

The Joint Report of the Bus Lane Adjudicators

January 2007 – March 2008

For the period covered by this report only a few councils were undertaking civil bus lane enforcement so that there are a relatively small number of appeals in comparison with those which relate to parking contraventions. However it has already become apparent that most appeals concern the clarity of the signing of the restriction.

The statistics show that there are a number of “hot spots” in each of the areas which are subject to civil enforcement and the common theme of the appeals being that the driver was not aware of the bus lane restriction.

The Adjudicators have commented that where there are a substantial number of appeals relating to one particular part of the bus lane system the council might well consider why one particular bus lane is attracting significantly more Penalty Charge Notices than another. This should put them on alert as to whether there should be a review of the signing and if it could and should be improved. In one council there were a substantial number of appeals relating to the approaches to a particular road junction where the signing, although approved by the Department for Transport, did not include all the signs required by Schedules 5 and 6 of the Traffic Signs Regulations and General Directions 2002. In another city centre the case turned principally on the carriageway surface colour.

The appeals were allowed because the Adjudicator concluded that the signing, particularly on the approach to a busy city centre junction was simply not clear enough to alert the reasonable driver to the restriction.

Adjudicators have commented in a number of cases that in a busy city centre drivers are all too easily distracted by the need to be alert to the movement of traffic and pedestrians and are then faced with a multitude of roadside signs.

Councils should also be alert to changes in the road layout and, for example, the effectiveness of roadside signing may be reduced by, for example, ongoing road works. In one particular council area a number of appeals arose because drivers were confused by the temporary and advisory signing which was put up during the course of substantial road works on either side of the bus lane.

In more than one council it has transpired that there has been a special authorisation from the Secretary of State for Transport. This calls into question whether the traditional bus lane signs are in fact appropriate for general use. Adjudicators therefore welcome the initiative just announced by the Minister of State that there is to be a Review of National Traffic Sign Policy.

For this reason Adjudicators have emphasised the importance of carriageway markings to denote the bus lane which are more likely to alert drivers to the

restriction. This principle is recognised in the Traffic Signs Manual where the importance of carriageway markings is emphasised and the suggestion made that very often a coloured surface to the bus lane is a useful reminder to drivers of the restriction.

The Adjudicators welcome the fact that a number of councils do appear to have taken note of the concerns expressed in appeal decisions about the signing in particular areas and the statistics demonstrate that the number of appeals in those areas identified as causing problems in 2007 have been substantially reduced in 2008.

The following table compares PCNs for some of the ‘hot-spots’ thrown up by bus lane appeals in 2007/8. The provisional figures for the first half of 2008 demonstrate the reduction in appeals from the most common areas of concern in the early stages of bus lane enforcement. The increased figures for this year are from councils that have only recently embarked on the civil enforcement scheme.

Local Authority	Location	01/01/07 – 31/03/08	01/04/08 – 31/09/08
Brighton & Hove	Dyke Road	3	18
	Western Road	33	9
Manchester	Newton Street	27	
	Wilmslow Road	42	3
Nottingham	Mansfield Road	3	11
Oxfordshire	High Street	0	7
Reading	Station Approach	78	35
	Norfolk Road	?	13
Sheffield	Middlewood Road	22	7
	Wicker	1	24

Bus Lane Contravention Locations

Adjudicators have also noted and commented on the fact that different councils do not necessarily adopt the same form of signing for its bus lanes. The regulations permit a number of different signs depending on whether the restriction is classed as a bus lane, with flow or contraflow or a bus gate and the variation in signing can be confusing particularly where literature issued by the Department for Transport provides information about the signing of a bus route which can be at variance with the signing that is actually in place.

The Adjudicators suggest that as far as possible councils should adopt a generally uniform approach to the signing of bus routes which should include appropriate carriageway markings.

A number of appeals have been generated in one council area and because the signing of the bus route does not include those signs which are generally recognised as denoting the bus route but instead uses a sign which the 2002 Regulations stipulate should be used to denote parts of the road where motor vehicles are prohibited.

Bus lanes are designed to ensure the free flow of public transport and so it is clearly essential to provide sufficiently clear signing to alert drivers to a restriction.

The Adjudicators would recommend that councils should consider carefully the particular signing which is required at each location particularly where it is clear that a high volume of contraventions are detected which, of itself, may indicate confusion on the part of drivers.

Certainly a number of appeals have been allowed because Adjudicators are not satisfied that the signing was clear enough or that it did not comply with the statutory regulations.

The Adjudicators have also had to consider challenges made by private hire drivers who interpret the signing of the restriction as including an exemption for all taxis. Adjudicators have consistently taken the view that unless there is an exemption in a particular Traffic Regulation Order private hire vehicles are not permitted to use bus lanes. Strictly the exemption for taxis applies only to Hackney carriages which are of course licensed to apply for hire on the street.

Finally it has long been the practice of councils operating decriminalised parking enforcement to reinstate the period when the discounted penalty charge would be accepted for a period from the delivery of the notice rejecting the informal representations. Nearly all the councils operating the civil enforcement of bus lanes properly operate a similar policy save for one exception where the council takes the view that if representations are made opportunity to pay the discounted penalty charge is lost. The Adjudicator dealing with the subsequent challenge by the driver as to the level of penalty charge payable concluded that it was unreasonable for the council not to reinstate the discount period in circumstances where the driver clearly had a right to make an informal challenge and where the policy commonly adopted by all other councils was to extend the discount period.

It is to be hoped that this policy would not be adopted by other councils.

In summary therefore the Adjudicators are pleased to note that where councils have been alerted by decisions there seems to have been a drop in the number of appeals which either means that the signing at the location has been improved or the councils take a more realistic view about the enforcement of the restriction.

The Adjudicators emphasised the importance of clear and consistent signing which should alert the driver well in advance of the restriction and particularly in circumstances where a bus gate requires all but permitted vehicles to take an alternate route.

BUS LANE ADJUDICATION SERVICE REPORT

Introduction

For the purposes of efficiency and cost effectiveness, adjudication for the civil enforcement of bus lanes outside London is provided through the Traffic Penalty Tribunal (formerly the National Parking Adjudication Service).

Penalty Charge Notices for civil bus lane enforcement are currently issued under The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations (2005 SI No 2757).

The original local authorities to sign up to the Bus Lane Adjudication Service Joint Committee agreement were: City of Manchester; Brighton and Hove Council; Nottingham City Council; Hampshire County Council; Sheffield City Council and Reading Borough Council.

The commencement date for these and subsequent local authorities is as follows:

Reading Borough Council	September 2006
Manchester City Council	October 2006
Essex County Council	October 2006
Brighton and Hove Council	March 2007
Oxfordshire County Council	March 2007
Bath and North East Somerset	April 2007
Sheffield City Council	July 2007
Nottingham City Council	January 2008

The number of local authorities commencing civil enforcement of bus lanes has been lower than anticipated. This may, in part, be attributed to the anticipation of the future introduction of Bus Lane and Moving Traffic Regulations under the Traffic Management Act 2004.

Bus Lane Appeals

Whilst the 2006 Annual Report only included appeals for one council, this report now includes appeals activity for all the councils above. Despite the increase from 32 to 335 appeals as highlighted in Table 3, the rate of appeal has remained relatively constant rising from 0.22% to 0.26%. The majority of appeals during the fifteen month period have been decided on the papers (82%) with only 11% of appeals having a personal hearing. However some 7% of appeals were decided following a telephone hearing.

The proportion of appeals allowed has reduced from 38% to 24% although when appeals that are not contested by councils are included this rises to 72% to 65%. The number of appeals refused has risen from 9% to 17%.

Appeal Documentation On Line

In the 2006 annual report we stated that local authorities would be required to supply moving images of bus lane contraventions and all local authorities are successfully submitting video evidence. The local authorities are also able to electronically submit their evidence through a secure and encrypted web portal. Where councils offer the facility for appeal on line, appellants are able to submit their appeal and supporting evidence on line.

Bus Lane Performance Standards

The Bus Lane Adjudication Service Joint Committee agreed to adopt the same performance indicators as are used for parking appeals. By way of background, Table 1 shows the figures for 2006.

TABLE 1

PERIOD	% OF POSTAL APPEALS DECIDED WITHIN 42 DAYS	TARGET	% OF PERSONAL APPEALS DECIDED WITHIN 56 DAYS	TARGET
Sept-Dec 2006	100% (3 Decided PCN appeals)	80%	N/A (0 Decided PCN appeals)	80%

The Joint Committee at its meeting on 30th June 2007 approved the introduction of revised service standards as follows:

Personal Hearings

60% of cases to be offered a personal hearing date within 8 weeks of receipt of the Notice of Appeal.

90% of cases to be offered a personal hearing date within 12 weeks of receipt of the Notice of Appeal

Postal Decisions

80% of postal decisions to be made within 7 weeks of receipt of the Notice

of Appeal.

These standards are reflected in the figures for 2007 shown in Table 2.

TABLE 2

Year	Postal Actual	Target 80% of postal cases to be decided within 7 weeks	Personal Hearings Offered within 8 weeks of registration (Actual)	Target	Personal Hearings Offered within 12 weeks of registration (Actual)	Target
2007	56.46%	80%	44.68%	60%	74.47%	90%
Jan – March 2008	52%	80%	28.57%	60%	60.17%	90%

Notes on Table 2

- a) The postal figures relate to cases registered during the period that have been decided.
- b) The personal figures relate to cases registered during the period that have been offered a hearing.

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