

**Bus Lane Adjudication Service
Joint Committee Report
2006**

National Parking Adjudication Service

CHIEF ADJUDICATOR'S FOREWORD TO THE BUS LANE REPORT

I have enormous pleasure in presenting the first Annual Report relating to the enforcement of bus lanes outside London. It is, of course, early days for bus lane enforcement, the first councils having only started in September 2006. Therefore few appeals were received for the period of this report. However already an issue has emerged that may prove significant to bus lane enforcement outside London. This is in relation to taxis and private hire vehicles (PHVs).

Most bus lanes have an exemption for taxis, expressed in the Traffic Regulation Orders as Hackney Carriages. The bus lane signs however use the word "taxi". There are three important factors that have already emerged:

1. Outside London few Hackney Carriages are of the London 'black cab' type. Most Hackney Carriages are ordinary saloon cars, some of which are identifiable as taxis by advertising on the vehicle itself, whereas others simply have the plate at the back near the registration mark. Therefore the ordinary motorist will see what appears to be a similar car to his own driving along in the bus lane. In the rush hour there may be a steady stream of such vehicles. Consequently if the motorist has not consciously seen the sign or the bus lane markings they may confuse what are in fact Hackney Carriages for general vehicle. There is no easy answer to this but Adjudicators simply flag it up as a factor that may impact differently for bus lanes outside London, from those that operate within London.
2. Matters are further complicated because private hire vehicles outside London, for all intents and purposes, look exactly the same as a Hackney Carriage. Furthermore, in common parlance they are referred to as 'taxis'. Several early appeals from Reading relate to private hire vehicles from areas outside Reading who have been dropping passengers off at the station and believe that the sign indicating that the bus lane could be used by taxis gave them the appropriate exemption. Looking at the video clips of these vehicles driving in the bus lane they are indistinguishable from taxis because the PHVs also are licensed and bear a plate. In London PHVs are now allowed to use bus lanes where an exemption exists for taxis. This arrangement also applies in several areas outside London but by no means in all. For example in Manchester PHVs are not permitted to drive in the bus lane.
3. The differing status of PHVs points to a further issue which outside London authorities will need to consider, namely the co-operation and arrangements they make between one another where bus lanes continue through one authority into the next. For example, it has emerged that PHVs are permitted to travel in bus lanes in Stockport, which is not yet in the Bus Lane Enforcement Scheme, whereas they are not permitted to take advantage of the exemption for taxis in the Manchester City bus lanes. Similar issues have arisen between Reading and the neighbouring districts where many of the PHVs are registered. Clearly these neighbouring authorities will need to reach some consensus about these issues to prevent confusion and to ensure that both Hackney Carriages and PHVs that are equally providing a public service are fairly and consistently dealt with. Adjudicators note that the Secretary of State's Guidance about bus lane enforcement is only in a temporary form because more detailed Guidance is being prepared for the

time when bus lane enforcement is brought within the provisions of the Traffic Management Act 2004. This is an area where the Secretary of State may wish to give more detailed Guidance to enforcing authorities.

Finally, Adjudicators were encouraged when the first few appeals from Manchester were not contested. These appeals were from taxi drivers who identified a problem for taxis at a particular stretch on one of the Manchester bus lanes. Having identified the problem the City Council were swift to reconsider its policies and the arrangements at this particular spot and have accordingly altered the provisions so that the problem no longer exists. This is an excellent example of the relationship between enforcement and compliance of a regulation and Adjudicators hope that the responsive approach that Manchester took will provide a strong lead for other councils undertaking bus lane enforcement activities.

BACKGROUND TO THE BUS LANE ADJUDICATION SERVICE

The National Parking Adjudication Service (including Bus Lane Adjudication Service) is an independent tribunal where impartial lawyers consider appeals by motorists and vehicle owners whose vehicles have been issued with Penalty Charge Notices (PCNs) 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).

These are the only grounds on which an Adjudicator can allow an appeal:

- The alleged bus lane contravention did not occur
- The police are already taking action
- The appellant was not the owner of the vehicle at the time the alleged bus lane contravention occurred.
- The appellant is a vehicle hire firm and have supplied the name and address of the hirer.
- The council alleges the appellant was liable because they have hired the vehicle at the time the bus lane contravention occurred, but this was not the case.
- When the bus lane contravention occurred the vehicle was kept by a vehicle trader.
- When the bus lane contravention occurred, the vehicle had been taken without the appellant's consent.
- The penalty charge exceeded the relevant amount.

In any highway authority where decriminalised parking enforcement is in operation, the relevant local authority is given the power to enforce bus lane contraventions.

The bus lane regulations made under the Transport Act 2000 are framed in the same terms as the Road Traffic Act 1991 (RTA), placing a duty on the Bus Lane Adjudication Service (BLASJC) to provide staff and accommodation for the adjudicators, and the agreement is drawn up in those terms.

Since the BLASJC has appointed all the parking adjudicators as bus lane adjudicators, the Chief Adjudicator indicated that it was desirable for the two types of appeals to be integrated into a single shared tribunal, without the need for separate hearing arrangements for bus lane appeals.

For the purposes of efficiency and cost effectiveness the National Parking Adjudication Service Joint Committee and Bus Lane Adjudication Service Joint Committee agreed that the adjudication service should, as far as possible, be provided in an integrated manner for both parking and bus lane appeals. This arrangement has represented an opportunity for cost sharing and the provision of an efficient and cost effective service.

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
Reading Borough Council

The number of councils to take up civil bus lane enforcement powers in 2006 was lower than anticipated and early indications are that the number of councils will remain relatively small initially.

2006 was very much a period of planning and preparation for bus lane adjudication. This included:

- Working with the Department for Transport and councils in preparation for the introduction of civil enforcement of bus lanes. This arrangement came to an end in August 2006 with the first councils commencing enforcement in September 2006.
- Training for Adjudicators, Hearing Centre Supervisors and Staff.
- Developing the IT capacity to receive moving images of bus lane contraventions and making those available to Adjudicators during personal hearings.
- Supporting councils and IT suppliers to facilitate Appeal on Line and the electronic transfer of evidence for appeals.
- Developing Appeals documentation, general information and updating the web site

NPAS requires all councils to supply moving images of bus lane contraventions. Our own experience and that from the London bus lane appeals service has shown that moving images provide more context and hence conclusive evidence, particularly where there are issues relating to left turns. This serves, in many cases, to reduce the need for adjournments. NPAS also asks councils to confirm how they are making the images available to the appellant.

During 2006, 21 cases were handled. Two performance indicators are used to measure how swiftly appeals are being processed between the appeal being received and the Adjudicator's decision being issued. The two indicators are 80% of postal appeals to be decided within 42 days, and 80% of personal appeals to be heard within 56 days. Given the short period between civil bus lane enforcement and the end of the reporting year, no personal hearings took place in 2006 but 3 postal appeals were decided (see table below), all of which were in the target of 42 days.

Table 1 Postal Decisions and Personal Hearing Performance

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

Two indicators give an indication of availability and responsiveness for the service. As an integrated tribunal, no distinction is made between our response to bus lane or parking related telephone calls.

Table 2 Performance in responding to telephone calls

PERIOD	%of phone calls answered within 15 seconds	TARGET
Year 2006	98% (Since October)	90%

NB: These apply to calls both in respect of parking and bus lane appeals.

TABLE 3: Appeal Acknowledgement

PERIOD	% of appeals acknowledged within 2 working days	TARGET
September to December 2006	95% (21 cases)	95%

Details of Appeals Received for All Bus Lane Councils Year 2006

SPA/PPA Area	Appeals Rec'd	PCN's issued	Rate of appeal per PCN	Postal	Personal	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator incl. out of time and withdrawn by appellant	Awaiting decision
Reading Sept 2006	32	9,838	0.33%	6 19%	26 81%	11 34%	12 38%	23 72%	3 9%	6 19%