

**PATROL ADJUDICATION JOINT COMMITTEE (PATROLAJC)
BUS LANE ADJUDICATION SERVICE JOINT COMMITTEE (BLADJC)**

Briefing Pack for New Council Representatives

Background to the PATROLAJC and BLASJC

The PATROLAJC, formerly the National Parking Adjudication Service Joint Committee, has been established to enable Councils having Civil Enforcement Area Orders to exercise their functions under Section 81 of the Traffic Management Act 2004 and the Traffic Management Act 2004 and Regulations 17 and 18 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007. These functions are exercised jointly with the other PATROLAJC councils in accordance with the requirements of Regulation 16 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

The functions exercised by the PATROLAJC on behalf of its constituent councils are appointing independent adjudicators to the Traffic Penalty Tribunal, providing these adjudicators with administrative staff and accommodation and providing hearing venues. Its remit in relation to the Tribunal is limited to these matters. The PATROLAJC also undertakes such other associated functions as the Participating Authorities may lawfully arrange for the PATROLAJC to perform as they from time to time consider appropriate.

The Agreement that regulates the setting up of the Joint Committee provides for one Representative for each constituent Council. Members of the Joint Committee need not be an "Executive Member" of their Council but this is a matter for each Council to decide. If the nominated Representative cannot attend the meeting, provision is made for a named substitute to attend in his/her place.

In 2006 with the introduction of civil bus lane enforcement, it was agreed that there would be an integrated tribunal for parking and bus lane enforcement. However, there must be a separate Joint Committee, the Bus Lane Adjudication Service Joint Committee (BLASJC) until such time as the both areas of enforcement are governed by same legislation i.e. the Traffic Management Act 2004.

Introduction to the Traffic Penalty Tribunal

The Traffic Penalty Tribunal is an independent tribunal where impartial lawyers consider appeals by motorists and vehicle owners whose vehicles have been issued with:

- a) Penalty Charge Notices (or have been removed or clamped) by councils in England and Wales enforcing parking under the Road Traffic Act and the Traffic Management Act 2004.
- b) Penalty Charge Notices by councils in England undertaking civil bus lane enforcement under The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations (2005 SI No 2757).

The Traffic Penalty Tribunal has its headquarters in Manchester but operates across England (outside London) and Wales with its Adjudicators and Hearing Centre Supervisors working remotely and from hearing venues in over 70 locations. The Traffic Penalty Tribunal deals with some 10,000 plus appeals per annum and has 32 Adjudicators including a Chief Adjudicator, 15 Hearing Centre Supervisors and twenty staff. Appellants and Councils are given a named Appeals Coordinator who will handle the administration of their appeal from the Notice of Appeal through to the Decision being issued. The Adjudicator's function is to decide the appeals and issue any directions required for the management of appeals.

The Traffic Penalty Tribunal comes under the supervision Administrative Justice and Tribunals Council which has established a Framework of Standards for Tribunals which states that tribunals should:

- Be independent
- Provide open, fair and impartial hearings
- Be accessible to users
- Focus on the needs of users
- Offer cost effective procedures
- Be properly resourced and organised
- Work with first tier decision makers to improve the "end to end" experience for the user.

A principal objective of the Traffic Penalty Tribunal is to provide independent, impartial, and well considered decisions based on fact and law in a way that is user-focused, efficient, timely, helpful and readily accessible.

Both parties, Councils and Appellants, have a right to a personal hearing but alternatively may agree to have a postal hearing and, more recently, a hearing by telephone. The Traffic Penalty Tribunal is also actively encouraging councils to provide the facility for appellants to appeal on line.

Technology is central to the whole operation. A new case management system introduced in 2006 has enabled the tribunal to handle cases and communicate with all parties in a more effective way. The Traffic Penalty Tribunal is actively working with councils and IT suppliers to promote electronic transfer of evidence which will provide efficiency savings for both councils and the tribunal.

For more information about The Traffic Penalty Tribunal, members may wish to visit the tribunal's web site at www.trafficpenaltytribunal.gov.uk.

Joint Committee Primary Objectives

The agreed primary objectives of the Joint Committees are the provision of:

- a) A fair adjudication service for Appellants including visible independence of adjudicators from the authorities in whose areas they are working

- b) Consistency of adjudication across the service
- c) A cost effective and equitable adjudication service for all Parking Authorities and Bus Lane authorities in England and Wales
- d) Flexibility to deal with a wide range of local authorities with varying levels of demand for adjudication.

Role of Joint Committee Members

The role of Joint Committee Members of the Joint Committee is to oversee the functions The Traffic Penalty Tribunal as an Independent Tribunal. There is not a role as such in respect of the parking/bus lane enforcement activities of the Local Authority they represent on the Joint Committee. In addition, the role is to oversee any agreed PATROL initiatives e.g. commissioning Independent Reviews and the provision of public information.

Typically agenda items will include:

- Appointment of adjudicators
- New member councils
- Budgets
- Budget monitoring
- Service Charges to user councils
- General progress and service standards
- Other relevant items of interest to the Joint Committee in exercising its duties

Members elect a Chair, Vice Chair and in the case of the PATROLAJC, an Assistant Chair. Meetings are attended by the Chair of the Advisory Board, the Chief Adjudicator and Head of Service.

Joint Committee Meetings

The Joint Committees are scheduled to meet at least twice a year, usually in the Midlands. The PATROLAJC has established an Executive Sub-Committee. This means that under normal circumstances the full Joint Committees need only meet annually in June, with the Executive Sub-Committees meeting in January. Where possible, parking, and bus lane Joint Committee meetings are held on the same day. Papers for the meetings are posted on the Manchester City Council's web site under Council Meetings and Minutes or through the following link

http://www.manchester.gov.uk/site/scripts/meetings_committees.php?headerID=52

Lead Authority and Lead Officer Role

Because the Joint Committees have no corporate status and cannot therefore contract, one of the constituent Councils has been appointed Lead Authority to enable goods and services to be provided on behalf of the Joint Committees. Initially Manchester has been appointed the Lead Authority.

The Joint Committees have delegated decision making in relation to the majority of day to day matters to a "Lead Officer" (initially the Lead Officer is the Chief

Executive of Manchester) or to the Chief Parking Adjudicator/Bus Lane Adjudicator, depending on the subject matter. For the most part the Head of Service of Joint Committee Services acts on behalf of the "Lead Officer".

Except in the case of urgent business, the Lead Officer, in exercising the functions delegated to him, is required to consult with an officer working party (the Advisory Board) comprising the Lead Officer plus up to eleven people, including: seven representatives of local authorities with at least one representing: an English Authority; a Welsh Authority; a District Council; a County Council; a Unitary or Metropolitan Council and a bus lane enforcement council. Representatives of the Department for Transport and National Assembly for Wales have been appointed members of the Advisory Board. There are also two other representatives, a lay member who is a member of the Lord Chancellor's judiciary appointments panel and a representative from a motoring organisation.

Joint Committee Agreement

The form of the PATROLAJC and BLASJC Agreements has been the subject of detailed negotiations the initial parties. Their final form has been approved by leading Counsel. For this reason it is requested that joining councils do not seek to make changes to the terms of the Agreements.

Whilst the Agreements provide for the terms on which the Joint Committees are to operate, including making provision for the joining of new members and for the appointment of a Lead Authority, they do not set out in detail the amount of contributions required from member councils. These contributions are decided by the Joint Committee and are set at a level which should not be prohibitive to any council wishing to join the Joint Committee. These charges will be reviewed annually by the Joint Committees at their January meetings.

Feedback

I trust that this briefing pack has been useful. If you have any comments on how this might be improved, please do not hesitate to contact me.

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Outside London Joint Committee

Review of Parking Documentation and Notices in relation to the Traffic Management Act 2004

Terms of Reference

Background

There has been a history of poor parking documentation on the part of some local authorities giving rise to critical decisions from Adjudicators and findings that the deficiencies have rendered the Penalty Charge Notice (PCN) unenforceable.

There has been a significant increase in appellants relying on defective documentation as their ground of appeal, even though the facts support a finding that a parking contravention occurred. Adjudicators do not find these submissions attractive but nevertheless must have regard to the integrity of the statutory process.

The content of a PCN issued under the Road Traffic Act 1991 (RTA) was considered by the High Court in *R v the Parking Adjudicator ex parte Barnet Local authority* where it was found that a PCN that did not comply with the statutory requirements was void and unenforceable

The Local Government Ombudsman issued a Special Report that was critical of some authorities' parking documentation, particularly Notices to Owner (NTO) that erroneously express the law so as to deter representations and Notices of Rejection (NOR) that expressly fetter the local authority's discretion.

The Regulations

The Traffic Management Act 2004 (TMA) has resulted in two sets of Regulations, both of which need to be read with reference to the Act itself and with reference to each other. The draft Regulations are more long-winded and obtusely worded than the equivalent RTA provisions and are complex to interpret.

- 1) The General Regulations
- 2) The Representation and Appeals Regulations (R & A Regulations)

The R & A Regulations are affirmative and it is anticipated that they will have completed their passage through the Houses of Parliament in the next two weeks. Thereafter the non-affirmative Regulations, in particular the General Regulations, will be laid and passed 28 days thereafter. However there are assurances from the Department for Transport (DfT) that they have no proposals to amend the drafts and the affirmative Regulations were welcomed by the opposition and the liberals, therefore it is not anticipated that there will be significant amendments.

Following the *Barnet* judgment Local authority lawyers are naturally cautious of producing plain English documents which might be subject to

criticism.

Draft documents have been mocked up using the language of the draft Regulations and, as a result, unacceptably lengthy and incomprehensible documents have emerged. If these were used, the purpose of the scheme and the administrative justice values of openness and transparency would be frustrated. On a practical level, incomprehensible documents will result in more queries and telephone calls from the recipients to the enforcement authority and a reluctance to settle the penalty charge.

There is a need for information and documents to be prepared specifically for Outside London because

- Parking and Traffic Regulations outside London stem from different sections of the Road Traffic 1984 Act resulting in parking contraventions being expressed in different terminology from London contraventions.
- the TMA enforcement powers are predicated on these sections and differ from London
- Differential charges apply at different levels outside London

Vehicle owners will find it helpful to immediately differentiate between London documentation and outside London documentation.

Taking these points into consideration the inevitable conclusion is that there needs to be a set of standard, plain English documents and notices for use by the enforcement authorities outside London in performing their functions under the TMA.

The Review Committee

The Outside London Joint Committee (OLJC) has commissioned an independent Review into documents, notices and forms required by the TMA and associated Regulations. Stephen Sauvain Q.C., editor of the Highways Encyclopaedia who has particular experience in this field has agreed to chair the Review panel.

The composition of the Review Committee reflects the independence, impartiality and legal expertise required for such a review. Members of the Review Commission will be:

Anne Seex, Local Government Ombudsman

Professor John Raine, Institute of Local Government Studies, University of Birmingham

Sheila Rainger, Head of Campaigns, RAC

John Rushton, Managing Director, Small Back Room with expertise in design and accessibility issues

Chris Bramham, Solicitor, Leeds City Local authority

Ian Martin, Parking Manager, Sandwell Metropolitan Borough Local

authority and representing all the outside London Local authorities in the Local Authority Special Interest Group of the British Parking Association and

Graham Marsh, Parking Manager, Manchester City Local authority

Andrew Pulham, Parking Manager. East Herts District Local authority

John Satchwell, (Bournemouth Borough Local authority) Chair of Joint Committee's Advisory Board

Derek McEwen, Parking, Manager, Denbighshire County Local authority

It is a matter for the Chairman as to how many meetings he wishes to hold, although he may feel that most of the liaison can be done through email. It is understood that the proposed members of the Committee are prepared to attend at least one meeting, in Manchester or London, at the Chairman's convenience.

A paper will be prepared in advance of the Review Committee considering each specimen document on a piece meal basis and samples will be provided. The suggested timetable for consideration of documents is:

- | | |
|--------------------------------------|----------------|
| a) Regulation 9 PCN | Early January |
| b) Regulation 10 PCN | By 14 January |
| c) Notice to Owner | By 31 January |
| d) Notice of Rejection | By 14 February |
| e) Charge Certificate & Final Report | By 29 February |

The secretariat will be provided by the Joint Committee with liaison through Jackie Gloag who may be contacted on 0161 242 5277. The Secretariat will coordinate any submission of documents to the Review Committee and convene meetings as required.

Terms of Reference

The Review Committee is requested to:

- 1 Review the parking documentation used by local authorities outside London in the course of enforcement of parking and traffic regulation.
- 2 Provide a brief overview of issues that have arisen under the RTA scheme in terms of local authority notices and documents.
- 3 Make recommendations, for specimen documents to be used by local authorities outside London for civil enforcement of parking in compliance with the requirements of the TMA and associated regulations.
- 4 Recommend sample standard notices and letters required by The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (Appendix1) and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (Appendix2) in accordance with the following priority list:
 - (a) the Regulation 9 PCN having regard to the provisions of the Schedule of the General Regulations and Regulation 3 of the R&A Regulations
 - (b) the Notice to Owner
 - (c) the General Regulations PCN to comply with the three circumstances set out in Regulation 10(c) of the General Regulations
 - (d) the Notice of Rejection
 - (e) the Charge Certificate
5. Provide more general recommendations regarding local authority correspondence. (The Local Government Ombudsman special report on parking documentation dealt with some of the issues that have arisen under the RTA scheme and over the years the Adjudicators have commented upon local authority correspondence both in the form and the expressions used, particularly where it conveys the impression of fettering the local authority discretion).
6. Undertake a staged approach to the documentation and produce recommendations as each stage of the review is completed, in accordance with the priority order set out above.
7. Produce a final report for consideration by Joint Committee by 29th February for consideration at a special meeting of the Joint Committee in March 2007 (date to be confirmed).

In making their recommendations, the Review Committee is requested to:

1. Have regard to legal requirements of the Act and the importance of documentation being easily understood by the public with communication which aims to improve people's knowledge and understanding of their rights and responsibilities in relation to parking enforcement
2. Consider draft specimen documents, Parking Adjudicators Decisions which involve documents that have been subject to challenge or criticism and other relevant documentation including reports from the Local Government Ombudsman
3. Take into consideration technical implications for software and print suppliers to the parking industry

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Glossary of Terms

DfT	Department for Transport
RTA	Road Traffic Act 1991
TMA	Traffic Management Act 2004
R&A Regulations	The Representation and Appeals Regulations
PCN	Penalty Charge Notice
NTO	Notice to Owner
NOR	Notice of Rejection
OLJC	Outside London Joint Committee