Appellant maintained that the Council's photographs demonstrated that there was "no obstruction to speak of", as there was still ample room behind the car for any person wishing to load and unload. He pointed out that the restrictions had less than half an hour to run. He also complained that the Parking Attendant had only seen his vehicle parked in contravention five minutes before it was towed away, implying that it was only because he admitted the car had been there since the previous evening that the Council could point to the period it had been parked in contravention. He contended that removal was disproportionate, as no obstruction was taking place.

The Adjudicator said that paragraph 5A of the *Removal* and *Disposal of Vehicles Regulations 1986* empowered a Local Authority Parking Attendant to arrange for the removal of a vehicle which has been permitted to remain at rest on a road in Greater London in contravention of a prohibition or restriction.

The Council had demonstrated that they had a policy in respect of removal of vehicles. They had highlighted criterion No 14, "Vehicle parked in a loading gap, causing obstruction, during controlled hours" as the one under which they acted in this case. They pointed out that on the Appellant's own admission the car had been parked in the same position since the previous evening. The vehicle had therefore been in contravention for over 7 hours by the time the PCN was issued and the vehicle removed.

The Appellant cited the decision made by an Adjudicator in the National Parking Adjudication Service (NPAS), Kembery v Bristol City Council. That appeal was allowed on its own facts, the Adjudicator concluding that she could not be satisfied that the Pay & Display (P & D) ticket which the Appellant had bought was not in fact properly displayed. However the Adjudicator went on to make certain observations about the implementation by that Council of their removals policy. The Appellant sought to rely on those observations in support of his contention that the removal of his car in this case was a disproportionate enforcement measure. However, what was notable was that both the Appellant and the Adjudicator in that case acknowledged either expressly or implicitly that a car parked in contravention of waiting restrictions and/or causing an obstruction could be a legitimate subject for removal.

The Appellant's car was parked almost entirely on a single yellow line. When laying out the parking places and yellow lines in this street the Council would no doubt have assessed what they considered an appropriate length for a loading gap. Whilst the Appellant was correct in stating that there was room behind his car where a person (presumably in a vehicle) could load or unload, the space would not necessarily be long enough to fit a large commercial delivery vehicle. Even if it were, the Council were entitled to take the view that the car was causing an obstruction in that, by definition, a vehicle occupying part of the loading gap is causing an obstruction within it.

The fact that the nature of the parking was only No 14 in the list of criteria for removal was immaterial. The Council had shown that they had a policy for prioritising removals, and that this type of parking fell within it. To include this type of breach as meriting removal could not be considered to be a policy which no reasonable Council could adopt, i.e. it could not be said to be "Wednesbury unreasonable". Nor was it material that the length of time the car was parked in contravention only became known because the

Appellant told the Council when he had parked it. The Council were entitled to remove the vehicle in any event; the length of time it transpired it had in fact been parked in the offending position simply made it more difficult for the Appellant to argue that removal was disproportionate.

If it were the case that Article 1 of the First Protocol to the European Convention on Human Rights was engaged in this case, the degree to which the Appellant was deprived of his entitlement to peaceful enjoyment of his property was "necessary to control the use of property in accordance with the general interest", and therefore a proportionate interference with that entitlement.

Appeal refused.

# Holder v Westminster (PATAS Case no. 2050371510)

The vehicle was unlawfully parked in a resident's bay and a Penalty Charge Notice was issued to it. The vehicle was subsequently removed at a time when parking in the bay was not restricted to residents.

The Adjudicator said that the local authority had a legitimate policy of keeping residents' bays clear for residents. However, removing the vehicle at a time when parking was not restricted to residents could not be said to be an application the policy and therefore was not lawful.

Appeal allowed to the extent of the challenge to the lawfulness of the removal.

# Bennett v Kensington and Chelsea (PATAS Case no. 205005216A)

The Appellant's vehicle had been removed. The Adjudicator refused her appeal against the penalty charge.

As to the removal, there was a considerable delay before the removal of the car was notified to the TRACE system, and hence before the Appellant was able to ascertain that it had in fact been removed rather than stolen. It appeared that details of removed vehicles were not entered onto a database system until the vehicle arrived at the pound, and the

period that elapsed before this occurred depended on the distance of the contravention location from the pound, traffic delays or "unforeseen circumstances".

The Code of Practice on Parking Enforcement issued by the (then) Parking Committee for London stated (Chapter 7 Paragraph 16.2), "To provide a good service to the public, information about the removal of a vehicle should be known centrally as soon as possible; the only way to do this is directly from the removal trucks". At paragraph 17.2 the Code stated with regard to the Communications Centre, "This service to the public is very sensitive, and must provide a good, consistent source of information". Under "The Vehicle Pound", paragraph 18.5 stated, "Unnecessary delays and inconvenience should not be part of the process of recovering a vehicle'.

The Adjudicator said the local authority had failed to explain why they had not adopted a system of immediately reporting the removal of a vehicle. In the light of the anxiety and distress caused to the Appellant on this occasion, the Adjudicator informed the local authority that in the absence of a response the Adjudicator would assume that the local authority agreed it was appropriate for the release fees to be refunded. The local authority having not responded, the Adjudicator directed the local authority to refund the release fees.

### Signs

### Cukier v Barnet (PATAS Case No. 2050056386)

On an application for review, the Appellant argued that if Controlled Parking Zone (CPZ) entry signs were not in place as required, that rendered all the controls within the CPZ unenforceable.

The Adjudicator said that Direction 25(1) of the Traffic Signs Regulations and General Directions 2002 provided that the road markings specified in column (2) to the direction may be placed on a road only in conjunction with, and on the same side of the road as, a sign in column (3). In other words, the general position was that where there was a road marking there must also be a sign. However, Direction 25(2) provided that this did not apply in a CPZ where the required CPZ entry signs were in place, except where the road marking indicated restrictions different from the restrictions on the entry signs. The effect of

Direction 25(2) was permissive and limited. If both a sign and a road marking were in place in accordance with Direction 25(1), it mattered not whether the location was in a CPZ or whether the entry signs were in place. It was only necessary to consider whether the relaxation prescribed by Direction 25(2) applied if there was a road marking without the sign that would normally be required by Direction 25(1). So far as this parking place was concerned Direction 25(1) had been complied with; there were both the road marking and the sign. Accordingly the controls to which they applied were enforceable.

Application for review rejected. Original decision to refuse the appeal confirmed.

# Aidiniantz v Westminster (PATAS Case no. 2050185210)

The issue was whether the sign at the bus stop in question was a lawful sign.

The photographs produced by the local authority showed that the sign, whilst apparently purporting to be that prescribed by Diagram 974 in Schedule 6 to Part I of the *Traffic Signs Regulations and General Directions 2002*, did not appear to be a true representation of the Diagram or a permitted variant thereof.

The local authority said that they had dispensation for the sign but had been unable to obtain a copy of it.

The Adjudicator found that the sign was not in prescribed form and thus this contravention was not enforceable.

Appeal allowed.

### Thornburn v Camden (PATAS Case no. 205027945A)

The Appellant turned right out of Buckley Road into a bus lane on Kilburn High Road. The issue was whether the signage was adequate. The advance warning sign in Buckley Road was parallel to the kerb, not facing the traffic. It therefore could not be read by motorists approaching the junction with Kilburn High Road.

In its Notice of Rejection, the local authority said "the signs in Buckley Road are for information

purposes and it is the main sign on the bus lane itself which provides the main notification".

The Adjudicator said this statement was misconceived. All the signs were for information; none was different from another in that respect. The implication that the signs in Buckley Road were less important than those in Kilburn High Road and that any deficiency in them did not matter was wrong. The signage was manifestly inadequate.

Appeal allowed.

## Procedures for issuing permits

# Putney Removals v Wandsworth (PATAS Case no. 2050076124)

Putney Removals was the trading name of a company run by a Mr White. A Penalty Charge Notice (PCN) was issued to the vehicle because it was parked in a residents' bay without a resident's permit.

Mr White argued that the only reason the vehicle did not have a permit was because the Council unreasonably refused to issue him with one, despite the fact that he had produced all the required documentation to qualify for the issue of a permit.

The Council stated that it was their policy that if a motorist had 3 or more outstanding PCNs a resident permit would not be issued until all outstanding penalties were resolved. They produced what they described as the relevant pages of a committee report establishing this policy. In fact, these related to a proposal put before the Regeneration and Transport Committee, which proposal had not been adopted.

The Adjudicator drew the following conclusions from the evidence:

- as at 8 July 2003 Mr White had produced all the necessary documentation to demonstrate his entitlement to a resident's permit.
- the Council refused to issue him a permit because there were 12 PCNs outstanding at that time.
- their refusal was based on a practice (described inappropriately as a "policy") to refuse permits to applicants who had more than 3 PCNs outstanding at the time of the application.
- it had been proposed that such a policy be

incorporated in Traffic Management Orders, but that proposal had been rejected.

- council officers purported to have a "discretion" in operating the so-called policy, yet there were no Council guidelines as to how Council staff should apply such discretion.
- there was nothing in or with the application forms issued to prospective permit applicants to advise them of the existence of the practice.

The Adjudicator concluded therefore that, save for the "outstanding PCNs policy" a permit should have been issued to Mr White on 8 July 2003. Had such a permit been issued it was reasonable to assume that Mr White would have displayed it as required in his vehicle, and therefore that this PCN would not have been issued.

There was no legal basis on the Council's evidence for the operation of the practice of refusing to issue a permit because of outstanding PCNs. Where a residents' parking scheme existed, a resident with a vehicle must be entitled to a permit subject to proper documentation being provided. The issue of outstanding PCNs was an entirely separate matter, where there were effective mechanisms established by the Road Traffic Act 1991 for representations against liability, appeals to Adjudicators and enforcement if necessary through the court system. Whilst it is proper for Councils to have the right to withdraw or refuse to issue permits where there has been abuse of the permit as such, it is not proper to use the power to withhold a permit as a lever to extract payment of outstanding penalty charges, for which there is already an effective and lawful enforcement system in

The Adjudicator concluded that the Council had no legal basis for refusing to issue a resident's permit to Mr White. He found that had they not refused the permit, the contravention would not have occurred. The Council could not benefit, by way of receipt of a penalty charge, from their own unlawful act. In these circumstances they could not enforce this PCN.

Appeal allowed.

# Weah v Hammersmith & Fulham (PATAS Case no. 2050146729)

The appeal concerned the local authority's scheme for market traders' bays and the issue of permits for parking in the bays under the 1994 Market Traders' Parking Places Order.

The Appellant had been issued with a permit for parking in the bays. He had, however, used it to park in a business permit holder's bay, believing that the permit allowed him to do so. A Penalty Charge Notice was issued to his vehicle for parking in the business bay without displaying a business permit.

The Adjudicator found that the factual position regarding the issue of market traders' permits appeared to be as follows. The application form used for the Appellant's application for his permit was in fact that for a business permit. The explanatory letter apparently issued when such permits were issued said "Please find attached your New Resident Parking Permit...". The local authority said that because this letter gave no information specific to market traders, when such permits were issued the permit office staff told the applicant that the permit could only be used in market trader bays. The permit itself was in fact described on its face as "Business Parking Permit". The term "Market Trader" appeared in the box intended for vehicle registration number; and its tenor was merely descriptive of the holder of the permit rather than designating the permit as one issued under the 1994 Order. Furthermore, it did not bear the street trader's licence number, as required by article 21(a) of the Order.

The Adjudicator took the view that the use of documents intended for other permits was plainly undesirable and likely to mislead the applicant. There could be no guarantee that in any specific case the required information has been given to the applicant orally; and even if it was, to give it orally only was undesirable. The terms for the use of the permit ought to be provided in writing. It was entirely possible and would not be surprising for people to whom these permits were issued to be unclear as to their permitted

In any event, the Order for the location in question stated that at the time of the alleged contravention parking was permitted with a zone F resident's or business parking permit. The permit issued to the Appellant was described on its face as a business parking permit. This permit was displayed on the vehicle and therefore the Appellant was legally parked. In the light of these views expressed by the Adjudicator the local authority decided not to contest the appeal. It accepted that the informal administration of the market trader's scheme was poor and needed revision.

### Appeal allowed.

### Christie v Lewisham (PATAS Case no. 2050483809)

When the Appellant purchased a new vehicle at the start of July 2005, the vendor in accordance with DVLA regulations sent the registration documents directly to the DVLA. The Appellant received the registration documents back from the DVLA on 14 July. He needed these to get a new resident's permit from the Council. Meanwhile he continued to display his resident's permit, which bore the registration mark of his old vehicle. The vehicle was issued with a Penalty Charge Notice on 15 July for being parked in a residents' space without a permit – the day he went to the Parking Shop with the new registration documents to get a replacement permit for his new vehicle.

The Appellant produced the letter dated 1 June 2005 he received from the Council when his original permit was renewed. There was no instruction in this letter that he should get a temporary permit to cover the period while awaiting registration documents from the DVLA if he were to change his vehicle. The implication of the letter was that provided the motorist follows the instructions in the letter on changing his vehicle, he would not be penalised. The Council's procedures did not appear to take account of the inevitable gap by providing for a free, temporary permit.

The Appellant had a legitimate expectation that if he followed the instructions in the letter of 1 June 2005 he would not be penalised. He did follow those instructions.

Appeal allowed.

## Paying for parking

# Callaghan v Waltham Forest (PATAS Case No. 2050413235)

The Appellant parked in a voucher-parking place to visit a shop, Pamphillon, across the road. He saw a sign that said vouchers could be purchased from any shop participating in the scheme. He went to Pamphillon and saw a "P" in the window, indicating that it did participate in the scheme. The shop assistants were attending to customers. After a short time the Appellant interjected and said he needed a voucher. One of the shop assistants got a voucher and completed it for the Appellant by scratching the relevant details. The time scratched was 2.55. The Appellant then returned to his vehicle to find the parking attendant next to it, apparently taking notes. The Appellant showed him the voucher. The parking attendant said it was too late. The Appellant said he had done everything you are supposed to do and the parking attendant said you are allowed 5 minutes. The Appellant said he had been in the shop about 3 minutes. The parking attendant said he had not. The Appellant returned to the shop to ask them for a witness statement. The shop assistant agreed and they had a discussion about how long the Appellant had been in the shop. He then returned to the vehicle to find the Penalty Charge Notice on the windscreen and the parking attendant gone.

The Adjudicator said that where there is a voucher scheme, the motorist is allowed a reasonable time to obtain a voucher. There is no precise provision as to the maximum time allowed. In obtaining the voucher the motorist must do only that and not engage in any other activity. It is inherent in such a scheme that a motorist may be delayed somewhat by the fact that the shop assistants are engaged with other customers, as was the case here. In this respect the time taken to get a voucher is likely to be more variable than where tickets are purchased from a pay and display machine.

In its Case Summary the local authority said that although signs indicated that vouchers might be purchased from shops displaying the P, it was expected that a supply of vouchers be kept in the vehicle. This expectation had no justification in law. The scheme was that vouchers were sold by shops and that was the source of them for motorists.

The Adjudicator was satisfied that the Appellant acted

within the requirements of the scheme; he went to the shop to obtain a voucher and returned to his vehicle with it as soon as he had obtained it. In the context the time taken to do so was entirely legitimate. He considered it more likely the time was about the 3 minutes stated by the Appellant, bearing in mind that the Penalty Charge Notice was issued and fixed to the vehicle after the Appellant had returned with the voucher. So the 5 minutes given in the parking attendant's notes between the first observation and the issue of

the Penalty Charge Notice included time after the Appellant had returned with the voucher. This was corroborated by the time scratched out – 2.55. The Appellant plainly would have only then taken a short time to return to the vehicle and must have been there before 2.57, the time at which the Penalty Charge Notice was issued. In any event, whatever the precise time, the Appellant had complied with the requirements of the scheme.

Appeal allowed.

### Pope v Wandsworth (PATAS Case no. 2050167208)

The issue was whether the appellant parked without clearly displaying a valid pay and display ticket.

The local authority operated a Residents' Parking Discount Card scheme under which a holder of such a card could purchase a pay & display ticket at a discount. Such tickets bore the word "RES" and had to be displayed with a valid residents' permit.

The appellant had displayed a pay and display ticket. However, the local authority submitted that since the word "RES" (i.e. resident) appeared in the top right hand corner of the ticket, it inevitably meant that the appellant must have inserted into the machine a Residents' Parking Discount Card prior to the issue of the ticket. No residents' permit was displayed.

However, the Adjudicator was satisfied, having considered the appellant's submissions, that as a resident of Gloucestershire she had no knowledge of the Discount Cards. He had received no evidence that the machine was checked for faults either immediately before or after the alleged contravention, but notwithstanding this omission, he was satisfied that the appellant genuinely inserted sufficient coins into

the machine to allow her to park for an appropriate period which covered the time that the PCN was issued. There was no need for a permit to be displayed since he was not satisfied that the pay and display ticket was purchased with a Discount Card.

Appeal allowed.

### **Ownership**

## Liverpool Motor Auction v Ealing (PATAS Case No. 2050194266)

The Appellant was the registered keeper of the vehicle at the time of the contravention. It produced a printed Credit Slip on which the details of a sale were handwritten. The local authority rejected the Appellant's representations, saying they would only accept proof if the following was contained in a sales invoice.

- The purchaser's full name and address including the postcode and sale date.
- Registration mark and model of the vehicle.
- Signature of purchaser.
- Sales agreement must be on printed paper and not handwritten, with the company name, address and telephone number and company registration number.

The Adjudicator adjourned the case, expressing concern at the terms of the Notice of Rejection, which was misconceived and did not comply with the law for the following reasons.

- (a) Paragraph 2(5) and (6) of Schedule 6 to the Road Traffic Act 1991 requires the person making the representations to supply the name and address of the purchaser "if that information is in his possession". Accordingly if there has been a sale but the person making the representations does not have the information, the local authority cannot decline to accept the representations because they have not supplied it.
- (b) The postcode is not an essential part of the address.
- (c) There is no requirement for a contract for sale to be in writing at all, still less in the particular form apparently required by the local authority.

In response the local authority said it no longer contested the appeal and was conducting a complete review of procedures relating to ownership.

Appeal allowed.

# McCabe v Kensington and Chelsea (PATAS Case no. 2050119103)

The Appellant produced a sales invoice showing that he sold the vehicle on 21 October 2004. He was therefore not the owner on the date of this contravention. The Adjudicator allowed the appeal.

The curious feature of this case was that the local authority stated that it had received the sale invoice and payment of the penalty from the buyer, yet still opposed the appeal. It contended that liability remained with the Appellant as the registered keeper, despite the fact that the legislation provides for the rebuttal of the presumption that the registered keeper is the owner.

### Procedural defects

#### Miah v Westminster (PATAS Case no. 2050339777)

The Appellant produced a Charge Certificate that was issued to him on 10 October. At that time this appeal was pending. The Charge Certificate informed the Appellant that the penalty was increased to £150, threatened enforcement action through the courts if it was not paid, and stated that it was then too late to challenge the issue of the Penalty Charge Notice.

The Adjudicator said that issued as it was whilst the appeal was pending, this was an entirely unlawful demand for money, coupled with the threat of court action. For a public authority to issue such a document was utterly unacceptable. But this was not an isolated case. He was aware of other instances of this happening over a period of time. His understanding was that such unlawful Charge Certificates were being issued because of a problem with the local authority's computer system. That might be the explanation, but it did not make it any the less unacceptable. Nor did it seem that in the meantime the local authority had put in place steps for a manual scrutiny of the documents it issued to intercept any unlawful Charge Certificates to prevent them being despatched.

That the local authority continued to issue such documents, knowing full well that it was happening and that they were unlawful, and that this had persisted for some time, appeared to suggest a lack of appreciation by the local authority of the seriousness of the situation and a lack of urgency in resolving it. The procedural impropriety in the issuing of the unlawful demand fundamentally undermined the lawfulness of the enforcement process in this case, and undermined the authority and jurisdiction of the tribunal. This unlawful act debarred the local authority from pursuing further enforcement of this penalty.

Appeal allowed.

## Proud v Westminster (PATAS Case no. 2050188081)

The parking attendant noted "I just dropped the PCN on the windshield as she was driving". The Adjudicator said that the Penalty Charge Notice must be fixed to the vehicle. Merely dropping it on to the windshield did not constitute fixing. The Penalty Charge Notice was not properly served.

Appeal allowed.

## Utilities: Dispensation procedures

# Assetco Vehicles Ltd v Kensington and Chelsea (PATAS Case no. 2050044376)

The vehicle was parked on a double yellow line where loading/unloading was prohibited. The Appellant contested liability on the basis that it claimed the vehicle was attending a gas emergency.

There was not apparently an exemption from the parking controls in those circumstances. Nevertheless, the tenor of the correspondence from the local authority was that it would be prepared, as a matter of discretion, to cancel the Penalty Charge Notice if the Appellant could show that the vehicle was attending an emergency. It was not, however, so satisfied on the evidence produced to it by the Appellant, which it said differed from that produced in similar cases on previous occasions – a copy of Transco's Emergencies and Meter work form. The Appellant, on the other hand, said that the evidence it produced – the "Whereabouts Sheet" – had been accepted as sufficient evidence before.

The Appellant also produced in evidence a computer print out, but not the Transco Emergencies and Meter work form. There was inconsistency between this computer record and the Whereabouts Sheet. The Adjudicator said that the explanation it had provided of the inconsistency did not persuade him that the vehicle was parked in circumstances constituting an emergency.

The Adjudicator expressed concern that the matter had got as far as an appeal. He found it surprising that there appeared not to be in place agreed arrangements to cover this sort of situation so that the Appellant knew what was required of it to satisfy the local authority that the vehicle was attending an emergency involving public safety. Such arrangements would avoid the need for the time of both the parties and the tribunal being taken up on appeals of this kind. Indeed, he would have thought it ought to be possible for standard arrangements to be negotiated on a London wide basis. He accordingly referred his decision to the Association of London Government as the body likely to be best placed to take this matter forward.

## Photographic evidence

# Gorman v Wandsworth (PATAS Case no. 2050132906)

The issue was whether the visitor's permit that was on the dashboard was clearly displayed. The local authority produced a photograph taken by the parking attendant clearly showing the bottom of the permit folded over, obscuring the zone and permit number. The Adjudicator found that the permit was not clearly displayed.

Appeal refused.

### Taxis in Bus Lanes

Thorpe v Transport for London (PATAS Case No. 2050111757) The vehicle was licensed as a hackney carriage by Thanet District Council. The question was whether when in London it was a "taxi" and so could be driven in bus lanes permitted to taxis.

The reviewing Adjudicator said that regulation 4 of the Traffic Signs Regulations and General Directions 2002 required only that the vehicle was licensed under section 37 of the Town Police Clauses Act 1847, section 6 of the Metropolitan Public Carriage Act 1869 or under any similar enactment. This vehicle was so licensed and was therefore a "taxi" as so defined. The fact that it could not ply for hire in London was irrelevant; it did not cease to be a licensed hackney carriage when it was outside the area in which it could ply for hire. It was common for hackney carriages to pick up a passenger within the area that they could ply for hire and take them to a destination outside that area.

Appeal allowed.

ondon Councils supports environmentally-friendly products.
This report is printed on NAPM accredited paper that uses
75% recycled fibre and is manufactured in the UK at mills
with ISO 14001 accreditation.



