

# PATAS ANNUAL REPORT

*2012 - 2013*

The Annual Report of the Parking and Traffic  
Adjudicators to the Transport and Environment  
Committee of London Councils

**Parking and Traffic Appeals Service**

April 2013



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## CHIEF ADJUDICATOR'S FOREWORD

I am pleased to present to the Committee the joint annual report of the Parking and Traffic Appeal Adjudicators for the year 2012-2013, as required under Regulation 17(6) of the *Civil Enforcement of Parking Contraventions (England) General Regulations 2007* and Regulation 12(6) of the *Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2002*.

The Adjudicators have decided a total of 57,888 appeals in this reporting year as well as reaching decisions on ancillary matters such as statutory declaration/witness statements, out of time appeals and review applications (see Workload at page 3).

The number of appeals decided reflects the reduction in the number of appeals lodged in the reporting year (55,296). The reduction in parking appeals is tempered by a slight increase in bus lane appeals but still reflects the expected percentage of all tickets issued in London (1%).

In line with the lower number of appeal receipts, adjudicator sittings have been reduced and the adjudicators have continued to address the tribunal's workload efficiently. It remains our objective to ensure that our case load is addressed justly with each party having an appropriate and proportionate opportunity of engaging in the appeal process.

Although we have no backlog of appeals, there are currently over 1,000 appeals held in our postal list that are awaiting the Court of Appeal's decision in *The Queen on the application of Eventech Limited v The Parking Adjudicator [CO/10424/2011]*. The case concerns the use of bus lanes by private hire drivers. The appeal was heard by the Court on 24th and 25th April 2013, judgment was reserved. Once judgment has been handed down, it is hoped that the appeals that the tribunal has had to set aside pending this decision can be determined without further delay.

#### PERSONAL HEARINGS

We have remained able to list and hear personal appeals on the first available scheduled hearing date. The personal appeal listing system put in place last year continues to provide a more structured sitting day allowing adjudicators to focus on their own list of scheduled hearings. We continue to provide early and late personal hearing slots and are open on Saturday mornings ensuring that attending an appeal hearing does not have to conflict with an Appellant's work or other commitments.

#### POSTAL HEARINGS

Postal appeals are still being determined on, or within a reasonable period of the first scheduled listing date.

It remains the case that the Adjudicators aim to carry on deciding appeals in an impartial, professional, fair and efficient manner, whilst ensuring that standards are maintained through review, appraisal and training.

We also take this opportunity to thank Richard Reeve our Tribunal Manager and the Parking and Traffic Appeals Service team for their support in ensuring that the parking adjudicators remain able to provide not only a just, but also an accessible, effective, proportionate, efficient and cost-efficient forum for resolving parking appeals.

**Caroline Hamilton**  
Chief Parking and Road Traffic Adjudicator  
April 2013

## WORKLOAD

The following statistics give details of our overall workload during the reporting year. Further information on these figures may be obtained from the individual authorities concerned. Some figures may not appear to compute; this arises from matters being carried forward from year to year and some individual appeal forms containing appeals relating to a number of separate penalty charge notices.

The Adjudicator's role when considering an appeal is to identify the issues that will be determinative by assessing the available evidence, making the necessary factual findings and applying the relevant law to enable the appeal to be determined. Appeals are either allowed or refused (or may, under the Traffic Management Act, be refused with a recommendation made to the enforcement authority see page 5 below).

Enforcement authorities may decide not to contest an appeal when further evidence is provided with the appeal form. This commonly occurs in appeals relating to the sale of a vehicle or the hire of a vehicle and can also occur when motorists provide further evidence of an unloading activity such as a delivery note or invoice or when private hire drivers provide evidence such as a job sheet relating to a boarding or alighting exemption relied upon. It must also be understood that the appeal form gives the motorist an opportunity of re-stating his case and it is only once the appeal points have been considered by the enforcement authority that an informed decision whether or not to contest an appeal can properly be made.

As well as deciding the appeal itself the Adjudicators are responsible for making decisions and giving directions on a number of ancillary matters that may arise during the course of the appeal process. These include extending time on late appeals, post appeal correspondence, review and cost applications and considering statutory declaration and witness statement referrals before giving instructions to the Parking and Traffic Appeals Service team or making the necessary directions.

## APPEALS

### Total of all appeals in the reporting year

#### **TOTAL of ALL:**

55,296 appeals **received**

11,514 statutory declaration referrals

**TOTAL : 66,810**

57,888 appeals were determined (this figures include appeals lodged in the previous year but determined in the reporting year)

27,546 were allowed of which 11,769 were not contested

30,342 were refused

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

**Parking appeals received**

46,202 appeals were received

10,377 Statutory declarations referrals were made

**TOTAL: 56,579**

**Parking appeals decided**

49,029 appeals were determined

**Allowed**

24,096 were allowed of which 10,430 were not contested

**Refused**

24,936 were refused

**Bus lane appeals received**

2,460 appeals were received

256 Statutory declarations referrals were made

**TOTAL: 2,716**

**Bus lane appeals decided**

1,838 appeals were determined

**Allowed**

861 were allowed of which 345 were not contested

**Refused**

977 were refused

**Moving traffic appeals received**

6,570 appeals were received

881 Statutory declarations referrals were made

**TOTAL: 7,451**

**Moving traffic appeals decided**

6,977 appeals were determined

**Allowed**

2,563 were allowed of which 978 were not contested

**Refused**

4,414 were refused

**London Lorry Control Scheme**

64 appeals were received

No Statutory declarations referrals were made

**London Lorry Control appeals decided**

44 appeals were determined

**Allowed**

29 were allowed of which 16 were not contested

**Refused**

15 were refused

**Personal/Postal Appeals**

Of the appeals received 33,299 Appellants selected a postal hearing and 21,322 selected a personal hearing. Appellants who neglect to make a selection on the appeal form (653) are automatically scheduled for a personal appeal hearing. If Appellants do not attend the hearing of their appeal, and do not contact the hearing centre requesting an adjournment, the appeal is determined in their absence half an hour after the allocated hearing time slot has passed.

**During the reporting year:**

20,551 personal appeals were determined.

11,593 were allowed of which 4,503 were not contested.

35,233 postal appeals were determined.

14,623 postal appeals were allowed of which 7,019 were not contested.

**RECOMMENDATIONS**

The *Traffic Management Act 2004* and accompanying Regulations give the Adjudicator, after having considered the evidence, the power to return cases to enforcement authorities, making a recommendation that the notice be cancelled or a refund given further to a finding that there are compelling reasons for doing so.



This applies in circumstances where the Adjudicator does not allow the appeal but is satisfied that, although a contravention occurred, there are compelling reasons put forward by the Appellant that merit further consideration from the Respondent enforcement authority. The Adjudicator may return the case to the authority with a recommendation that the authority cancel the notice to owner or, in immobilisation or removal cases refund some or all of the payments made for the release of the vehicle.

On receipt of a recommendation the authority has a duty to consider cancellation, taking full account of the observations made by the Adjudicator. Within the period of 35 days the authority must notify the Appellant and the Adjudicator whether or not it accepts the recommendation.

If the Adjudicator's recommendation is not accepted by the authority, the authority must provide reasons for not doing so. No appeal rights to the Adjudicator arise further to these reasons.

If the authority does not respond to the Adjudicator's recommendation at all within 35 days, the authority is deemed to have accepted the recommendation made.

It remains the case that the Adjudicators have no power to take mitigation into account or to allow appeals on the basis of compelling reasons raised by Appellants.

**Appeals refused with a recommendation:**

2012-2013: 1005

2011-2012: 785

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

2012-2013: 304

2011-2012: 220

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

2012-2013: 244

2011-2012: 257

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

2012-2013: 457

2012-2012: 308



The number of cases returned to the Respondent enforcement authorities is low indicating that authorities are using the exercise of their discretion appropriately.

The Adjudicators would find it more useful for authorities to indicate why recommendations are accepted or refused rather than relying on 'deemed accepted'. Engaging with the process allows the Adjudicators to build up a picture of the type of reason that might be acceptable to the authority in the future.

## COSTS

Although the Tribunal receives a number of queries regarding our costs provisions, only 94 applications for costs were registered for hearing by adjudicators in the reporting period; 91 from Appellants and 3 from Respondent enforcement authorities.

This reduced number of applications listed for determination at a contested hearing reflects the Regulations that make it clear that costs are not the norm:

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

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

The Adjudicators have no power to award compensation and any award of costs must relate to the appeal process only.

The Adjudicators have no power to award costs incurred prior to the appeal stage.

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

## Appellants

Parking	81 (260)
Bus lane	4 (7)
Moving traffic	6 (11)
<b>Total:</b>	<b>91 (278)</b>

**Enforcement Authorities**

Parking	2 (54)
Bus lane	0 (1)
Moving traffic	1 (9)
<b>Total:</b>	<b>3 (64)</b>

## Cost Awards

Enforcement Authority	Awards to Appellants	Amounts awarded to Appellants	Awards to EAs	Amounts awarded to EAs
Barking and Dagenham	0 (2)	0 (£74.50)	0 (0)	£0 (0)
Barnet	2 (0)	£170.89 (£0)	0 (2)	0 (£152.38)
Bexley	0 (2)	0 (£110)	0 (2)	0 (£65.50)
Brent	1 (0)	£43.50 (£0)	1 (0)	£104.43 (0)
Bromley	0 (4)	0 (£327.24)	0 (2)	0 (£178.84)
Camden	1 (6)	£95.50 (£1,421.68)	0 (0)	0 (0)
City of London	0 (8)	0 (£284.68)	0 (0)	0 (0)
Croydon	2 (0)	£2,080.50 (£0)	0 (0)	0 (0)
Ealing	0 (4)	0 (£223.50)	0 (4)	0 (£262)
Enfield	1 (0)	£31.71 (£0)	0 (2)	0 (£140)
Greenwich	1 (0)	£41.88 (£0)	0 (0)	0 (0)
Hackney	0 (2)	0 (£175.30)	0 (0)	0 (0)
Hammersmith and Fulham	0 (3)	0 (£60.50)	0 (0)	0 (0)
Haringey	4 (12)	£285 (£378.80)	0 (0)	0 (0)
Harrow	4 (3)	£445.13 (£109.50)	0 (0)	0 (0)
Havering	0 (0)	0 (0)	0 (0)	0 (0)
Hillingdon	0 (1)	0 (0)	0 (0)	0 (0)
Hounslow	1 (8)	£90.25 (£542)	0 (0)	0 (0)
Islington	0 (0)	£0 (£0)	0 (2)	0 (£278)
Kensington and Chelsea	0 (2)	0 (£100)	0 (2)	0 (£80)
Kingston Upon Thames	1 (0)	£120 (£0)	0 (0)	0 (0)
Lambeth	2 (12)	£116.53 (£712.36)	0 (0)	0 (0)
Lewisham	0 (2)	0 (£60)	0 (0)	0 (0)
Merton	0 (0)	£0 (£0)	0 (2)	0 (£118.20)
Newham	1 (21)	£28.93 (£1,672.85)	0 (0)	0 (0)
Redbridge	2 (2)	£72.60 (£74)	0 (0)	0 (0)
Richmond Upon Thames	0 (0)	0 (0)	0 (2)	0 (£231.32)
Southwark	1 (6)	£47 (£306.20)	0 (0)	0 (0)
Sutton	0 (0)	0 (£0)	0 (0)	0 (0)
Tower Hamlets	2 (2)	£247.67 (£166.50)	0 (0)	0 (0)
Transport for London	5 (6)	£545.85 (£256.50)	0 (0)	0 (0)
Waltham Forest	1 (2)	£101 (£561.60)	0 (0)	0 (0)
Wandsworth	0 (1)	0 (£65.50)	0 (0)	0 (0)
Westminster	0 (16)	0 (£1979.48)	0 (5)	0 (£320)
<b>Totals</b>	<b>32 (125)</b>	<b>£4,563.94 (£9,662.94)</b>	<b>1 (25)</b>	<b>£104.43 (£1,656.42)</b>

### **Statutory Declarations / Witness Statements**

There continues to be an increase in the number of statutory declaration/witness statements filed by Appellants.

A large number of these sworn declarations simply result in the Adjudicator directing that the Penalty Charge be paid forthwith.

Motorists should understand that if the grounds for making a statutory declaration do not apply to their case, they cannot and should not make a declaration.

#### **The grounds are as follows:**

1. I did not receive the Notice to Owner/Penalty Charge Notice.
2. I made representations about the penalty charge to the enforcement authority concerned within 28 days of the service of the Notice to Owner/Penalty Charge Notice but did not receive a rejection notice.
3. I appealed to the Parking/Traffic Adjudicator against the local authority's decision to reject my representations within 28 days of service of the rejection notice but have had no response to my appeal.
4. The penalty charge has been paid in full.

Motorists must follow the correct procedure in order to remain entitled to continue to contest liability and ultimately appeal to the Parking Adjudicator.

If a motorist fails either to make representations or appeal within the required timeframe, he will have no right to contest liability further however strong the merits of the case might have been.

If motorists fail to respond to penalty charge notices and subsequent communications from the enforcement authorities this cannot be remedied by making a statutory declaration.

The declaration or witness statement will not cancel the penalty.

The Declarant is advised of this on the face of the order.

In *Oyeneyin v Transport for London (PATAS 2100271839)* the Appellant motorist made eight witness statements regarding the same penalty charge notice.

The final direction made by the Adjudicator required Mr Oyeneyin to pay the penalty at the charge certificate rate of £180 and to pay referral and preparation expenses, making a total of £535.

This related to a penalty for stopping on a red route where the discounted penalty amount would have been £60.

**Number of Statutory Declarations/Witness Statements received**

Parking	9,824 (8,760)
Bus lane	256 (133)
Moving traffic	881 (584)
London Lorry Control Scheme	0 (0)
<b>Total:</b>	<b>10,961 (9,477)</b>

## LAW UPDATE

Most appeals whether on paper or at an oral hearing turn on straightforward factual questions. Once the evidence has been assessed and the determinative facts identified the Adjudicator need only apply the relevant law.

Occasionally, however, a contentious point of law can generate a disproportionate number of appeals.

In order to prevent a number of Adjudicators having to consider identical points and with a view to promoting consistency, panel hearings are convened, consolidating appeals and generating a determination that results in a settled decision or guidance case.

Regulation 14(1) of the Schedule to the *Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007* provides that where there are pending two or more appeals and at any time it appears to an Adjudicator that:

- (a) some common question of law or fact arises in both or all appeals ;  
or
- (b) for some other reason it is desirable to make an order under this paragraph,

the Adjudicator may order that all of the appeals or those specified in the order shall be considered together and may give such consequential directions as may appear to him to be necessary.

All the parties concerned must be given the opportunity of making representations against the making of the consolidation order (Regulation 14(2)).

Once consolidated, where considered appropriate, the hearings can be put before a panel of three Adjudicators.

The consolidated panel hearings allow for separate representation by the parties, and benefit from the breadth of experience and views brought to the issue in hand by having more than one Adjudicator.

The decision provides clear guidance for the independent Adjudicators in subsequent cases involving these issues, thereby reducing the likelihood of conflicting or inconsistent approaches.

This year one panel hearing was convened.

## PANEL HEARING

*Peter Burness v City of London Case No PATAS 2110325661 Pool Motors v City of London Case No PATAS 2110534297.*

This panel hearing was convened because Adjudicators were making what appeared to be inconsistent decisions about camera enforcement appeals and particularly on the approval or otherwise of the Respondent authority's equipment in that regard.

It was noted in the panel's determination that Adjudicators take decisions on evidence placed before them and it was by no means clear that the evidence placed before them resulting in apparently inconsistent decisions was necessarily the same. However, it was accepted that there were a substantial number of cases where the use of the enforcement camera was in issue and in order to assist enforcement authorities, motorists and their advisers, it was felt that a panel hearing would give guidance as to the issues involved.

The cases came before the panel of Adjudicators following applications by Mr Burness and Pool Motors (two separate Appellants in separate appeals), under Regulations 12 of the Schedule to the *Civil Enforcement of Parking Contraventions (England) Representation and Appeals Regulations 2007* for a review of the respective appeal decisions, where in each case the appeal had been refused.

The central issue in the applications related to whether the tribunal had the power to question the approval of certified devices used to record contraventions through CCTV observation and whether the evidence submitted to the tribunal in the form of compressed images was good evidence.

The central finding of the panel was that if an enforcement authority produced evidence demonstrating that the Secretary of State had approved and certified the device used to record the contravention, the Tribunal would not be concerned with whether the Vehicle Certification Agency (VCA) should have certified the device or whether the device does in fact satisfy the scheduled requirements of the Approved Devices Order.

The panel found that this position was clear from the wording of the legislation but was also confirmed in *DPP v Brown*, *DPP v Teixeira*, [2001] EWHC Admin 932 (a case concerning breathalysers). In that case the Divisional Court made it clear that it is not open to the Court or Tribunal of first instance to look behind the certification of equipment. This was also the conclusion of Adjudicator Miss Verity Jones in *Field v Westminster* (PATAS case number 211000697A).



The panel concluded that the appropriate remedy to challenge a failure in the approval or certification process is a Judicial Review application in the Administrative Court and that the Tribunal is concerned only with whether or not the device is approved.

If the Adjudicator is satisfied that the device is approved, then it does not matter whether or not the metadata is displayed in a way that satisfies the motorist or the motorist's representative.

It remained the fact that the device under consideration was approved, so that the VCA and the Secretary of State were both satisfied with it. It was not a matter for the Tribunal to go behind that certification.

The enforcement authority, relying on evidence generated by such a device, must be able to establish that their device is approved and that the evidence on which they rely comes from an approved device. Beyond that the approvals process itself or technical elements of the equipment used are not matters for the Adjudicator.

If the enforcement authority can provide evidence that satisfies an Adjudicator that their device is approved, the Adjudicator has no role in investigating whether that approval was rightly given, either because the device should not have been approved or that the device does not meet any of the statutory or other requirements.

The panel also took the opportunity of giving some general guidance on the level of conduct expected of lay representatives.

The Courts have long recognised an unrepresented party's rights to assistance in the form of a McKenzie Friend or lay assistant. Tribunals do not have the same statutory restraints as the Courts and this tribunal is mindful that lay representatives are not legally trained or regulated. Being unregulated, representatives have no obligation to the Tribunal which can, perhaps inadvertently, impede the fair and just determination of a case.

The panel reminded those wishing to assist parties to an appeal that whilst the Tribunal is informal a degree of professional conduct and expertise was expected from those putting themselves forward as representatives.

## JUDICIAL REVIEW

Both parties to an appeal who are not satisfied with the outcome of their appeal decision may contest the matter further at the High Court by way of a Judicial Review (JR). Judicial review in the Administrative Courts is a court proceeding in which a High Court Judge reviews the lawfulness of a decision or action made by a public body.

During this reporting period the 55,828 appeal decisions made by the Adjudicators, generated only 8 applications for Judicial Review. All of the applications were made by Appellants following the refusal of an appeal. The Respondent enforcement authorities did not make any applications further to an appeal having been allowed.

Whilst the Adjudicators welcome decisions of the High Court that assist the Tribunal by clarifying the law or procedures, the Adjudicators do recommend that either party to an appeal wishing to follow this course of action takes legal advice first.

## JUDICIAL REVIEW DECISIONS

There were no Judicial Review Decisions this year.

## PERMISSION TO SEEK JUDICIAL REVIEW

Update from 2011-2012 report.

1. The Queen on the Application of *Eventech Limited v The Parking Adjudicator and Transport for London and London Borough of Camden* [CO/10424/2011] (*Eventech Limited v London Borough of Camden* PATAS 2110086039 (2011) and 211008604A (2011)): An application by Eventech Limited regarding private hire drivers' use of bus lanes. Transport for London joined the proceedings as an interested party. Permission for a judicial review of the appeal Adjudicator's decision was granted to Eventech on 27<sup>th</sup> February 2012 and listed for hearing on 19<sup>th</sup> June 2012. Following a hearing on the 19<sup>th</sup> 20<sup>th</sup> and 21<sup>st</sup> June, the claim was dismissed on 11<sup>th</sup> July 2012 by Mr Justice Burton, Neutral Citation Number [2012] EWHC 1903 (*Admin*). An appeal regarding that decision was heard on 24<sup>th</sup> and 25<sup>th</sup> April 2013 (constitution of the Court: The Master of the Rolls, Lord Justice Elias and Lord Justice Patten) and is currently awaiting the result of the reserved judgment.
2. The Queen on the Application of *Hakeem -v- The Parking Adjudicator* [CO/15773/2009] (*Hakeem -v- London Borough of Enfield* PATAS 209009607A (2010)): An appeal on the ground that the Appellant was not the owner of the vehicle at the material time was refused.

Permission to seek Judicial Review was refused by the High Court at an oral hearing. An application to the Court of Appeal is pending.

3. *The Queen on the Application of Fouad Tawfiq -v- The Parking Adjudicator [CO/8460/2011] (Tawfiq -v- City of Westminster PATAS 2110259024 (2011))*: An appeal against a penalty charge notice issued to the motorist parked in the restricted street whilst he collected a prescription from a chemist having left his engine running and passengers in the vehicle. Permission to seek Judicial Review was refused by the High Court on 11<sup>th</sup> November 2011. The Claimant renewed his application at oral hearing which was rejected on 9<sup>th</sup> February 2012. This case is currently waiting for the outcome of an application to the Court of Appeal.

## JUDICIAL REVIEW APPLICATIONS 2012-2013

1. *The Queen on the Application of Lavi -v- The Parking Adjudicator [CO/4950/2012] (Lavi -v- London Borough of Barnet PATAS 2110717399 (2012))*: This case relates to a vehicle driving in a marked bus lane on a Bank Holiday Monday. The Adjudicator found that the restriction sign included Mondays and that Bank Holidays were not excluded. An application for the review of that decision was rejected by the reviewing Adjudicator who found no error of law. Permission for judicial review was refused by the Court who noted that a judicial review was not an appropriate remedy to the appeal decision, there being the right to apply for a review. The review decision was not challenged on a ground that could be advanced in judicial review proceedings. The Claimant renewed his application at an oral hearing but permission was refused.
2. *The Queen on the Application of Raphael -v- The Parking Adjudicator [CO/11266/2012] Raphael -v- London Borough of Islington PATAS 2120259348 (2012))*: This matter was referred to the Adjudicator further to the filing of a witness statement. The Adjudicator made directions having found that the registered keeper had failed to respond to the Notice to Owner. The application was made on the basis that the registered keeper's daughter was responsible for the penalty. The Claimant has since advised the Parking and Traffic Appeals Service that the enforcement authority has cancelled the penalty and his application has been withdrawn.
3. *The Queen on the Application of Malik -v- The Parking Adjudicator [CO/12525/2012] (Malik -v- Transport for London PATAS 2120326194 (2012))*: The Adjudicator was not satisfied that an

emergency arose causing a need for the motorist to stop on the red route. The Court refused the application finding that the Adjudicator was fully entitled to find that the contravention occurred and that no exemption applied.

4. *The Queen on the Application of Dawber -v- The Parking Adjudicator [CO/1389/2013] (Dawber -v- London Borough of Croydon PATAS 2120083627 (2012))*: The motorist had parked after the expiry of paid for time and contended that the pay and display machine had failed to register her full payment. The Adjudicator found that the burden rested with the motorist to check the pay and display ticket. The application was refused, the Court finding that the Adjudicator's decision was neither unlawful nor irrational and that the Claimant had exhausted all her remedies through the adjudication system.
5. *The Queen on the Application of Alexander -v- The Parking Adjudicator [CO/2890/2013] (Alexander -v- London Borough of Hammersmith and Fulham PATAS 212047824A (2012))*: The Adjudicator found that the no U turn prohibition was clearly signed and that there was no requirement for the U turn manoeuvre to be completed in one sweep. An application for the review of that decision was rejected, the Adjudicator finding no error of law. A decision on this application for judicial review is outstanding.
6. *The Queen on the Application of Malik -v- The Parking Adjudicator [CO/1049/2013] (Malik-v- London Borough of Hounslow PATAS 2120545427 (2012))*: In this case the motorist saw no need for the bus lane to be in force 'at any time' rather than ending at 7pm. The motorist had no intention of driving in contravention, a point of mitigation that the Adjudicator had no power to take into account. The application for judicial review was made on the basis that the bus lane restriction was imposed by the council "to rip off and to rob the motorists it's unjustified and unacceptable for every motorist." The motorist also contended that the "Adjudicators are under the influence of all councils and cannot make an independent decision". The Court refused permission for judicial review finding that there could be no doubt that the Claimant drove in a bus lane when the notice made clear that it operated at all times. Accordingly the appeal to the Parking Adjudicator was bound to fail. With regards to the lack of independence the Court noted that this argument had already been considered and rejected by the Courts in *R (Herron) v Parking Adjudicator [2009] EWHC 1702(Admin)* and that the contrary is not and never has been arguable.

7. *The Queen on the Application of Thomas -v- The Parking Adjudicator [CO/2698/2013] (Thomas -v- London Borough of Lambeth PATAS 2120454285 (2012))*: The Adjudicator having considered the CCTV evidence found that the motorist had entered the marked box junction prior to her exit being clear and had become trapped in the junction in contravention. The motorist has made an application to the Court on the basis that the decision is perverse. A decision on this application is outstanding.
8. *The Queen on the Application of V Ahilathirunavagram -v- The Parking Adjudicator [CO/2749/2013] (Ahilathirunavagram -v- London Borough of Hammersmith and Fulham PATAS 2130007308 (2013))*: The Adjudicator was satisfied that the vehicle stopped in the marked junction in contravention. A decision on this application is outstanding.

## TRAINING, MAINTAINING STANDARDS AND APPRAISAL

### TRAINING

The Adjudicators recognise the importance of attending our training meetings.

The training aims to be focused and relevant.

Training serves not only to ensure that all Adjudicators are appraised of any developments in the law but also gives an opportunity for Adjudicators to discuss and compare experiences and explore and share best practice.

In the reporting year the Adjudicators attended one training meeting in July 2012.

The programme included presentations on the following:

1. **Traffic Sign and General Directions (Amendment) Regulations 2011.** A presentation was given on the new regulations in force from 30<sup>th</sup> January 2012 focusing on the items within the amended Regulations that seemed most likely to come before the tribunal. This included the new restricted parking zones with no road markings, just repeater signs at 30 metre intervals.
2. **Olympics/ PCN codes and suffixes.** Attention was drawn to the possibility of an increased number of appeals further to the Olympic Games and the Olympic Route Network. The Adjudicators were alerted to the new suffix for code 3: 33 (t) official Olympic or Paralympics vehicles only and advised that other enforcement would be under existing traffic orders.
3. **Reviews.** A presentation and discussion paper was given on decision writing. Examples of clear and concise decisions were shared. Advice and guidance on decision writing was given with the aim of providing parties to an appeal with clear and straightforward decisions thereby avoiding unnecessary applications for review.
4. **Recent issues.** Adjudicators discussed and raised recent issues that had come to their attention. For example *Pritchard v City of Westminster Case No PATAS 2120268112* *Starmer v City of Westminster Case No PATAS 2120276981*. These two cases related to the validity of permits in circumstances where the vehicle was not displaying a valid Vehicle Excise Licence.

5. *Case Law Update. Burness v City of London Case No PATAS 2110325661 Pool Motors v City of London Case No PATAS 2110534297.* The decision further to the panel hearing was presented and discussed (see page 13 above).
6. **POPLA – Parking on Private Land Appeals.** The Adjudicators were advised of the new powers to pursue the keeper of a vehicle parked on private land and the new appeal service that would be provided.
7. **Eventech Cases – Eventech v London Borough of Camden Case No PATAS 2110086039 and 211008604A Transport for London v (1) John Griffin (2) Addison Lee Plc. (3) Eventech Limited [2012] EWHC 1105 (QB).** The Adjudicators were given an update as to the status of the application for Judicial Review in the above cases.
8. **Workload update.** The Adjudicators were referred to possible appeals under the *London Local Authorities Act 2007* regarding the use of receptacles for household and commercial waste and littering from vehicles.
9. **Procedure.** The Adjudicators were advised of progress in the submission of online CCTV evidence. This tool allows the Adjudicator to access the CCTV evidence relied on by enforcement authorities through our computer system obviating the need for the service of the DVD to the tribunal. The Adjudicators welcome this development that streamlines access to on screen evidence.

## MAINTAINING STANDARDS

### Dealing with cases justly

In our last annual report and further to our training meetings the Adjudicators recognised the expectation that cases would be addressed in an efficient manner with all decisions reached being just and proportionate.

We concluded that there was no doubt that the public was entitled to expect Adjudicators to work efficiently and provide value for money.

The tribunal's own conclusions have since been supported by the Administrative Court in *R v Deeds and The Parking Adjudicator [2011] EWHC 1921 (Admin)*.

In this refusal of permission further to an application for a Judicial Review of a Parking Adjudicator's decision (out of London), some



guidance was given regarding the correct approach to appeals and adjournments.

It was confirmed that in dealing with cases justly, there was a requirement to determine cases fairly, effectively (including cost effectively) and proportionately.

Proportionality demanding that a case is allotted its appropriate share and no more, of the tribunal's resources.

\* \* \* \* \*

In March 2012 a member of the Administrative Justice and Tribunals Council (AJTC) visited our hearing centre in order to assess the service provided by the Tribunal. The principle function of the AJTC is to keep the administrative justice system under review considering ways to make it accessible fair and efficient.

The AJTC member filed her report in April 2012 concluding that our hearings were focussed and efficient. It was noted that the tribunal was very well organised with highly efficient and friendly staff.

The AJTC reporter summarised as follows:

"The Parking Tribunal is very well organised with a Chief Adjudicator, Manager and Duty Adjudicator contributing to a collegiate and efficient way of working".

## APPRAISAL

The tribunal has adopted the Judicial Studies Board (JSB) Tribunal Competences: Qualities and Abilities in Action (October 2007) as the foundation for the criteria for its appraisal scheme.

The Competence Framework for appraisal focuses on:

- **Knowledge and values**  
To ensure a suitable level of knowledge of the jurisdiction, law and procedure of tribunals and an understanding of the appropriate principles and standards of the Parking and Traffic Appeals Tribunal.
- **Communication**  
To ensure effective communication between Adjudicators, parties and members of staff.

- **Conduct of Cases**

To ensure the fair and timely disposal.

- **Evidence**

To ensure that all relevant issues are addressed by eliciting and managing evidence.

- **Decision making**

To ensure effective deliberation, structured decision making and disposal of the case.

The next round of Adjudicator appraisals is due to take place in the first quarter of 2014.

## THE ADJUDICATORS AND THE PARKING AND TRAFFIC APPEALS SERVICE

### ADJUDICATORS

The Tribunal is a judicial tribunal, the Adjudicators exercising a judicial function. The Parking and Traffic Appeals Service (PATAS) and the Adjudicators, in particular the Chief Adjudicator, work together in the pursuit of efficiency. It is however, sometimes not understood that the Adjudicators and the Parking and Traffic Appeals Service have entirely separate functions within the Tribunal. PATAS is the administrative arm of the Tribunal and plays no part in the decision making process or in any aspect of the exercise of the Tribunal's judicial functions. The separation of these functions is important both constitutionally and practically, serving to safeguard the judicial independence of the Adjudicators.

### THE CHIEF ADJUDICATOR

Caroline Hamilton

### THE PARKING AND TRAFFIC ADJUDICATORS

Jane Anderson  
Michel Aslangul  
Angela Black  
Teresa Brennan  
Michael Burke  
Anthony Chan  
Hugh Cooper  
Neeti **Hariai**  
Anthony Edie  
Mark Eldridge  
Anthony Engel  
Henry Michael Greenslade  
John Hamilton  
Andrew Harman  
Monica Hillen  
Keith Hotten  
Edward Houghton  
Anju Kaler  
John Lane  
Michael Lawrence  
Francis Lloyd  
Alastair McFarlane  
Kevin Moore  
Michael Nathan  
Ronald Norman

Joanne Oxlade  
Mamta Parekh  
Belinda Pearce  
Neena Rach  
Christopher Rayner  
Jennifer Shepherd  
Caroline Sheppard  
Sean Stanton-Dunne  
Gerald Styles  
Carl Teper  
Timothy Thorne  
Susan Turquet  
Austin Wilkinson  
Martin Wood  
Paul Wright

#### THE PARKING AND TRAFFIC APPEALS SERVICE

Richard Reeve - Tribunal Manager  
Garry Hoy- Business Delivery and Project Manager  
Dedray Marie - Senior Tribunal Assistant  
Ada Amuta - Tribunal Assistant  
Peter Hollamby - Tribunal Assistant  
Tom Caulfield – Tribunal Assistant  
Emma Groombridge – Tribunal Assistant

## APPENDIX

### CASE DIGEST

Key cases can be viewed on our website at [www.parkingandtrafficappeals.gov.uk](http://www.parkingandtrafficappeals.gov.uk). Our statutory register housing all decisions can be accessed online or by visiting our hearing centre during tribunal opening times at Angel Square, Upper Ground Floor, Block 2 London EC1V 1NY.

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

### STATUTORY DECLARATION

*Goode Durrant Admin 046541 v London Borough of Croydon (PATAS 2120461757)*

In this case the Appellant Company had filed a statutory declaration stating that they had made representations to the enforcement authority but had not received a Notice of Rejection. The Adjudicator requested a copy of the representations and details of when they were made. The Appellant Company did not respond. The Adjudicator directed that the penalty be paid at the charge certificate rate of £165.

### CCTV OBSERVATION

*Bellinfantie v London Borough of Sutton (PATAS 2120427908)*

The enforcement authority had not provided evidence of the restriction sign relied on. The CCTV evidence did not show any sign or kerb markings and recorded the vehicle at the location for only 22 seconds. The motorist was relying on the display of a blue badge. Without evidence of the restrictions that applied at the location the authority could not prove their case to the required standard. The appeal was allowed.

*Gill v London Borough of Hounslow (PATAS 2120403841)*

The enforcement authority relied on a CCTV clip that focused on the vehicle for approximately 20 seconds. The motorist relied on the boarding/alighting exemption. The Adjudicator noted that the observation was too short to ascertain whether or not a lawful activity was underway or to conclude that an excessive time had been taken for the passenger to board the vehicle.

*Alfa Cars UK Limited v London Borough of Hillingdon (PATAS 2120591843)*

The Adjudicator, applying the principles set out in *The Queen on the Application of Makda v The Parking Adjudicator [2010] EWHC 3392 (Admin)* was satisfied the motorist parked only in order to allow his passenger to board the vehicle. The Adjudicator noted that there is no requirement for passengers to be waiting on the footway for the driver to arrive. The enforcement authority applied to review the decision but the application was rejected by a separate independent Adjudicator who noted that the boarding/alighting exemption applied even if a more convenient or sensible place to undertake the activity was close by. The Adjudicator noted that the review procedure was not a method of obtaining a second hearing on the same facts.

#### EVIDENCE LACKING IN CREDIBILITY

*Boateng v London Borough of Camden (PATAS 2120361049)*

In this case the motorist explained that she had become unwell and had parked in a hurry causing her vehicle to be positioned in contravention beyond the bay markings. The evidence submitted by the Appellant was found to be unconvincing, the Adjudicator noting that the medical evidence relied on by the Appellant contained the same spelling mistakes as the Appellant's own representations. The enforcement authority was reminded of the costs provisions.

#### PAY AND DISPLAY TICKETS

*Noon v Royal Borough of Kingston upon Thames (PATAS 2130021068 )*

The Adjudicator found that the motorcyclist had paid and displayed as required. That his pay and display ticket had been unlawfully removed by an unknown third party was not in his control and was plainly an intervening act by a third party.

#### CLARITY OF SIGNS

*Shrive v London Borough of Hackney (PATAS 2120630209)*

The Adjudicator found the signs alerting the motorist to a pedestrian zone were clear. The Adjudicator noted that if a motorist was unable to read or digest signs due to a physical or medical condition there was an obligation on the motorist to inform the DVLA immediately.