

Practice Direction 1 on behalf of Road User Charging Adjudicators

1. Interpretation

- 1.1. The 2001 Regulations means The Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (as amended).
- 1.2. Schedule means the Schedule to the 2001 Regulations.
- 1.3. Appeal means an appeal under regulation 16(1) of the 2001 Regulations.
- 1.4. Further representations mean any representations delivered by or on behalf of the appellant under paragraph 4(1) of the Schedule.
- 1.5. Decision means any decision of the Road User Charging Adjudicators.

2. Background

- 2.1. The Schedule sets out the procedure to be followed by adjudicators. Regulation 5(2) of the 2001 Regulations provides that, subject to the provisions of that Schedule, an adjudicator may regulate his own procedure.
- 2.2. Regulation 13(3) of the 2001 Regulations sets out the limited grounds on which the recipient of a penalty charge notice may make representations to Transport for London.
- 2.3. Regulation 16(1) of the 2001 Regulations sets out the right of appeal to an adjudicator if a person's representations to Transport for London are rejected.
- 2.4. Regulation 16(2) of the 2001 Regulations states: "On an appeal under this regulation, the adjudicator shall consider the representations in question and any additional representations made by the appellant on any of the grounds mentioned in regulation 13(3) and may give the charging authority concerned such directions as he considers appropriate".
- 2.3 The Court of Appeal decided in the case of Walmsley v TfL and Others [2005] EWCA Civ 1540 that the adjudicator is limited to deciding whether one of the grounds set out in regulation 13(3) is made out and has no discretion to consider mitigating circumstances.
- 2.4 Paragraph 2(1) of the Schedule provides that an appeal shall be made by delivering a notice of appeal to the proper officer.
- 2.5 Paragraph 2(2)(d) of the Schedule provides that a notice of appeal may include any representations which the appellant desires to make in addition to the original representations made to the charging authority.
- 2.6 Paragraph 4(1) of the Schedule (headed "Further representations") provides that any party may deliver representations to the proper officer at any time before the appeal is determined.

2.7 This practice direction has been issued pursuant to the powers contained in regulation 5(2) of the 2001 Regulations to ensure that the appeal procedure is proportionate to the amount of the penalty charge.

3 Directions to be followed by appellants and authorised representatives appearing on behalf of appellants

3.1 Any further representations from the appellant or authorised representative must be delivered to the proper officer at least five working days before the date of hearing.

3.2 Any further representations delivered to the proper officer by the appellant or authorised representative under paragraph 4(1) of the Schedule must not exceed a total of three A4 pages in manuscript or typed in Arial 12 single spacing, including any skeleton argument. Any supporting evidence must be proportionate.

3.3 The issues outlined in any further representations, including any supporting evidence, submitted by the appellant or authorised representative under paragraph 4(1) of the Schedule must be directly relevant to one or more of the grounds of appeal set out in regulation 13(3) of the 2001 Regulations. If not directly relevant, they may be rejected by the adjudicator.

3.4 Pro-forma or standardised representations may be rejected by the adjudicator.

3.5 A personal hearing (whether in person or remote) is scheduled to take 45 minutes. Appellants and third-party representatives must limit their oral representations so that the adjudicator may conclude the hearing within 45 minutes.

3.6 Any material provided on the day of the hearing may be rejected by the adjudicator.

3.7 A decision made by the adjudicator to reject representations and/or evidence under these directions is final.

3.8 A request to vary these directions must be made in writing with reasons, to reach the tribunal at least 5 working days before the scheduled date of hearing.

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