

PATROL Adjudication Joint Committee

Agenda

Date: Tuesday, 10th July, 2018
Time: 11.00 am
Venue: Bishop Partridge Hall, Church House, Dean's Yard, London SW1P 3NZ

1. **Appointment of Chairman, Vice Chairman and Assistant Vice Chairman**

To appoint a Chairman, Vice Chairman, Assistant Vice Chairman and Assistant Vice Chairman (Wales) until the next meeting of the Joint Committee.

2. **Apologies for Absence**

To receive apologies for absence.

3. **Introduction to New Members**

To welcome new Members to the Joint Committee.

4. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have pre-determined any items on the agenda.

5. **Minutes of the meeting held on 11 July 2017** (Pages 1 - 10)

To approve the minutes of the PATROL Adjudication Joint Committee held on 11 July 2017.

6. **Minutes of the meeting held on 30 January 2018** (Pages 11 - 22)

To note the minutes of the PATROL Adjudication Joint Committee Executive Sub Committee held on 30 January 2018.

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7. **Chairman's Report**

To provide the Joint Committee with a general update since the annual meeting in July 2017.

8. **Chief Adjudicator's Report**

To update members on matters concerning the Traffic Penalty Tribunal since the annual meeting in July 2017.

9. **Report of the PATROL and BLASJC Resources Working Group**
(Pages 23 - 26)

To report on the PATROL and BLASJC Resources Working Group which met on 20 March and 5 June 2018 and to approve future tasks.

10. **Members' Expenses Policy** (Pages 27 - 30)

To approve the proposed policy for meeting Members' travel costs.

11. **Public Affairs Overview** (Pages 31 - 132)

To note the public affairs activities undertaken since the annual meeting in July 2017.

12. **Draft Annual Return 2017/18** (Pages 133 - 188)

To approve the draft annual return and note supporting documentation.

13. **Risk Management and Business Continuity** (Pages 189 - 194)

To note the latest review of the Risk Register.

14. **Review of Governance Documentation** (Pages 195 - 222)

To review governance matters and documentation.

15. **Establishment of Executive Sub Committee** (Pages 223 - 226)

To establish an Executive Sub Committee and appoint members for the period until the annual meeting of the Joint Committee in July 2019.

16. **Terms of Reference for the Resources Working Group and Sub Committee**
(Pages 227 - 228)

To approve the terms of reference for the Resources Working Group and Sub Committee

17. **Appointments to the Advisory Board** (Pages 229 - 234)

To approve appointments to the Advisory Board for the period until the annual meeting of the Joint Committee in July 2019.

18. **Wales Update**

To note the progress of civil enforcement regulations in Wales.

19. **General Progress Report** (Pages 235 - 246)

To provide general information in respect of appeals activity and tribunal initiatives.

20. **PATROL Parking Annual Reports by Councils (PARC) Awards**
(Pages 247 - 250)

To note the shortlist for the 2016/17 awards and arrangements for 2017/18 awards.

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PATROL Adjudication Joint Committee

Minutes of a meeting held on Tuesday, 11th July, 2017 at The Hoare Memorial Hall, Church House, Dean's Yard, London SW1P 3NZ

PRESENT

Stuart Hughes, Devon County Council (in the Chair)

Councillors

Keith Baldry, South Hams District Council
Vanessa Churchman, Isle of Wight Council
Simon Cronin, Worcester City Council
Mathew Dickins, Sevenoaks District Council
Saoirse Horan, Brighton & Hove City Council
Alan Kerr, South Tyneside District Council
Martin King, Wychavon District Council
John Nock, Scarborough Borough Council
Marilyn Peters, Dartford Council
Tony Page, Reading Borough Council
Marje Paling, Gedling Borough Council
Steve Pearce, Bristol City Council
Clio Perraton-Williams, Lincolnshire County Council
Chris Turrell, Bracknell Forest District Council
Gary Waller, Epping Forest District Council

IN ATTENDANCE

Marc Samways, Chair Advisory Board (Hampshire County Council)
Graham Addicott OBE, Vice Chair PATROL Advisory Board
Louise Hutchinson, PATROL
Caroline Sheppard OBE, Traffic Penalty Tribunal
Stephen Knapp, Traffic Penalty Tribunal
Iain Worrall, Traffic Penalty Tribunal
Tom Flanagan, Traffic Penalty Tribunal
Andy Diamond, PATROL
Paul Nicholls, Brighton & Hove City Council
George Broughton, Cheshire East Council

1 APPOINTMENT OF CHAIRMAN, VICE CHAIRMAN AND ASSISTANT VICE CHAIRMAN

Consideration was given to the appointment of the Chairman, Vice-Chairman and Assistant Chairman. Also to the Assistant Chairman (Wales) until the next meeting.

RESOLVED

That Councillor Jamie Macrae (Cheshire East Council) be appointed Chairman Councillor, Stuart Hughes (Devon County Council) be appointed Vice-Chairman, Councillor Terry Douris be appointed Assistant Chairman. The Director reported that the nomination for the role of Assistant Chairman (Wales) will be confirmed at the October meeting following the departure of Councillor Peter Cooper.

2 APOLOGIES FOR ABSENCE

The Director reported that there had been a significant incident on the railways which had resulted in a number of people who were travelling to the meeting being forced to turn back. Apologies for absence were reported as follows:

Bolton, Barnsley, Bury, Cheshire East, Chichester, Coventry, Ceredigion, Chelmsford, Dacorum, Darlington, East Herts, Eden Exeter, Guildford, Hambleton, Hampshire, Hertfordshire, Maldon, New Forest, North East Derbyshire, North Tyneside, Nottingham, Oldham, Rutland, Somerset, Swansea, Suffolk, Swale, Tameside, Walsall, Weymouth, Wirral, York

3 DECLARATION OF INTEREST

There were no declarations of interest.

4 MINUTES OF THE MEETING HELD ON 12 JULY 2016

RESOLVED

That the minutes of the meeting held on 12 July 2016 be approved as a correct record.

5 MINUTES OF THE MEETING HELD ON 31 JANUARY 2017

RESOLVED

That the minutes of the Executive Sub Committee meeting held on 31 January 2017 be noted.

6 CHAIRMAN'S UPDATE

Councillor Hughes welcomed councillors and officers who had not attended previously and reported:

- a) Since the last meeting there have been two new parking councils: North Somerset Council and South Bucks District Council bringing the total number of parking councils across England and Wales to 309.
- b) When the Joint Committee met in July last year, the forecast for rolling out the online case management FOAM (Fast Online Appeal Management) to all local authorities was by March 2017. I am pleased to say that this target was achieved and we will be hearing more about the roll out, benefits of and continuing development of FOAM later in the meeting.
- c) After being used as a case study in the JUSTICE report "What is a Court?", FOAM and the new ways of working of the Traffic Penalty Tribunal have been of interest to the judiciary as it seeks to transform HM Courts and Tribunals Service with a large number of visits organised to the tribunal's offices in Wilmslow.
- d) In addition, a number of awards have been gained including the North of England Transport Awards (Excellence in Technology) Awards, the British Parking Award's Intelligent Parking Award and being shortlisted for the Exceptional Customer Service Award.
- e) The PATROL Annual report initiative and House of Commons reception goes from strength to strength and we will hear about this later in the meeting.
- f) PATROL comprises local authorities in England (outside London) and Wales. I would like on behalf of the Joint Committee to pass on our best wishes to Peter Cooper of Carmarthenshire County Council and Geraint Owens of the City and County of Swansea Dibbs who have served for many years and provided an update on Welsh matters but whose nominations have come to an end. A new Assistant Chair Wales will be appointed in consultation with Members in Wales.
- g) In addition to being awarded the Lifetime Achievement Awards at the British Parking Awards, I would like to take this opportunity to congratulate Caroline Sheppard on being recognised with an OBE in the Queen's Birthday Honours List for services to motorists – I am sure you would like to join me in saying this is truly well deserved.
- h) A question was raised about the use of the old and new one pound coins in pay and display machines. There were no issues to report at the current time.

7 REPORT OF THE PATROL AND BLASJC RESOURCES WORKING GROUP

Consideration was given to a report of the Resources Working Group and Sub-Committee meetings held on 21 March and 6 June 2017 respectively. The report gave a resume of their discussions and of actions agreed at that time.

An update was given on progress since then and it was proposed that the Resources Working Group and Sub-Committee continue to oversee matters as appropriate, and report back to the Executive Sub-Committee and to the Annual meeting in July 2018.

Attention was drawn to the Terms of Reference of the Working Group and Sub-Committee which had been reviewed.

RESOLVED

1. That the revised Terms of Reference for the Resources Working Group and Sub Committee be approved.
2. That the matters taken forward by the Resources Working Group and Sub-Committee at its meetings on 21 March and 6 June 2017 be noted.
3. That approval be given for the Resources Working Group and Sub-Committee to oversee matters highlighted in the report, and any previously approved, reports on which to be made to the Executive Sub-Committee and the Joint Committee in July 2018.

8 DRAFT ANNUAL REPORT RETURN 2016/17

Consideration was given to the draft annual return. Whilst the requirement to publish externally audited accounts had been removed the decision had been taken to continue to do so for the purposes of transparency. The report detailed the outturn position against the 2016/17 budget along with expenditure, income and reserves. It also included a copy of the Code of Corporate Governance.

It was reported that at the meeting of the Resources Working Group and Sub-Committee consideration had been given to the basis for defraying expenses and it had been agreed that this be considered by the Executive Sub Committee at its meeting in October when the six-month income and expenditure figures would be known.

A question was raised about the possibility of setting a cap on the level of reserves. The Director will present a report at the October meeting.

The Director was asked to review the procedure for reporting credit card expenditure.

A question was raised about staff numbers and the impact of operating three systems. The Director reported that the anticipation was that a single system would be operated by the end of the calendar year and it was not anticipated at

this stage that the required staffing resources would result in a deficit. The Chief Adjudicator stated that the new online appeal system had resulted in efficiencies allowing increased focus on customer service.

A question was raised about the internal audit report finding in relation to bank reconciliations. The Director referred Members to the internal audit report which outlined resource issues at the beginning of the financial year. A mid-year interim audit has been commissioned to provide additional assurance, the findings of which will be reported to the January 2018 meeting of the Executive Sub Committee.

With regard to the internal audit report, a question was raised about the value of the gift highlighted in the findings. The Director confirmed that the value was £39 and that the approval procedure had been followed.

The Director reported that it was anticipated that the external report would be available for review at the October 2017 meeting.

RESOLVED

1. That the outturn position against the 2016/17 budget be noted.
2. That approval be given for the surplus of income over expenditure of £409,250 (excluding £16,121 Road User Charging Reserves) to be added to the joint Committee's reserves.
3. That the Executive Committee review the basis for defraying expenses following budget monitoring at the half-year point at their meeting in October 2017. The accompanying report will also present options in respect of a potential cap on reserves.
4. That approval be given to the 2016/17 Annual Return and that the balance sheet and cash flow and audit timetable be noted.
5. That the Annual Internal Audit Report 2016/17 be noted.
6. That approval be given to the Code of Corporate Governance.

9 RISK MANAGEMENT STRATEGY, RISK REGISTER AND BUSINESS CONTINUITY STRATEGY

Members considered the updated risk register and were asked to consider delegating the approval of revised Risk Management and Continuity Strategies to the Executive Sub-Committee; the Joint Committee was required to review these on an annual basis and also to review the updated risk register at each meeting. The Director drew the Joint Committee's attention to work being undertaken in preparation for the introduction of the General Data Protection Regulations in 2018.

RESOLVED

1. That the updated risk register, shown at Appendix 1 of the report, be noted.
2. That approval of the revised Risk Management Strategy be delegated to the Executive Sub-Committee.

10 REVIEW OF GOVERNANCE DOCUMENTATION

Consideration was given to the governance documentation and arrangements for its review. Members were advised that since 2014 an annual review had been carried out of the Joint Agreement but this year it was proposed that this be a more fundamental review to facilitate the widening jurisdictions requiring adjudication. A tabled paper reported on the need to provide the Joint Committee with greater flexibility to respond to a variety of appeals opportunities, provision of support and digital services. The Chief Adjudicator stated that adjudicators were supportive of this proposal.

Consideration was also given to copy of the SLA between the Joint Committee and the lead authority, Cheshire East Council, and it was noted that this was in the process of review prior to its anticipated lease renewal in February 2018. Clarification will be sought as to the nature of an SLA which is classed as “non-binding”.

The Schemes of Delegation to the Chief Adjudicator and to the Director, which were both unchanged, were attached. It was reported that the Memorandum of Understanding between the Adjudicators and the Joint Committee had been updated to include for road user charging at the Mersey Gateway due to come on line in the early autumn.

A question was raised about adjudicator recruitment. The Chief Adjudicator outlined the last process in 2014 which had been carried out in close association with the Judicial Appointments Commission (JAC). The process had included a digital assessment process where the results were anonymised prior to the selection of 54 candidates for interview. The interview panel had been chaired by a representative of the JAC with lay representation from Professor John Raine of the University of Birmingham. The Deputy Chief Adjudicator, Stephen Knapp, had coordinated the recruitment process and sat on the panel.

RESOLVED

1. That the intention to review the PATROL Adjudication Joint Committee Agreement of 2014 be noted and considered further at a future meeting.
2. That it be noted that the Service Level Agreement between the Joint Committee and the Host/Lead Authority is currently under review in anticipation of the renewing the lease premises in Wilmslow in 2018, and it be agreed that this be taken forward by the Resources Working Group and Sub-Committee.
3. That the Schemes of Delegation to the Chief Adjudicator and to the Director be noted.

4. That approval be given to the Memorandum of Understanding between the Adjudicators and the Joint Committee.
5. That the Chief Adjudicator be requested to appoint to the proper officer function.
6. That approval be given to the Financial Regulations.
7. That the proposed dates for the following meetings be noted: -
 - Executive Sub-Committee – 31 October 2017 and 30 January 2018
 - Annual General Meeting – 10 July 2018

11 ESTABLISHMENT OF EXECUTIVE SUB COMMITTEE

1. Arrangements for establishing an Executive Sub-Committee, and its Terms of Reference for the coming year, were considered. As the number of Councils joining the Sub-Committee increased this would avoid the need for large numbers of members having to attend all the meetings. PATROLAJC Standing Orders enabled the Joint Committee to appoint such sub-Committees as it saw fit. The Chair invited all new representatives to put themselves forward.

RESOLVED

2. That the Joint Committee establishes an Executive Sub-Committee to act on behalf of the Committee until the Annual Meeting in 2017 and that it appoints members of the Executive Sub-Committee for the forthcoming year. That the proposal to hold the first meeting of the Executive Sub-Committee in London on 31 October 2017 be noted.

12 APPOINTMENTS TO THE ADVISORY BOARD

Consideration was given to the Terms of Reference for the Advisory Board and to appointments for 2017/18.

RESOLVED

1. That approval be given to the Terms of Reference and composition of the Advisory Board, as set out in the appendix to the report.
2. It be noted that Marc Samways of Hampshire County Council had been elected Chair of the Advisory Board.
3. That thanks be extended to the outgoing Chair, Kathryn Eldridge, formerly of Bath and North East Somerset Council, and that she be wished every success in her new position with the Highways England.

4. That the re-nomination of the independent member Graham Addicott OBE for a further period of 4 years, to July 2021, be noted.
5. That approval be given to the nomination of Michael Clarke of Stoke City Council to take up the role as bus lane representative on the Advisory Board.f

13 WALES UPDATE

The Director reported that a replacement Assistant Chair (Wales) was currently being sought and an update would be provided to the next meeting in October.

RESOLVED

That the report be noted and the thanks of the Joint Committee be extended to Ex Councillors Peter Cooper, previously the Assistant Chair Wales, and Geraint Owens for their involvement over a number of years.

14 GENERAL PROGRESS REPORT

An update was given on appeals activity and tribunal initiatives. The figures were presented in a new format which it was proposed would be used as the basis for future reporting; the figures had been separated into English and Welsh Authorities and Road User Charging at Dartford, as well as showing them combined. Information was provided on the frequency of hearings, case closure times and support provided for off-line appellants. The Chief Adjudicator and Director gave a presentation was also given on the continuing development of FOAM over the last year. Members asked that the presentation be circulated.

A question was raised about the availability of appeals figures at a local level. The Director reported that these figure are reported annually. A further question was raised about Dart Charge. The Chief Adjudicator summarised some of the issues arising from these road user charging appeals.

RESOLVED

That the report be noted.

15 CHIEF ADJUDICATOR'S UPDATE

The Chief Adjudicator updated Members on the recent forum for adjudicators from appeals services in Scotland, Northern Ireland and London that she had convened in Wilmslow. The forum had discussed subjects of common interest including signs; cameras and data protection with a view to promoting consistency. There had also been representation from the private appeal scheme, Popla. The forum had been well received and provides a foundation for future collaboration on matters of mutual interest.

A question was raised on ANPR (Automatic Number Plate Recognition). The Chief Adjudicator responded by whilst this is used at the Dartford

Thurrock River Crossing, there appeared to be no political appetite to extend its use in local authority car parks.

16 ROAD USER CHARGING SCHEME - MERSEYFLOW

Consideration was given to a report on the forthcoming enforcement and adjudication services due to arise from the introduction of Road User Charging at the Mersey Gateway and Jubilee Bridges between Runcorn and Widnes, known as Merseyflow.

As Halton Borough Council was not a member of the PATROL Joint Committee the provision of these services would be underpinned by a Memorandum of Understanding; this would set out the operating arrangements, development costs, and ongoing charges.

RESOLVED

That the update on the introduction of appeals and adjudication for Merseyflow, in autumn 2017, be noted.

17 CLEAN AIR ZONES

Consideration was given to the Draft Air Quality Plan, and to the proposed response to the Government Consultation on Tackling Nitrogen Dioxide in our Towns and Cities.

Members were advised that PATROL would be working with Authorities involved with clean air zones to share common issues such as public information and signage should charging clean air zones be introduced. Appeals arising from charging clean air zones would be considered by TPT in FOAM. The Government was expected to publish a summary of responses by 31 July 2017.

RESOLVED

That the Draft Air Quality Plan, and the response by PATROL to the Governments consultation on Tacking Nitrogen Dioxide in our Towns and Cities, be noted.

18 DRAFT LITTERING STRATEGY FOR ENGLAND 2017

A report giving a summary of this was considered and Members were asked to note the strategy and PATROL's response. The Litter Strategy for England 2017 suggested that enforcement was necessary to change behaviour, as well as education and awareness; it was proposed that littering from vehicles would move to civil jurisdiction but littering by pedestrians would remain under the court system. Experience in London suggested this would be a low level area of enforcement.

RESOLVED

1. That the Litter Strategy for England 2017 be noted

2. That PATROL's response to the Review of Fixed Penalties for Environmental Officers and the Introduction of Civil Penalties for Littering from Vehicles Outside London be noted.

19 PATROL PARKING ANNUAL REPORT BY COUNCILS (PARC) AWARDS

An update was given on the annual awards due to be presented later that afternoon at a reception at the House of Commons. The Councils shortlisted for the Parking Annual Reports Awards were:

Ashford Borough Council
Brighton and Hove City Council
Chichester District Council
Devon County Council
Durham County council
Mid Sussex District Council
South Lakeland District Council
South Tyneside
Worcester City Council

Awards for Best Overall Report and for Best Concise Report would be given, and also for best practice regarding innovation and new service, customer service, and presentation of finance and statistics.

it was proposed that a new award be introduced for the next year to recognise authorities who have harnessed the power of digital formats for annual reporting and engaging with the community. The deadline for submissions for 2016/17 would be 31 January 2018 with the shortlist being announced in May.

RESOLVED

1. That the shortlisted Councils be noted.
2. Those arrangements for 2016/17 reports and the introduction of new awards, be noted.

20 PATROL WEBSITE

A preview was shown to members of the new website and improvements to make it more user friendly. It was suggested that the use of the word "ticket" rather than PCN was preferable.

Minutes of a meeting of the **PATROL Adjudication Joint Committee**
held on Tuesday, 30th January, 2018 at Bishop Partridge Hall, Church House,
Dean's Yard, Westminster, London SW1P 3NZ

PRESENT

Councillor Jamie Macrae (Cheshire East Council) in the Chair

Councillors

Councillor Graham Burgess - Hampshire County Council
Councillor Vanessa Churchman - IOW Council
Councillor Simon Cronin - Worcester City Council
Councillor Matthew Dickins - Sevenoaks District Council
Councillor Terry Douris - Dacorum Borough Council
Councillor John James - Carmarthenshire County Council
Councillor Stuart Hughes Devon County Council
Councillor Alan Kerr - South Tyneside Council
Councillor Martin King - Wychavon District Council
Councillor Nigel Knapton -Hambleton District Council
Councillor Sally Longford - Nottingham City Council
Councillor Tony Page - Reading Borough Council
Councillor Marje Paling - Gedling Borough Council
Councillor Steve Pearce - Bristol City Council
Councillor Chris Turrell - Bracknell Forest Council
Councillor Stuart Whittingham - Wirral Metropolitan Borough Council

Officers in attendance

Louise Hutchinson – Director PATROL
Caroline Sheppard – Chief Adjudicator
Andy Diamond – PATROL
Erica Maslen - PATROL
Julie North – Cheshire East Council

36 APOLOGIES FOR ABSENCE

Apologies for Absence were received from: -

Councillor Keith Anderson, Wigan
Councillor Derek Burrows, Bolton
Councillor Ralph Sangster, Hertfordshire
Councillor Deb Holden, Eden
Councillor Pat Coleman Dartford
Councillor Marilyn Peters, Dartford
Councillor Richard Bell, Sunderland
Councillor Sally Longford, Nottingham
Councillor Joe Hale, City and County of Swansea

37 DECLARATIONS OF INTEREST

There were no declarations of interest.

38 MINUTES OF THE MEETING HELD ON 31 OCTOBER 2017

RESOLVED

That minutes of the Meeting held on 31 October 2017 be approved as a correct record.

39 CHAIR'S UPDATE

The Chair of the Committee: -

1. Reported that PATROL had been delighted to welcome Esther McVey, the MP for Tatton to its offices in Wilmslow. Esther had been very interested in the accessibility of the online system, FOAM, and the efficiencies that it brought for all users. Esther had kindly offered to sponsor the House of Common Reception on the 10th July, however, due to her changing role, efforts were being made to seek transfer of the sponsorship to another MP.
2. Thanked all those members who had raised, with their parliamentary contacts, the subject of Sir Greg Knight's Private Members' Bill for a single code of practice for the private sector parking appeals services. This was extremely helpful, with the second reading of the bill scheduled for 2nd February.
3. Stated that, at the last meeting it had been reported that PATROL and TPT had been approached to be Event Partners for the 2017 Parking World Event. Copies of Parking Review's coverage of the event had been circulated at today's meeting. Feedback from the event had been positive and PATROL had been approached to work on the 2018 event.
4. Reported that the development and roll out of FOAM to 300 plus authorities had been cited as a Digital Collaboration Exemplar by Digital by Default News and copies of the piece have also been tabled at today's meeting.
5. Reported that the Traffic Penalty Tribunal had also been cited as a case study in digital transformation by JUSTICE, which promoted access to justice, human rights and the rule of law through research, education and interventions in the courts. The Traffic Penalty Tribunal was also demonstrating its foresight in its approach to helping appellants who were not online (assisted digital support). The Chief Adjudicator had been asked to join a JUSTICE working party which would focus on assisting users with the coming digital revolution in the justice system. This project would look in

particular at the opportunities and pitfalls of digitalisation and doing justice online and virtually.

6. Reported that the Chief Adjudicator, Caroline Sheppard, had attended Buckingham Palace on 12th December for her investiture, having been awarded an OBE for Services to Motorists. This award recognised her continuing determination to improve the accessibility of the tribunal for motorists, recognising that for most people this would be the first time that they come into contact with a judicial process. The Chair congratulated Caroline on behalf of the Committee.
7. Was sorry to report that one of the members of the Committee, Councillor Gary Waller, had passed away. Councillor Waller, who had represented Epping Forest District Council, had regularly attended meetings over many years. A letter of condolence had been sent to the council.

40 WALES UPDATE

The Director of PATROL reported that the Assistant Chair Wales, Councillor Joe Hale, was unable to attend the meeting, however, Councillor John James from Carmarthenshire County Council was in attendance. A copy of the Wales update had been circulated in advance of the meeting and copies were also available at the meeting.

It was reported that, unlike England, Wales had introduced the remaining powers under Part 6 of the Traffic Management Act 2004. This meant that local authorities in Wales enforced both parking and bus lanes under the Traffic Management Act, whereas in England the latter was enforced under the Transport Act 2000, which gave rise for the need for two Joint Committees. In Wales, Cardiff County Council and City and the County of Swansea Council currently undertook civil bus lane enforcement.

The remaining powers under Part 6 of the Traffic Management Act 2004 also allowed for the enforcement of moving traffic contraventions which included

- Banned right or left turns
- Yellow box junctions
- No entry
- Vehicle prohibitions

It was reported that Cardiff County Council was the only local authority currently enforcing moving traffic contraventions. The City and County of Swansea had consulted on the introduction of moving traffic enforcement. Carmarthenshire County Council were presently consulting on the introduction of moving traffic enforcement. Both authorities intended to submit their applications to the Welsh Government's Orders Branch, seeking the necessary powers to enforce moving traffic contraventions by mid 2018.

A question was asked as to when moving traffic contraventions might be introduced in England. The Director responded to say that there was no evidence of the government having the appetite to produce powers at the moment, but that parking authorities were being consulted to establish and provide evidence as to whether there was a need to produce the powers.

Cllr Page made reference to what he considered to be a lack of awareness of the lobbying activity undertaken on behalf of PATROL and also suggested that it might be appropriate to provide an update to make new Members aware of what PATROL had done over the past few years.

RESOLVED

That the report be noted

41 PATROL AND BLASJC RESOURCES WORKING GROUP AND SUB COMMITTEE

Consideration was given to a report on the PATROL and BLASJC Resources Working Group meeting held 9th January 2018.

The July 2017 meetings of the Joint Committees had resolved that the Resources Sub Committee and Working Group would oversee a number of initiatives with resource and public affairs implications, on their behalf. The last meeting had taken place on 9 January 2018, where a number of items had been considered, including Mersey Gateway Bridge Crossings; new areas of adjudication for the Traffic Penalty Tribunal, including Clean Air Zones and littering from vehicles; Public Affairs; FOAM (Fast Online Appeals Management); finance matters; and governance.

It was noted that the Director had reported that, following feedback at the October 2017 meeting, the Scheme of Delegation wording would be reviewed to make it clearer. Details of the proposed changes in relation to operation of the Joint Committee's General Ledger for the purposes of the Scheme of Financial Delegation were set out in paragraph 7.2(e) of the report.

In presenting the report, the Director made reference to paragraph c(iv), which related to the response to the section on unauthorised pavement parking in the Department for Transport's Draft Transport Accessibility Action Plan. The government intended to issue a consultation on the traffic regulation order making process and PATROL would draw this to the attention of member authorities, as well as preparing its own response. The Director reported that a meeting was scheduled to take place in the following month with the Department for Transport, so it was not likely that the response would be prepared before then, however, officers and Members would be kept informed in respect of the consultation.

RESOLVED

1. That the matters discussed at the meeting held 9th January 2018 be noted.
2. That the Resources Sub Committee and Working Group oversee matters highlighted in the report and report back to the next meeting of the Executive Sub Committees.
3. That the additional note at 7.2 (e) in relation to operation of the Joint Committee's General Ledger for the purposes of the Scheme of Financial Delegation as recommended for approval in October 2017, be approved.

42 INTERNAL AUDIT INTERIM REPORT

Consideration was given to a report presenting the Internal Audit Report in relation to their audit visit in December 2017, to undertake a review of actions raised in their report of the audit for the year 2016/17.

In May 2017, Internal Audit had carried out the annual audit for 2016/17 and had subsequently issued a report detailing the findings, recommended actions and the assurance opinion. The opinion awarded had been "Limited Assurance", due to a significant number of the actions raised relating to non-compliance with established controls in its processes and procedures. The report had also referred to resource issues, following a series of staffing changes. It was reported that the finance team was now fully staffed. As a result of the "Limited Assurance" opinion being given, it had been agreed by the Director of PATROL and Internal Audit that a follow-up review of the actions raised would be carried out later in 2017, to provide assurance to the Joint Committee that the identified weaknesses had been addressed. The follow up review had taken place at PATROL on 14th December 2017. The Internal Audit report, which was appended to the covering report on the agenda, had concluded that the actions arising from the PATROL 2016/17 audit had been successfully implemented and pointed to the need to ensure that controls were consistently applied throughout the remainder of 2017/18.

RESOLVED

That the findings of Internal Audit Report in respect of their follow-up review, as set out in Appendix 1 of the report, be noted.

43 BUDGET MONITORING 2017/18

The Chair introduced the report presenting the income, expenditure and reserves monitoring information for the year to 30th November 2017.

The Tribunal was operated on a self-financing basis with income obtained from defraying expenses amongst the Joint Committee member authorities. The revenue budget estimate was established by the Joint Committee for 2017/18, on the basis that this would reflect the councils who were already members of the Joint Committee. The Joint Committee forecasting model took account of recent income trends (i.e. within the last

12 months). Additional income was derived from a recharge to the Bus Lane Adjudication Service Joint Committee and the provision of adjudication for appeals arising from road user charging enforcement at the Dartford-Thurrock River Crossing, where the Charging Authority was Highways England. Additional income arose from adjudication for the Mersey Gateway Crossing, the Charging Authority being Halton Borough Council, who were not members of the Joint Committee. The Joint Committee's income was derived from a pre-estimate of the number of penalty charge notices (PCNs) each council and Charging Authority would issue. Corrections were applied at the 6-month and 12-month points, once the actual number of PCNs issued was known.

It was reported that if there was a need for greater expenditure than that provided for in the approved budget, then there was a recommendation to authorise the Director to incur additional expenditure, provided such expenditure did not exceed the income for the current year. Should it be the case that the revenue account fell into deficit, then the surplus from previous years would be available. Should there be greater income than expenditure in the year, then there was a recommendation that this be transferred into the succeeding year as reserves.

The detailed monitoring position was shown on page 41 of the agenda. Eight months into the financial year, the overall surplus was £349,259. Of this, £196,676 was ring-fenced to Highways England and £25,487 to Halton Borough Council. The PATROL surplus at 30th November 2017 was £127,096. The total Reserves were forecast to be £3,278,370 at 31st March 2018, of which Free Reserves were forecast to be £1,398,825.

In considering the report Members considered that it would be useful to understand the movement in penalty and appeal volumes.

RESOLVED

That the income and expenditure and reserves at 30th November 2017 be noted.

44 SERVICE LEVEL AGREEMENT BETWEEN THE JOINT COMMITTEES AND CHESHIRE EAST COUNCIL

Consideration was given to a report, which had been circulated in advance of the meeting, presenting the five-year Service Level Agreement (SLA) with Cheshire East Council (CEC), the host authority, which represented the second five-year term of the host authority appointment.

It was recommended that the new SLA be approved and that CEC be reimbursed for its services and requested to enter into a five-year lease for the Wilmslow premises. Details of the lease were set out in the report relating to the Revenue Budget for 2018/19, at item 10 of the agenda.

A number of minor changes had been made to the SLA:

- a) Section 1 – the definition of Head of Service referenced the role of Director
- b) 5.1 referenced the formal delegations to the Director
- c) 6.3 made provision for a review of the SLA on an annual basis by 31st December.

A review of services had been undertaken in relation to Schedule 2 to the SLA for 2018/19. Details of the proposed charges for 2018/19 compared to 2017/18 were set out in the report.

During consideration of the report, clarification was sought in respect of the additional payments for HR support, listed as “TBC” in Schedule 2 of the SLA and it was queried whether there was an inconsistency, or whether this was to be charged as and when required. The Director responded to say that there would be additional payments as required and undertook to clarify this in the SLA document

RESOLVED

That, subject to the above clarification within the document, the new SLA be approved; CEC be reimbursed for its services and requested to enter into a five-year lease for the Wilmslow premises, (Details of the lease are set out at Item 10 of the agenda - Revenue Budget for 2018/19).

45 REVENUE BUDGET FOR 2018/19

Consideration was given to a report requesting the Committee to adopt the revenue budget estimates for 2018/19.

In accordance with the Joint Committee’s agreement, it was necessary to establish a budget estimate for the forthcoming year. An assessment had been made of the likely service take up during 2018/19 and therefore, the Adjudicators, administrative support and accommodation needed. The adjudication service was operated on a self-financing basis with income obtained from contributions by PATROL member authorities.

A Table providing an income summary from 2010/11 to 2017/18 was included in the report.

The Joint Committee had determined that member authorities would defray the expenses of the Joint Committee by way of a contribution, based on the number of penalty charge notices they issued.

An assessment had been made of the revenue budget that would be needed to meet the demands on the service during 2018/19. Appeals activity for the first eight months of 2017/18 had indicated that there had been an overall decrease in appeals across all appeal streams of 24.3%. The Director reported that, in preparing the budget for 2018/19, account had been taken of a number of objectives, details of which were set out at

para 8.3 of the report. A summary of anticipated expenditure in 2018/19 was also provided.

A 1% inflationary increase had been assumed for salary. The Director reported that she had received an e-mail update in respect of a potential 2% increase. The Trade Unions were in the process of consulting on this, so there may be a variation in the figure, however, it was likely that this could be accommodated without changing the budget.

RESOLVED

That the revenue budget for 2018/19, as detailed in the report, be agreed and adopted.

46 RESERVES POLICY STATEMENT

Consideration was given to a report enabling the Committee to review the Reserves Policy Statement for 2018/19, in order to comply with Financial Regulations.

The Director referred to para 7.3 of the report, noting that the General Reserve aimed to mitigate the risk and to provide a buffer. It was recommended that the General Reserve for 2018/19 be £1,364,142.

It was recommended that the Property Reserve for 2018/19 be £296,57. This compared with £221,340 in 2017/18.

The Joint Committee had made provision for a technology reserve of £350,000 for 2018/19, of which it was anticipated that £194,169 would be utilised by the end of the financial year, as FOAM continued to be refined.

For 2018/19 it was recommended that a reserve of £250,000 be retained to support the final elements of the roll out and enhancements of the new portal.

It was recommended that the total approved reserve level for 2018/19 be £1,910,717.

In considering the report, members of the Committee raised a number of questions and comments. It was noted that the Reserves Policy Statement was reviewed by the Joint Committee at least once a year.

RESOLVED

1. That the Reserves Policy Statement for 2018/19 and the total approved reserve level for 2018/19 of £1,910,717 be approved, noting that the equivalent figure for the previous year was £1,879,545.
2. That the balances of any surplus from 2017/18 being carried forward to 2018/19 be approved.

3. That the drawing down of the Technology Reserve to the Director to the value of £250,000, as required during 2018/19, be approved, on the basis that this expenditure will be reported to the Joint Committee's Resources Working Group and Sub Committee.
4. That the delegation of authority to the Chair and the Vice Chair for authorising the withdrawal of funds from general reserves to meet budgetary deficits be approved.

47 ANNUAL INVESTMENT STRATEGY

Consideration was given to a report on investments during 2017/18, requesting the Joint Committee to approve the annual investment strategy for 2018/19.

In considering the report, a member of the Committee asked whether there were any benchmarks that Cheshire East Council had to work to. The Director responded to say that the Council was asked what rates it got and that she would be happy to look at some kind of KPI for discussion at the next meeting.

RESOLVED

That the Annual Investment Strategy 2018/19 be approved.

48 DEFRAYING THE EXPENSES OF THE JOINT COMMITTEE 2018/19

Consideration was given to a report to establish the basis for defraying expenses during 2018/19, in order to comply with Financial Regulations.

The Joint Committee provided the means to appeal to an independent adjudicator in respect of civil traffic enforcement in England (outside London) and Wales and road user charging. The PATROL agreement provided for the adjudication service to be operated on a self-financing basis with expenses defrayed by member authorities. Where authorities were working in partnership, it was practice to charge those enforcement authorities who managed the enforcement income stream. Table 1 of the report provided an overview of the Joint Committee's basis for defraying expenses since inception.

The Chairman referred to page 58 of the agenda, noting that the charges had continued to decrease, particularly since 2014/15 and stated that this reflected the efficiencies achieved, particularly since the introduction of FOAM. The per PCN charge had halved since the inception of the Joint Committee and the annual and per case charges withdrawn. This reduction was a result of economies of scale and efficiencies.

It was recommended that for 2018/19, the Joint Committee maintain the rate of 35 pence per PCN, agreed at its meeting in October 2017 and backdated to 1st April 2017. This had been reviewed at the October 2018

meeting, in the light of actual income and expenditure information for the first half of the year being available.

RESOLVED

1. That it is agreed that for 2018/19, the Joint Committee maintain the rate of 35 pence per PCN, agreed at its meeting in October 2017 and backdated to 1st April 2017, this to be reviewed at the October 2018 meeting in the light of actual income and expenditure information for the first half of the year being available.
2. That it is agreed that there will be no annual charge, nor cost per case.
3. That it is agreed that Invoicing will be undertaken on a quarterly basis on estimated figures and subsequently adjusted.
4. That it be noted that the decision to provide a transcription from the audio recording of proceedings rests with the Adjudicator. Where this has been agreed to, the Joint Committee agree that the incidental costs of making a transcription from the audio recordings of the proceedings at a hearing be charged to the requesting party except when, in the view of the Adjudicator, a disability of the requesting party would make it desirable for that person to receive such a transcript.

49 RISK MANAGEMENT REPORT

Consideration was given to a report presenting a Risk Management Framework for approval.

The Risk Management Framework report, which was appended at Appendix 1, provided a summary of the most significant threats facing the Joint Committees which may prevent or assist with the achievement of its objectives.

The Director reported that PATROL had worked in collaboration with Cheshire East Council in reviewing the approach to managing and reporting risks and feedback from officers and members and was grateful to them and also the Member for Wirral Borough Council

RESOLVED

That the Risk Management Framework, as set out at Appendix 1 of the report, be approved and the current assessment of risk be noted.

50 CHIEF ADJUDICATOR'S UPDATE

The Chief Adjudicator reported that, with regard to witness statements, under the regulations witness statements had to be referred to PATROL and needed to be dealt with quickly. A new system had been created in FOAM to deal with this and authorities were now engaging in this referral system.

Reported that, in limited circumstances, the regulations allowed for appellants to apply for a review and this was now being brought in to the FOAM system.

Reported that the Stakeholder Manager continued to hold workshops for local authorities and had received good feedback.

Referred to the Parking (Code of Practice) Private Members' Bill, sponsored by Sir Greg MP, Knight, MP and stated that she appreciated that operation of private car parks was also a matter of concern for local authorities and it was, therefore, important that PATROL was involved.

Referred to the case study in digital transformation, as mentioned by the Chair in his announcements earlier in the meeting. As mentioned, she sat on the JUSTICE Working Group and reported that Traffic Penalty Tribunal was the only organisation that was monitoring this issue, which was being done through the case study.

51 GENERAL PROGRESS REPORT

Consideration was given to a report providing a summary of the Traffic Penalty Tribunal appeals activity for the eight-month period to 30 November 2017 and to inform the Joint Committees of appeals activity and tribunal initiatives.

Appendix 1 of the report provided an overview of appeals activity for the eight-month period to 30 November 2017.

A summary of tribunal initiatives was set out in the report including: -

- The tribunal roll out the FOAM system over 300 member authorities during the 12-month period to 31st March 2017.
- Additional functionality had been developed to manage the witness statement process which, following a pilot with pathfinder authorities, had now been rolled out across all authorities.
- The tribunal's Assisted Digital Strategy would be enhanced by new functionality to bring "offline" appellants "online", should they wish to transfer following the start of their appeal.
- The next module to be released was the Application for Review procedure. This was the process where either party may apply for a review of an adjudicator's decision in accordance with the regulations and on a limited number of grounds.
- Following the success of the eight local authority user group, workshops had been held across England and Wales in September, repeat workshops were being held in January to accommodate additional attendees. A new series of workshops was planned over the coming months.

RESOLVED

1. That the eight-month summary of appeals be noted.
2. That the progress on other tribunal initiatives be noted.

52 DATE OF NEXT MEETINGS

It was reported that future meetings would take place as follows: -

10 July 2018 Church House, Westminster followed by PARC
(Parking Annual Reports by Councils) Awards at the
House of Commons

30 October 2018 Church House, Westminster

The meeting commenced at 11am and concluded at 12.35pm

PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Date of Meeting:	10 th July 2018
Report of:	The Director on behalf of the PATROL and BLASJC Resources Working Group.
Subject/Title:	Report of the PATROL and BLASJC Resources Working Group meeting held 20 th March and 5 th June 2018.

1.0 Report Summary

- 1.1 To report on the PATROL and BLASJC Resources Working Group meeting held 20th March and 5th June 2018.

2.0 Recommendations

- 2.1 To note the matters discussed at the meeting held on 20th March and 5th June 2018.
- 2.2 To approve the Resources Sub Committee and Working Group overseeing matters highlighted in the report and reporting back to the next meeting of the Executive Sub Committees.

3.0 Reasons for Recommendations

- 3.1 To update the Joint Committees' Executive Sub Committees

4.0 Financial Implications

- 4.1 The Resources Working Group considered financial issues reported to this meeting.

5.0 Legal Implications

- 5.1 None

6.0 Risk Management

- 6.1 The Resources Working Group considered the risk management report presented to this meeting.

7.0 Background and Options

- 7.1 The July 2017 meetings of the Joint Committees resolved that the Resources Sub Committee and Working Group would oversee a number of initiatives with resources implications on its behalf.

7.2 The last meeting took place on 5th June January 2018, was chaired by Councillor Macrae and considered the following items

- a) The annual review of the terms of reference for the PATROL and BLASJC Resources Working Group and Sub Committee which is presented elsewhere on this agenda.
- b) Received a Public Affairs Update and resolved that a report be presented to the annual meeting of the Joint Committees. This is reported under separate cover.
- c) The reporting of statistics for 2017/18.
- d) The roll out of a copy of FOAM the Scottish Parking and Traffic Appeals Tribunal. The Traffic Penalty Tribunal has assisted with the roll out to 17 local authorities and training for their staff, the adjudicators and the Scottish tribunal administration team. FOAM has been adjusted to meet the Scottish regulations. PATROL expenditure in this respect will be reimbursed.
- e) An update on the General Data Protection Regulation 2016 and Data Protection Act 2018.
- f) The introduction of littering from vehicles regulations (reported elsewhere). Appeals against civil penalty notices in this respect will be heard by the adjudicators of the Traffic Penalty Tribunal
- g) The current planning status of clean air zones in the various local authorities identified as having exceedances in nitrogen dioxide.
- h) Draft agendas, financial and governance reports for the Joint Committee meetings.
- i) Procurement falling outside the Joint Committee's financial regulations
- j). Plans for the forthcoming House of Commons reception on 10th July 2018.
- k) The summer programme of local authority workshops
- l) Recent presentations given to external bodies.

8. Recommendation

8.1 It is proposed that the Resources Working Group and Sub Committee oversee the above matters and those set out in the Public Affairs Update (reported separately) and report back to the subsequent meetings of the Joint Committee Executive Sub Committees and the Joint Committee meetings in July 2019.

9.0 Recommendation

- 9.1 To note the matters discussed at the meeting held 12th March and 5th June 2018.
- 9.2 To approve the Resources Sub Committee and Working Group overseeing matters highlighted in the report and reporting back to the next meeting of the Joint Committees or their Executive Sub Committees.

10.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566

Email: lhutchinson@patrol-uk.info

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**PATROL (Parking and Traffic Regulations Outside London) and Bus Lane
Adjudication Service Joint Committees**

Meeting of 10th July 2018

**Report of the Director on behalf of the PATROL and Bus Lane Adjudication
Service Joint Committees Resources Working Group and Sub Committee**

**POLICY FOR MEETING MEMBERS' TRAVEL EXPENSES
2018/19**

Introduction

Following member representations and assessment of the budgetary impact, the Resources Working Group recommends the following policy for meeting members' travel expenses.

Proposed Policy

It is recognised that local authorities face increasing budgetary pressures. For some time, PATROL has been meeting the costs of local authority officers attending local authority user group meetings.

In order to promote engagement with the Joint Committees, PATROL will meet some of the travel costs associated with Members attending meetings which take place outside the annual meeting, for example, the Executive Sub Committees. It is anticipated that member authorities will continue to fund the costs associated with Councillors (main representative or substitute) attending the Annual Meeting.

The following provides guidance on what attendees may claim in respect of out of pocket expenses.

Train Travel

Joint Committee Meetings are generally held in London. PATROL will meet the cost of train travel between the Member's local railway station travelling to London. All train travel should be booked standard class except where an Advance first class ticket is equivalent or cheaper.

Claiming expenses

Train travel expenses must be submitted on the PATROL Member Claim Form (Appendix 1). This will be emailed to Members for electronic submission of claims.

Travel tickets may act as a receipt when reclaiming expenditure. Claims should be submitted as soon as possible and certainly no later than 3 months following the expenditure.

Contact details:

accounts@patrol-uk.info

or

Accounts
PATROL
Springfield House
Water Lane
Wilmslow
SK9 5BG

Claims received by 12pm Wednesday will be paid the same day. The preferred method of payment is by electronic transfer. First time claimants will need to provide their bank account details (sort code, account number, account holder name).

Recommendation

The Resources Working Group and Sub Committee proposes the above policy which will be reviewed on an annual basis. Members are asked to approve this policy

July 2018

Member Claim Form

Name of Claimant:	
Date of Claim:	
Meeting / Event:	
Signature of Claimant:	
Authorised by:	

TRAIN TRAVEL	Start	Finish
Address / Station		
TOTAL CLAIMED £		

Please make payment by: Bank transfer (BACS) Cheque

Account Number: _____

Sort Code: _____

Bank & Branch Name: _____

Make cheques payable to: _____

Postal address: _____

Please submit all claims with receipts / tickets to accounts@patrol-uk.info or post to PATROL, Accounts 2nd Floor, Springfield House, Water Lane, Wilmslow, SK9 5BG

Office use only:

Total Claimed £	
Checked By and Date	

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PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Date of Meeting: 10th July 2018
Report of: The Director on behalf of the PATROL and BLASJC Resources Working Group.
Subject/Title: Public Affairs Activity 2017/18

1.0 Report Summary

1.1 To provide an overview of Public Affairs Activity in 2017/18 and next steps in 2018/19.

2.0 Recommendations

2.1 To note the matters reported.

2.2 To request the Resources Working Group and Sub Committee to monitor this activity and report to the Executive Sub Committee meetings.

3.0 Reasons for Recommendations

3.1 To update the Joint Committees

4.0 Financial Implications

4.1 The Resources Working Group considered financial issues reported to this meeting. Budgetary provision is made for this area of activity.

5.0 Legal Implications

5.1 None

6.0 Risk Management

6.1 The Resources Working Group considered the risk management report presented to this meeting.

7.0 Background and Options

7.1 A report is presented at Appendix A

8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566

Email: lhutchinson@patrol-uk.info

Appendix A

PATROL Public Affairs Overview 2017/18

1. Introduction

With a membership of 311 local authorities, PATROL is uniquely placed to understand the local authority perspective on civil enforcement matters whilst at the same time having regard to the issues that matter to motorists through the experience of appeals to the Traffic Penalty Tribunal.

The Resources Working Group and Sub Committee has been overseeing a range of public affairs initiatives on behalf of the PATROL and Bus Lane Adjudication Service Joint Committees and their Executive Sub Committees.

The following report provides an overview of activities in 2017/18.

2. Pavement Parking

Objectives: To contribute evidence and solutions to the government's exploration of how local authorities outside London can more effectively enforce pavement parking, streamlining the regulatory regime and demonstrating the benefits for local communities.

Background

In 2016 the then Minister, Andrew Jones, convened a roundtable discussion on pavement parking. This was attended by the Chief Adjudicator and Chair of the PATROL Advisory Board. Discussion focused on the local authority concerns regarding the ability to introduce and enforce pavement parking prohibitions outside London were issues relating to the processing of Traffic Regulation Orders.

In August 2017 the Department for Transport published a consultation document "Accessibility Action Plan Consultation – A Transport System that is open to everyone". The consultation included a section on unauthorised pavement parking. PATROL submitted a response to the consultation (Appendix 1).

The consultation document refers to a survey on the wider Traffic Regulation Order (TRO) process in terms of the current situation, the costs and timescales for processing TROs and information about options for change. Representatives from PATROL and the Traffic Penalty Tribunal met with civil servants at the Department for Transport and outlined the challenges of the TRO making process generally and, in particular, for pavement parking and set out the option of introducing obstruction as a contravention. Parking Review invited PATROL to outline its position on pavement parking and this was published in March (Appendix 2).

Since the meeting, it is understood that the Department for Transport will also be looking specifically to gather evidence on the effectiveness or not of current regulatory frameworks for pavement parking

Next steps

The Chair is now seeking a meeting with the Minister Jesse Norman to discuss member authority concerns and potential solutions. Evidence on the difficulties arising from and in the enforcement of pavement parking are being collated from member authorities.

3. Moving Traffic Powers

Objectives: To develop an evidence base in respect of moving traffic powers and the impact of their absence on local authorities in England (outside of London) drawing upon experience on enforcement and appeals from their current use in Wales.

Background

Moving Traffic Powers are currently available to local authorities in Wales but not to English authorities outside London.

PATROL has surveyed member authorities in relation to their likelihood of taking up these powers were they made available. It is clear that local authorities in England (outside London) have an interest in these powers and are willing to support any actions taken to raise awareness with Ministers. The Local Government Association published a report in 2017 “A country in a jam: tackling congestion in our towns and cities”. There is no immediate sign of an appetite in Government to introduce these powers with a current inclination towards introducing mandatory warning notices for bus lane enforcement in the light of a perceived increase in penalties. The Secretary of State for Transport is expected to issue new Statutory Guidance in relation to civil bus lane enforcement in due course. An evidence based approach is required to maintain the profile of moving traffic issues.

Next steps

To identify local authorities who are able to collate evidence of the impact of the lack of these powers on traffic management locally.

4. Littering from Vehicles

Objectives: To provide access to independent adjudication in respect of this new area of environmental civil enforcement and liaise with local authorities to promote awareness of the requirements of civil enforcement drawing upon experience within civil parking and bus lane enforcement.

Introduction

New regulations “Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 came into force on 1st April 2018 (Appendix 3). PATROL and the Traffic Penalty Tribunal responded to a consultation (Appendix 4) on littering from vehicles introduced in the Litter Strategy for England <https://www.gov.uk/government/publications/litter-strategy-for-england>, DEFRA has issued the attached implementation advice (Appendix 5a and 5b) to local authorities. This also references a consultation on improved guidance on the use of enforcement powers to tackle littering and related offences which they propose to incorporate into a statutory Code of Practice on Litter and Refuse. The consultation (Appendix 6a) closed on 8th June 2018 and the PATROL response is shown at Appendix 6b. <https://www.gov.uk/government/consultations/litter-and-refuse-updating-enforcement-guidance>

Appeals arising from these penalties will be considered by the Traffic Penalty Tribunal. Experience from London suggests that volumes of appeals will be extremely low however to date over 60 authorities outside London have expressed an interest in taking up these powers.

A survey of councils was undertaken to understand which department – Parking or Environment is leading in this area of enforcement and to appreciate the variables in terms of level of penalty charge and the option offer of discounts.

Appeals will be handled through FOAM. A workshop in June was attended by some 30 local authority officers.

Next steps

It is envisaged that the first authorities may commence enforcement in July 2018 with others following from September onwards.

5. Clean Air Zones

Objectives: To bring experiences from road user charging enforcement and appeals to the government and local authority plans to introduce Clean Air Zones, some of which may be charging clean air zones.

Background

In 2017 DEFRA consulted on its Air Quality Strategy “Improving air quality: national plan for tackling nitrogen dioxide in our towns and cities. The PATROL response is shown at Appendix 6.

We continue to liaise with DEFRA in their plans for Clean Air Zones (CAZ), particularly as they relate to charging zones. The five original mandated locations (Birmingham, Derby, Leeds, Nottingham and Southampton) are required to have their plans finalised, including whether this will include a charging CAZ by the end of 2018 for implementation in 2019.

DEFRA has directed 33 English local authorities to carry out studies reducing nitrogen dioxide air pollution in their areas. The studies should identify whether there are any measures they can take to reduce NO₂ air pollution in their areas in the shortest time possible. These authorities must submit their findings to the government by 31 July 2018. The government will consider the results, and will publish a supplement to the NO₂ Plan by 5 October 2018.

The 33 authorities are:

Ashfield DC, Basingstoke and Deane BC, Blaby DC, Bolsover DC, Bournemouth BC, City of Bradford MBC, Broxbourne BC, Burnley BC, Calderdale MBC, Cheltenham BC, Dudley MBC, Kirklees Council Leicester City Council, Liverpool City Council Newcastle under Lyme BC, Oldham Council, Oxford City Council, Peterborough City Council, Poole BC, Portsmouth City Council, Reading Borough Council, Sandwell MBC, Sefton MBC, Solihull MBC, South Gloucestershire Council, South Tyneside Council, Southend on Sea BC, Stoke on Trent City Council, Sunderland City Council, Wakefield MBC, Walsall Council, City of Wolverhampton Council.

A summary of CAZ activity by these local authorities is included at Appendix 7

DEFRA launched a consultation to establish what measures councils think will be effective in reducing roadside NO₂ levels in 33 local authorities in England. They are also interested in how these measures should be assessed.

<https://www.gov.uk/government/consultations/air-quality-reducing-nitrogen-dioxide-air-pollution-in-33-local-authorities-england>

A further consultation has been launched in relation to air pollution in the round including transport; industry and farming. The closing date is 14th August 2018.

<https://consult.defra.gov.uk/environmental-quality/clean-air-strategy-consultation/>

Next steps

PATROL is monitoring CAZ developments amongst member authorities and liaising with DEFRA regarding their strategic plans for the implementation of charging clean air zones where appeals against penalties will be decided by the adjudicators of the Traffic Penalty Tribunal.

6. The Private Member's Bill - Parking (Code of Practice) Bill

Objectives: To bring the experiences of civil enforcement and adjudication to plans to introduce a single Code of Practice to the private parking sector promoting fairness and transparency.

Background

Sir Greg Knight (Conservative Member of Parliament for East Yorkshire) is sponsoring this Private Member's Bill (Ballot Bill).

In Sir Greg's words:

"Self-regulation hasn't worked and we need to put this on a statutory footing to stop motorists being ripped off. We need to have a fairer, more transparent and consistent enforcement system. "

There has been coverage in the media of issues relating to parking on private land and on land owned by public authorities (e.g. NHS hospital parking), including:

- Practices which could be in breach of consumer protection laws, such as companies setting excessive parking charges, or levying excessive penalties for overstaying which are dressed up as official "parking fines".
- Practices that undermine the principle underlying the formation of a contract, including unclear or missing signage, or a lack of transparency on charges and/or fines.
- Failure to treat drivers fairly when they have incurred a penalty, including the failure to provide information, consider appeals fairly and the aggressive use bailiffs.
- Some have called for specific action, including the introduction of a binding code of practice; for mandatory membership of an accredited trade association; or a rethink of whether the rules about access to the DVLA database are robust enough.

The Bill aims to make provision for a single code of practice containing guidance about the operation and management of private parking facilities. The then Minister, Marcus Jones, invited the Chief Adjudicator to sit on a group to produce an advisory Code of Practice for the private parking industry. The group is being chaired by Steve Gooding, Director of the RAC Foundation. The Bill had its second reading on Friday 2 February 2018 and has now moved to the committee stage.

<https://services.parliament.uk/bills/2017-19/parkingcodeofpractice.html>

PATROL is supportive of this bill as the public do not always make the distinction between public and private parking enforcement, a piece was included in this respect in Parking Review (Appendix 8).

Next steps

The Chief Adjudicator continues to sit on the Code of Practice Advisory Group and PATROL will alert members to the Bill's progress through parliament.

7. House of Commons PARC Awards (Parking Annual Reports by Councils) Reception, 10th July 2018

Objectives: To support and share best practice in the production of local authority parking annual reports in order to promote transparency and a greater public understanding of traffic management and civil parking enforcement.

Background

Huw Merriman MP for Bexhill and Battle has kindly agreed to sponsor this event on 10th July 2018. Gyles Brandreth will be presenting the awards.

The regional Local Authority User Groups reported elsewhere have included workshops on parking annual reports. PATROL has appointed an independent review group to draw up the shortlisted councils. PATROL provides a toolkit for authorities. The latest toolkit will promote a digital approach to the provision of information. PATROL is grateful to Members and Officers at Knowsley Borough Council for its exploratory work in the area of digital reporting.

Appendix 9 includes coverage of the event in 2017 and 2018.

Next steps

The shortlisted authorities have been invited to the PARC reception on 10th July 2018 at the House of Commons where the winning authorities will be announced. PATROL has produced a new toolkit for local authorities to promote the production of annual reports. In addition to making this available to parking managers through the local authority workshops, a copy will be provided to all member councillors. The first Church House Workshop, following the Joint Committee meetings on 10th July will include the benefits of parking annual reports.

8. Building an evidence based picture of enforcement in England (outside London) and Wales

Objectives: Develop and enhance our evidence-base to provide an objective assessment of civil enforcement and appeals in England (outside London) and Wales.

Background

PATROL is encouraging local authorities to contribute local statistics to produce a comprehensive evidence based picture of enforcement in England (outside London) and Wales.

Next steps

The template is reproduced in the new Annual Report Toolkit. Local authorities are being encouraged to complete this.

9. Parking World 2018

Objectives: Share best practice with local authorities and other stakeholders.

Background

PATROL was Event Partner at Parking World in November 2017 with positive feedback. A number of Councillors attended. The event looked at the future challenges and technology impacting on parking. Landor Links has approached PATROL to partner this event in 2018. Appendix 10 provides coverage of that event.

Next steps

PATROL is meeting with the event organisers in July to plan for the next event. Members will be kept updated on the arrangements for the event.

10. PATROL Website www.patrol-uk.info

Objectives: To promote a public greater understanding of civil enforcement and provide a single point of access to information about member authorities' civil enforcement and their annual reports.

Background

Autumn 2017 saw the launch of a new web site which provides information on the PATROL Joint Committee and its members as well as public information on the civil enforcement process. The web site also provides a local authority directory where local authorities can maintain their contact details and upload copies of their annual report. The web site has been translated into Welsh and updated with Littering from Vehicles enforcement information.

Next steps

To undertake further refinements to the enforcement information on the website and introduce public information films.

Public Affairs Appendices

1. PATROL response to consultation on the Department for Transport Draft Accessibility Plan as it related to Pavement Parking.
2. Parking Review coverage of PATROL's perspectives on pavement parking.
3. The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.
4. PATROL's response to DEFRA's Littering from vehicles consultation
5. DEFRA's Implementation Advice to local authorities on littering from vehicles
6. a)DEFRA Consultation on the Modification to the Code of Practice on Litter & Refuse.
b)PATROL's response to 6a.
7. Summary of local authorities' status in relation to assessing the need for Clean Air Zones
8. Parking Review coverage of the Private Member's Parking Code of Practice Bill.
9. Parking Review coverage of the PARC (Parking Annual Reports by Councils) Awards 2017
10. Parking Review coverage of Parking World 2017



Response to Department for Transport Accessibility Action Plan

1. Introduction

The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises over 300 local authorities in England (outside London) and Wales. The principal function of the Joint Committee is to make provision for independent adjudication in respect of parking penalty charge notices issued by local authorities. This is delivered through the Traffic Penalty Tribunal which comprises 30 adjudicators and their support staff.

The statutory function of the Adjudicators of the Traffic Penalty Tribunal is to hear and decide appeals brought against Penalty Charge Notices (PCNs) issued by authorities in England (outside London) and Wales that operate civil parking, bus lane and moving traffic enforcement under the Traffic Management Act 2004 and Transport Act 2000. Adjudicators also consider appeals against PCNs issued for failing to pay a charge at the Dartford-Thurrock River Crossing (where the enforcement authority is the Secretary of State for Transport), the Durham Peninsular and the Mersey Gateway Bridge Crossings under the Transport Act 2000.

In addition, the Joint Committee recognises the importance of public information to promote understanding of the civil parking enforcement. To this end it has produced a leaflet and web site explaining the enforcement process www.patrol-uk.info

PATROL also represents its member authorities on traffic management issues of mutual interest and promotes best practice in public information to increase understanding of traffic management objectives.

On behalf of its member local authorities PATROL welcomes the opportunity to respond to the Department for Transport's Accessibility Action Plan, specifically on the question on pavement parking (Action 39).

Summary of Responses

- Greater London's ban on footway parking which has been in operation since 1974 operates on the assumption that pavement parking is banned everywhere and that exceptions, where pavement parking is permitted, are signed.
- Outside London pavement parking causes significant problems for local authorities and their communities in terms of accessibility and additional maintenance costs.
- Feedback from a survey of authorities at the time of the Pavement Parking Bill going through Parliament in 2015 indicated that a quarter of the 130 respondents were enforcing pavement parking, 42% would consider enforcing with new powers, with 53% waiting to see the detail of the powers before deciding. Authorities were enforcing through single/double line restrictions, traffic regulation orders and pavement/verge parking bans. 40% of authorities had experienced problems enforcing parking in this way.
- Community requests for action in respect of pavement parking in one authority, Devon County Council, following the introduction of a reporting function in August 2015 resulted in 2000 reports being received identifying issues in over 120 communities in Devon. The County Council has introduced educational leaflets in areas where enforcement isn't possible.

https://www.patrol-uk.info/annual_reports/Devon%20County%20Council/Devon-County-CouncilParking-Enforcement-Report-2015-16-4.pdf

- PATROL welcomes the government's intention to review the Traffic Regulation Order making process. It is the overwhelming view of the PATROL member authorities that the current regulatory process for changing traffic orders, set out in the Local Authority Traffic Orders (Procedure)(England and Wales) Regulations 1996, is subject to a prescribed, long drawn-out and expensive process. This in itself is a barrier to an authority being responsive to the expressed needs of the community.
- PATROL is willing to assist in any review of the Traffic Regulation Order making process. The Traffic Penalty Tribunal hosts an online resource of 19,000 local authority traffic regulation orders.
- In addition to reviewing the traffic regulation order procedure, an immediate solution has been highlighted by Caroline Sheppard OBE, Chief Adjudicator for England and Wales i.e. to add "obstruction" as a contravention subject to civil enforcement. An outline proposal is included in this response and further detail can be provided. PATROL is prepared to coordinate public information across all its

authorities and to commission, for example, a public information video for YouTube together with social media awareness campaign of the new contravention.

2. Current position for Local Authorities (outside London) attempting to effectively tackle pavement parking

The view of our local authority members is that vehicles parked on pavements cause significant problems and potential danger to people who are blind or partially sighted, and to wheelchair users, children in prams and pushchairs among others. Many of our local authority members in England and Wales receive frequent representations from disabled groups and others asking them to tackle pavement parking in their area. Indeed, members of the public often incorrectly assume that councils already have powers to issue Penalty Charge Notices to any vehicle parked on the pavement, in line with the Greater London ban on footway parking (1974). This is often based on the Highway Code requirement that driver 'shall not park on the pavement' which although not a legal requirement outside London conveys the importance of only parking on the road or carriageway.

Due to the drafting of some regulations, they only apply to the carriageway or road. This includes pedestrian crossings and dropped kerbs, where pavements are not protected as a matter of course. Councils outside London can ban pavement parking in a specific area by advertising a Traffic Regulation Order and considering any objections. If minded to implement a ban, they must sign the boundaries and include repeater signs within the area, in line with the Traffic Signs and General Directions (TSRGD) requirements. The process itself is resource intensive and expensive, often costing several hundred pounds in signage costs alone, just to ban parking in one street. The process also adds to street clutter and obstacles for the visually impaired. In practice, following implementation of a pavement parking ban the problem can result in displacement of pavement parking to surrounding streets not covered by the ban.

It is noted that the Transport Select Committee in 2006 said "The Government must grip the problem of pavement parking once and for all and ensure that it is outlawed throughout the country... rather than relying on the use of individual Traffic Regulation Orders on specific streets and local Acts to impose a ban."



3. Scale of the problem in England and Wales outside London

Devon County Council has sought to identify the scale of the pavement parking problem within the County. A reporting mechanism has been provided to the public to identify where they are affected by pavement parking. Where instances of pavement parking occur adjacent to existing waiting restrictions or dropped crossing points, enforcement can be provided utilising traditional Civil Parking Enforcement powers. Elsewhere either educational leaflets, consideration of restrictions, or, no further action would need to be considered.

However, the vast majority of instances are at locations without existing restrictions. Since launching the reporting function in August 2015, over 2000 reports have been received identifying issues in over 120 communities within Devon, in many cases having multiple locations identified as of concern in each community. The public perception is that pavement parking is a significant issue.



Feedback from our local authority members on the issue of pavement parking

It is clear that pavement parking is a significant issue for our members who are also conscious of their duties under the Equalities Act 2010. In response to this and the Pavement Parking Bill going through parliament in 2015, PATROL conducted a survey of our local authority members in England and Wales (outside London) on the subject of pavement parking. Over 130 responses were received from our local authority members before the Pavement Parking Bill was withdrawn;

Q. Does your Local Authority enforce pavement parking?

Yes 24% No 76%

Q. Are you aware of the Pavement Parking Bill 2014/15 currently going through Parliament?

Yes 74% No 26%

Q. Would you consider enforcing pavement parking if this Bill becomes legislation?

Yes 42% No 5% I would need more information 53%

Q. How do you currently enforce pavement parking?

A range of answers were provided mainly;

Through the use of single /double yellow line restrictions.

Through the use of Traffic Regulation Orders and a pavement /verge parking ban.

Q. Have you encountered any problems enforcing pavement parking in this way?

Yes 40% No 60%

If yes, please explain

Comments here ranged from concerns about the cost of signage and repeater signs within a pavement parking ban area. Concerns about not being able to enforce pavement parking on single yellow lines after restrictions ended. Suggestions that the Highway Code could be clearer that yellow line restriction apply up to the building line and not just the road.

Concerns about enforcement officers determining the boundaries of public / private land.

Q. Are you aware of the Pavement Parking Bill 2014/15 currently going through Parliament?

Yes 85% No 15%

Q. If this Bill became legislation, would it change the way you enforced pavement parking?

Yes 29% No 0% I would need more information 71%

Q. Would it be costly for you to remove any existing pavement parking scheme you have in place?

Yes 10% No 90%

It is clear from the number of responses and interest in the Pavement Parking Bill before it was withdrawn that councils are very keen to tackle the issue of pavement parking, but in a cost effective manner.



4. Area wide pavement parking bans, Traffic Regulation Orders and Signage

Greater London's ban on footway parking which has been in operation since 1974 operates on the assumption that pavement parking is banned everywhere and that exceptions, where pavement parking is permitted are signed. Outside London there are also many areas, such as Controlled Parking Zones where councils need a cost effective solution to ban pavement parking without the need for expensive signage, other than to indicate where pavement parking is actually permitted. This would require changes to the TSRGD signage requirements and Traffic Regulation Order making process.

This is not to say that PATROL local authorities are in favour of removing a traffic order making process altogether; simply that the need to modernise the process prescribed by the 1996 Regulations is long overdue. It is the overwhelming view of the PATROL local authorities that the current regulatory process for changing traffic orders, set out in the Local Authority Traffic Orders (Procedure) (England and Wales) Regulations 1996, is subject to a prescribed, long drawn-out and expensive process. This in itself is a barrier to an authority being responsive to the expressed needs of the community. In particular, the requirement to advertise in local newspapers, which can cost around £1,000 for an advert, is outmoded and is positively contrary to the digital by default government agenda. Any review of the traffic order making process, also needs to take into account the introduction of autonomous vehicles and how traffic order information can be 'understood' by these vehicles in terms of where they can and cannot park.

Whilst any streamlining of Traffic Order processes is welcomed, we do not believe this alone is a sufficient or appropriate response to the issue of pavement parking experienced across all Authorities.

To process Traffic Orders for each community, regardless of any streamlining, remains unsustainable. Moreover, the need to sign any location that is subject to such a Traffic Order is an even greater concern both in terms of cost (implementation, and ongoing maintenance), and the intrusion on the streetscape

5. Pavement maintenance costs

For local councils, safe well maintained pavements are important for the young and old, disabled and non-disabled. The Department for Transport's highways maintenance block will provide £3.8 billion of funding between 2016-17 and 2020-21. This funding is shared between local highway authorities in England (outside London). Currently, this funding is distributed using a formula that takes into account the length of different types of road, and can be used for the upkeep and maintenance of pavements.

The decriminalisation of the offence of obstruction would help councils protect their footways from damaging pavement parking. Indirect costs include costly claims for trips and falls resulting from damaged pavements. Broken paving stones are of course particularly hazardous to the visually impaired.



6. Police powers to tackle the offence of obstruction

Whilst it is illegal to drive on the pavement and illegal to obstruct a pavement, it is clearly not a police priority. Where it is at its most acute, is essentially tolerated which results in a growing problem for many of our local authority members. A

PATROL

Parking and Traffic Regulations Outside London

police officer would need to have witnessed the vehicle driving on the pavement for action to be taken, which is unlikely. Whilst the police have powers to remove

vehicles under the offence of obstruction, local authorities can only do so if the vehicle is parked in contravention, which is often not the case. The decriminalisation of the offence of obstruction would also free up police time to deal with more serious police matters. It could result in savings on pavement maintenance for councils and a safer built environment for the visually impaired.

7. Definition of obstruction

The Department for Transport [Inclusive Mobility guidance](#) suggests – “a clear width of 2000 mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal guidance. Where this is not possible because of physical constraints – 1500 mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. A blind person using a long cane or with an assistance dog needs 1100 mm. A visually impaired person who is being guided needs a width of 1200 mm”.

8. Obstruction as a contravention subject to civil enforcement.

The Traffic Penalty Tribunal’s Chief Adjudicator Caroline Sheppard OBE and Marc Sam ways (Hampshire County Council and Chair of the PATROL Advisory Board) attended the Pavement Parking Round table convened by Andrew Jones. The Chief Adjudicator points to an additional immediate solution that is to add obstruction to the list of contraventions for which civil enforcement applies contained in Part 1 of Schedule 7 of the Traffic Management Act 2004. Paragraph 5(1) provides:

Power to add further offences

5(1) The appropriate national authority may by regulations amend paragraph 3 or 4 so as to add further offences (but only in so far as they relate to stationary vehicles).

Therefore, the additional contravention of obstruction (Code 99 on the police codes) could be added by a simple order.

Local authority civil enforcement teams have more than enough experience to make a judgement as to what constitutes obstruction. Guidance should be provided as to what constitutes a typical obstruction contravention. With developments in technology if a civil enforcement officer is in any doubt about whether a vehicle is

obstructing the highway then photographs can instantly be sent to superiors for confirmation.

There would also need to be public information that this new power had been given to local authorities together with illustrations of the type of parking that would attract a penalty for obstruction.

PATROL is prepared to coordinate public information across all its authorities and to commission, for example, a public information video for YouTube together with social media awareness campaign of the new contravention.

9. Arrangements prior to the introduction of any area wide pavement parking ban or the decriminalisation of the offence of obstruction

Any decriminalisation of the offence of obstruction or introduction of an area wide pavement parking ban should be accompanied with updated Statutory Guidance to Local Authorities on the correct application of the contravention. We would suggest that this also includes local publicity in advance of any changes to local regulations. The use of warning notices would also be an important part of implementing any wide scale local changes to the enforcement of pavement parking. Prior to the introduction of any area wide parking ban councils could also consider:

- Evidence-based feasibility studies and options appraisal
- Evidence of local consultation with stakeholders
- Where pavement parking bans are proposed, evidence of steps to be taken to provide adequate warning through signage (both signs and location) and commitment to fairness in handling representations e.g. warning letters on first contravention etc.
- Evidence-based objectives taking into account local measures and robust monitoring arrangements
- Consideration to be given to the potential displacement of pavement parking to other areas

10. Contact Details

It is clear that pavement parking is a major issue for most local authorities, their residents and disabled groups. PATROL welcomes the government's consultation on this issue and would be willing to provide more details on the points raised in this response. PATROL would be willing to assist the Government in the steps it takes to respond to this consultation.

Louise Hutchinson

Director

PATROL

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Direct Line: 01625 445566

PAVEMENT PARKING



66 Vehicles parked on pavements cause significant problems and potential danger to people who are blind or partially sighted, and to wheelchair users, children in prams and pushchairs
Caroline Sheppard

99

Let's look at all options to sort out pavement parking

If pavement parking is to be tackled, the Traffic Regulation Order process must be simplified, says Louise Hutchinson

Pavement parking is a common issue for local authorities and communities around Britain, but PATROL (Parking and Traffic Regulation Outside London) suggests there may be more than one solution to solving the issue and multiple benefits to be derived.

In August 2017 a draft Transport Accessibility Action Plan was used for public consultation by the Department for Transport (DfT) and the Disabled Persons Transport Advisory Committee (DPTAC). The action plan includes a section on unauthorised pavement parking, highlighting the issue of vehicles parked on pavements and the DfT's commitment to assist local authorities in introducing pavement parking restrictions.

PATROL member Devon County Council has been proactively promoting awareness of this issue through a leafletting campaign using a 'Postcards are for people' logo. Stuart Hughes of Devon County Council, and vice chair of the PATROL Joint Committee (pictured), said: "A reporting mechanism has been provided to the public to identify where they are affected by pavement parking. Since launching the reporting function in August 2015 over 2,000 reports have been received identifying issues in over 120 communities within Devon. The public perception is that pavement parking is a significant issue."



Outside London there are also many areas, such as Controlled Parking Zones (CPZs) where councils need a cost-effective solution to ban pavement parking without the need for expensive signage other than to indicate where pavement parking is actually permitted. This would require changes to the Traffic Sign Regulations and General Directions (TSGRD) signage requirements and Traffic Regulation Order (TRO) making process.

It is not to say that PATROL local authorities are in favour of removing a traffic order-making process altogether, simply that the need to modernise the process prescribed by the 1996 Regulations is long overdue.

PATROL welcomes the government's intention to review the TRO-making process. It is the overwhelming view of the PATROL member authorities that the current regulatory process for issuing traffic orders, set out in the Local Authorities Traffic Orders Procedure (England and Wales) Regulations 1996, is subject to a paper-based, long drawn out and expensive process. This, in itself, is a barrier to an authority being responsive to the expressed needs of the community. In particular the requirement to advertise in local newspapers, which can cost around £1,000 for an advert, is outdated and is positively contrary to the digital-by-default government agenda.

Any review of the TRO-making process also needs to take into account the introduction of connected and autonomous vehicles and how traffic order information can be understood by these vehicles in terms of where they can and cannot park.

Louise Hutchinson is director of PATROL (Parking and Traffic Regulation Outside London). Prior to joining PATROL, she was Director of a voluntary sector organisation delivering services to people with disabilities.



A legal path that clears things up

Caroline Sheppard OBE has made the case for treating obstruction as a contravention

In addition to reviewing the Traffic Regulation Order procedure, an immediate solution to the issue of pavement parking has been highlighted by Caroline Sheppard OBE, ex-official of the Traffic Penalty Tribunal.



Sheppard suggests: "Vehicles parked on pavements cause significant problems and potential danger to people who are blind or partially sighted, and to wheelchair users, children in prams and pushchairs among others. Pavement parking is a shared issue for the public and many of our local authority members in England and Wales alike. It is no surprise that authorities receive frequent representations from established groups and others asking them to tackle pavement parking in their area. Members of the public often incorrectly assume that councils already have powers to issue penalty charge notices on any vehicle parked on the pavement. In addition to reviewing the Traffic Regulation Order procedure, an immediate solution is to add 'obstruction' as a contravention subject to civil enforcement."

"Local authority civil enforcement teams have more than enough experience to make a judgement as to what constitutes obstruction. Guidance should be provided as to what constitutes a typical example of contravention. With developments in technology, if a civil enforcement officer is in any doubt about whether a vehicle is obstructing the highway then photographs can instantly be sent to supervisors for confirmation. There would also need to be public information that this new power had been given to local authorities together with illustrations of the type of parking that would attract a penalty for obstruction."

Paul Hildes, parking strategy and contracts manager at Brighton & Hove City Council, comments that the introduction of obstruction as a contravention would have additional benefits to councils: "The decentralisation of the offence of obstruction would help councils protect their footways from damaging pavement parking. Indirect costs include costly claims for tips and falls resulting from damaged pavements. Better paving stones are, of course, particularly important for the visually impaired."



PATROL is willing to coordinate public information across all its authorities and to commission, for example, public information films to raise awareness of pavement parking.

Parking and Traffic regulation Outside London (PATROL)

PATROL represents 310 local authorities in England (outside Wales). PATROL's primary function is to make provision for independent adjudicators for appeals against enforcement penalties. This is delivered through the Traffic Penalty Tribunal, which provides adjudication for parking, bus lanes and, in Wales, moving traffic penalties. Road user charge adjudication is also provided for appeals arising from penalties issued at the Dart-Thurrock River Crossing (Uart Charge), the new Mersey Gateway Bridge (Merseyway) as well as the congestion charge zone at the Dartford Tunnel.

PATROL is also committed to improving information that assists public understanding of the objectives of civil enforcement as well as the enforcement and appeals process. The PATROL Parking Annual Reports by Councils (PARC) Awards scheme recognises and shares best practice in local authority reporting.

www.patrol-uk.info

PAVEMENT PARKING

Five steps to get streets ahead for Guide Dogs

Follow these five steps to make your street friendlier for people who are blind and partially sighted:

1. Make pavements wide enough for the street, not too narrow.
2. Cut down on clutter on pavements from bins and signs.
3. Create a clear path for people with disabilities. Use tactile paving to help people with visual impairments find their way. Use tactile paving to help people with hearing impairments find their way.
4. Report the clutter that gets in the way. Report it to your local council. Report it to your local council. Report it to your local council.
5. Check up on your pavement. Check up on your pavement. Check up on your pavement.

www.guidedogs.org.uk

Streets Ahead

A call for consistency

Charity Guide Dogs is campaigning for a standardised law on pavement parking

When cars are parked on pavements, people who are blind and partially sighted may have to risk their lives by walking into the road just to get by. This is an issue that also impacts on parents with prams, wheelchair users, older people and many others. The charity Guide Dogs believes that with an ageing, less mobile population, more cars on the road and less money for maintenance, we need to prevent inconsiderate parking blocking pavements. Inconsiderate parking forces pedestrians onto the road and into the path of vehicles. It is a major barrier for people with visual or mobility impairments, wheelchair or mobility scooter users, families with pushchairs and cyclists.

Helen Aluko-Orkun, Guide Dogs' policy business partner or access and inclusion, said: "The impact of parking across dropped kerbs, crossing points, and on pavements poses significant barriers to the mobility of blind and partially sighted people, the elderly, disabled people, as well as families with pushchairs."

"A standardised law across the country would make it clear that pavement parking should be the exception, not the norm for motorists, and give local authorities real power to properly tackle this problem. We want a clear law where drivers cannot park on the pavement unless in a specifically designated area, in line with Greater London."

A survey by Guide Dogs showed that 97% of blind or partially sighted people encounter problems with street obstructions, and 90% of those had experienced trouble with a pavement parked car, said Aluko-Orkun. "A YouGov survey from January 2013 showed that over half of motorists had considered the problems pavement parking would cause to pedestrians, but had chosen to do so regardless. It is clear change needs to happen."

STATUTORY INSTRUMENTS

2018 No. 171

ENVIRONMENTAL PROTECTION, ENGLAND

The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

Made - - - - 7th February 2018

Coming into force - - 1st April 2018

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The Secretary of State makes these Regulations in exercise of the powers conferred by section 88A of the Environmental Protection Act 1990(a).

A draft of these Regulations has been laid before Parliament in accordance with section 161(2ZC) of that Act(b) and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.

(2) These Regulations come into force on 1st April 2018.

Interpretation

2. In these Regulations—

“the EPA 1990” means the Environmental Protection Act 1990;

“the RUCS Regulations 2013” means the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013(c);

“adjudicator” means a person who holds office as an adjudicator for the purposes of these Regulations in accordance with regulation 18(1);

“fixed penalty” is to be read in accordance with regulation 6(1) to (3);

“fixed penalty payment period” is to be read in accordance with regulation 6(4) and (5);

“penalty notice” has the meaning given in regulation 4(2).

(a) 1990 c.43. Section 88A was inserted by section 154(2) of the Anti-social Behaviour, Crime and Policing Act 2014 (c.12).
 (b) Section 161(2ZB) and (2ZC) was inserted by section 154(3) of the Anti-social Behaviour, Crime and Policing Act 2014.
 (c) S.I. 2013/1783, to which there are amendments not relevant to these Regulations.

“Litter authority”

3. In these Regulations, a “litter authority” means—

- (a) a district council in England;
- (b) a county council in England for an area for which there is no district council;
- (c) the Council of the Isles of Scilly.

PART 2**Penalties and enforcement****Penalty notices**

4.—(1) A litter authority may give a penalty notice to a person who is the keeper of a vehicle if the condition in paragraph (3) is met.

(2) A penalty notice is a written notice requiring the person to pay a fixed penalty (see regulation 6).

(3) The condition is that the litter authority has reason to believe that a littering offence has been committed in respect of the vehicle on the authority’s land.

(4) The authority’s land is the land in respect of which the litter authority is under a duty under section 89(1) of the EPA 1990 (duty to keep land clear of litter etc.).

(5) A penalty notice must not be given—

- (a) after the end of the period of 35 days beginning with the day on which the littering offence in question occurred,
- (b) if a notice under section 88(1) of the EPA 1990 (which relates to fixed penalty notices for leaving litter) has been given to a person in respect of the same offence (whether or not the person is the vehicle’s keeper), or
- (c) if a prosecution has been brought against a person under section 87 of the EPA 1990 (offence of littering) in respect of the same offence (whether or not the person is the vehicle’s keeper and whether or not the prosecution has concluded or was successful).

(6) A litter authority may cancel a penalty notice at any time by informing the recipient in writing.

(7) Part 3 (exemptions) sets out circumstances in which a person is not liable to pay a fixed penalty.

Content of penalty notices

5.—(1) A penalty notice must state—

- (a) the circumstances alleged to constitute the littering offence in question, including the registration mark (if known) of the vehicle concerned,
- (b) the fixed penalty payment period,
- (c) the amount of the fixed penalty if paid within that period (see regulation 6(1) and (2));
- (d) that the amount of the fixed penalty increases by 100% if not paid within that period (see regulation 6(3)),
- (e) that the litter authority may recover any fixed penalty not paid within the fixed penalty payment period in court (see regulation 7),
- (f) any lesser amount (see regulation 6(6)),
- (g) the date by which the lesser amount must be paid in order for it to be treated as discharging the liability to pay the fixed penalty,

- (h) the name and address of the person to whom the fixed penalty must be paid and the permissible methods of payment,
- (i) that the person to whom the notice is addressed has a right to make representations to the litter authority (see regulation 14),
- (j) the grounds on which, and the manner in which, representations may be made and the date by which they must be made (see regulation 14), and
- (k) in general terms, the form and manner in which an appeal to an adjudicator may be made.

(2) In paragraph (1)(a), “registration mark” has the meaning given by section 23 of the Vehicle Excise and Registration Act 1994(a).

Penalty amount and payment

6.—(1) The amount of a fixed penalty is the amount specified by the litter authority under section 88(6A)(a) of the EPA 1990 (which relates to fixed penalty notices for leaving litter)(b).

(2) But if no amount is specified by the litter authority under that provision, the amount of the fixed penalty is £100.

(3) If a fixed penalty is not paid in full within the fixed penalty payment period, the amount of the fixed penalty increases by 100% with effect from the day after the last day of the fixed penalty payment period.

(4) The fixed penalty payment period is (except in the circumstances described in paragraph (5))—

- (a) in a case where the person does not make any representations under regulation 14, the period of 28 days beginning with the day on which the penalty notice is given, or
- (b) in a case where the person makes representations and the litter authority gives a notice of rejection (see regulation 15(3) to (5)) to the person, the period of 28 days beginning with the day on which the litter authority gives the notice of rejection.

(5) Where the person makes an appeal to an adjudicator under regulation 16, the fixed penalty payment period is—

- (a) the period of 28 days beginning with the day on which that appeal is dismissed or withdrawn, or
- (b) if a recommendation is made that the penalty notice is cancelled and the litter authority refuses to accept the recommendation (see regulations 16(7) and 17(3)), the period of 28 days beginning with the day on which the person is informed of the refusal under regulation 17(3).

(6) An authority may make provision for treating the amount in paragraph (1) or (2) as having been paid in full if a lesser amount is paid within the following period.

(7) The period is the period of 14 days beginning with the day on which the penalty notice is given.

(8) The lesser amount must not be less than £50.

(9) A fixed penalty is taken to be paid when it is received by the litter authority.

Recovery of unpaid amounts

7.—(1) This regulation applies where a litter authority has given a person a penalty notice and the person has not paid the fixed penalty in full within the fixed penalty payment period.

(2) The litter authority may recover any unpaid amount of the fixed penalty (being the increased amount referred to in regulation 6(3)) and any related costs awarded by an adjudicator—

- (a) as a civil debt, or

(a) 1994 c.22.

(b) Section 88(6A) was inserted by section 19(2) of the Clean Neighbourhoods and Environment Act 2005 (c.16).

(b) as if payable under a county court order, if the county court so orders.

(3) In paragraph (2), “costs awarded by an adjudicator” means the costs and expenses which are required to be paid to the litter authority under an order under paragraph 13 of the Schedule to the RUCS Regulations 2013 as it applies to these Regulations by virtue of regulation 19.

Further provision about giving notices

8.—(1) This regulation applies to the giving of notices under these Regulations by a litter authority to any person.

(2) A notice may be given to the person by—

- (a) handing it to the person,
- (b) leaving it at the person’s proper address,
- (c) sending it by post to the person at that address, or
- (d) sending it to the person by electronic means in accordance with paragraph (9).

(3) Unless the contrary is proved—

- (a) a notice sent by first class post to an address in the United Kingdom is to be treated as having been given on the second working day after the day on which it was posted;
- (b) a notice sent by first class post to an address outside the United Kingdom is to be treated as having been given on the fifth working day after the day on which it was posted;
- (c) a notice sent by electronic means is to be treated as having been given on the working day immediately following the day on which it was sent.

(4) A notice to a body corporate may be given to a director or to the secretary or clerk of that body.

(5) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(6) For the purposes of this regulation and of section 7 of the Interpretation Act 1978 (service of documents by post)(a) in its application to this regulation, the proper address of a person is—

- (a) in the case of a body corporate or a director, secretary or clerk of a body corporate, the address of the body’s registered or principal office;
- (b) in the case of a partnership, partner or person having the control or management of the partnership business, the address of the partnership’s principal office;
- (c) in any other case, the person’s last known address.

(7) Where a company registered outside the United Kingdom, or a partnership carrying on business outside the United Kingdom, has a principal office within the United Kingdom, its principal office is that office.

(8) If a person has informed the litter authority in writing of an address in the United Kingdom, other than the person’s proper address within the meaning of paragraph (6), as the one at which the person or someone on the person’s behalf will accept notices of the same description as a notice under these Regulations, that address is treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as the person’s proper address.

(9) A notice may be sent to a person by electronic means only if—

- (a) the person has informed the litter authority that notices of that description may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and
- (b) the notice is sent to that address in that form.

(10) In this regulation—

(a) 1978 c.30.

“electronic address” means any number or address used for the purposes of sending or receiving documents or information by electronic means;

“working day” means a day other than—

- (a) Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(a) in England and Wales.

Further provision about cancelling notices

9.—(1) Where a litter authority cancels or is deemed to have cancelled a penalty notice under these Regulations, the authority must as soon as practicable refund any amount paid in respect of the notice.

(2) But paragraph (1) does not apply where an adjudicator has—

- (a) given directions to a litter authority requiring the cancellation of a penalty notice under regulation 16(6), and
- (b) the directions include directions about the refund of any amount paid in respect of the penalty notice.

(3) A cancellation or deemed cancellation of a penalty notice does not prevent the litter authority which gave the notice from giving a further penalty notice in respect of the same littering offence (whether to the same or another person).

Authorised officers

10.—(1) A litter authority may authorise a person (an “authorised officer”) to perform on its behalf any of the functions conferred on it by regulation 4 (penalty notices).

(2) The authorisation must be in writing.

Use of receipts by litter authorities

11. Sums received by a litter authority under these Regulations may be used by the authority for the purposes of any of its functions which are—

- (a) listed in section 96(4)(a) to (c) of the Clean Neighbourhoods and Environment Act 2005(b), or
- (b) specified in regulations under section 96(4)(d) of that Act.

PART 3

Exemptions

Public service vehicles and licensed taxis etc.

12.—(1) A person who is the keeper of a vehicle is not liable to pay a fixed penalty for a littering offence committed in respect of the vehicle if—

- (a) the vehicle is of a kind listed in paragraph (2), and
- (b) the person who committed the offence was, at the time of the offence, a passenger in the vehicle.

(2) The kinds of vehicle are—

(a) 1971 c.80.
(b) 2005 c.16.

- (a) a public service vehicle, within the meaning of section 1 of the Public Passenger Vehicles Act 1981(a);
- (b) a hackney carriage licensed under section 37 of the Town Police Clauses Act 1847(b) or section 6 of the Metropolitan Public Carriage Act 1869(c);
- (c) a vehicle in respect of which a private hire vehicle licence is in force within the meaning given by section 6(6) of the Private Hire Vehicles (London) Act 1998(d);
- (d) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976(e) (licensing of private hire vehicles);
- (e) a vehicle licensed under section 5 of the Plymouth City Council Act 1975(f) (licensing of private hire vehicles).

Discharge of liability where action taken against person who littered

13. The liability of a person who is the keeper of a vehicle to pay a fixed penalty for a littering offence in respect of the vehicle is discharged if—

- (a) a notice under section 88(1) of the EPA 1990 is subsequently given to a person in respect of the same offence (whether or not the person is the vehicle's keeper), or
- (b) a prosecution is subsequently brought against a person under section 87 of the EPA 1990 in respect of the same offence (whether or not the person is the vehicle's keeper and whether or not the prosecution is successful).

PART 4

Representations and appeals

Representations against penalty notice

14.—(1) A person to whom a penalty notice is given may make written representations to the litter authority if it appears to the person that one or more of grounds A to L apply.

(2) The representations may only be made within the period of 28 days beginning with the day on which the penalty notice is given.

(3) Ground A is that the littering offence in question did not occur.

(4) Ground B is that the person was not the keeper of the vehicle at the time of the littering offence because the person became the keeper of the vehicle after the littering offence occurred.

(5) Ground C is that the person was not the keeper of the vehicle at the time of the littering offence because the person had disposed of the vehicle to another person before the littering offence occurred.

(6) Ground D is that the person was not the keeper of the vehicle at the time of the littering offence because the vehicle was a stolen vehicle when the littering offence occurred.

(7) Ground E is that the person—

- (a) was engaged in the hiring of vehicles in the course of a business at the time of the littering offence, and

(a) 1981 c.14. Section 1 was amended by Schedule 8 to the Transport Act 1985 (c.67).
(b) 10 and 11 Vict c.89.
(c) 1869 c.115. Section 6 was substituted by paragraph 5(3) of Schedule 20 to the Greater London Authority Act 1999 (c.29) and amended by S.I. 2014/560.
(d) 32 and 33 Vict c.115.
(e) 1976 c.57. Section 48 was amended by paragraph 16 of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c.54).
(f) 1975 c.xx.

(b) was not the keeper of the vehicle at that time by virtue of a vehicle hire agreement.

(8) Ground F is that the person was not the keeper of the vehicle at the time of the littering offence for a reason not mentioned in grounds B to E.

(9) Ground G is that the litter authority was not, by virtue of regulation 4(5), authorised to give the person a penalty notice.

(10) Ground H is that the person is not liable to pay the fixed penalty by virtue of regulation 12.

(11) Ground I is that liability to pay the fixed penalty has been discharged in the circumstances set out in regulation 13.

(12) Ground J is that the fixed penalty exceeds the amount payable under these Regulations.

(13) Ground K is that the litter authority has failed to observe any requirement imposed on it by these Regulations in relation to the imposition or recovery of the fixed penalty.

(14) Ground L is that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).

(15) If a person makes representations that ground B applies, the representations must include the name and address of the other person from whom the vehicle was acquired (if known).

(16) If a person makes representations that ground C applies, the representations must include—

(a) the name and address of the other person to whom the vehicle had been disposed of (if known), or

(b) a statement that the name and address of that person is not known.

(17) If a person makes representations that ground D applies, the representations must include the crime reference number, insurance claim reference or other evidence of the vehicle's theft.

(18) If a person makes representations that ground E applies, the representations must include—

(a) a statement signed by or on behalf of the person to the effect that at the time of the littering offence the vehicle was hired to a named person under a vehicle hire agreement with the person, and

(b) a copy of the vehicle hire agreement.

(19) In paragraph (7)(b), the reference to a person ("P") being a keeper of a vehicle by virtue of a vehicle hire agreement includes a reference to any period during which, with the consent of the person hiring the vehicle, P continues in possession of the vehicle as hirer, after the expiry of any period specified in the agreement but otherwise on the terms and conditions specified in it.

(20) In this regulation, "vehicle hire agreement" means an agreement which—

(i) provides for a vehicle to be let to a person for a period of any duration (whether or not the period is capable of extension by agreement between the parties), and

(ii) is not a hire-purchase agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974(a).

Functions of litter authority following representations

15.—(1) A litter authority which receives representations under regulation 14 must—

(a) consider them and any supporting evidence which the person making the representations provides, and

(b) decide whether or not it accepts that one or more of the grounds in regulation 14 applies.

(2) If the litter authority accepts that one or more of the grounds in regulation 14 applies, it must cancel the penalty notice and inform the person who made the representations of the cancellation in writing.

(3) If the litter authority does not accept that one or more of the grounds in regulation 14 applies, it must give a notice of rejection to the person who made the representations.

(a) 1974 c.39. "Hire-purchase agreement" is defined in section 189.

(4) A notice of rejection is a notice informing the person who made the representations that the litter authority does not accept that one or more grounds in regulation 14 applies.

(5) The notice of rejection must state —

- (a) the litter authority's decision and the reasons for it,
- (b) that the person has a right to appeal to an adjudicator within the period of 28 days beginning with the day on which the notice of rejection is given,
- (c) in general terms, the form and manner in which an appeal to an adjudicator may be made, and
- (d) that an adjudicator has power to award costs against a person appealing against the decision set out in the notice of rejection.

(6) The litter authority must carry out its functions under this regulation within the period of 56 days beginning with the day on which the representations are received.

(7) If a litter authority fails to comply with this regulation, it is deemed to have—

- (a) decided that it accepts that one or more of the grounds in regulation 14 applies, and
- (b) cancelled the penalty notice under paragraph (2).

Appeals against notice of rejection

16.—(1) A person who is given a notice of rejection (see regulation 15(3) to (5)) may appeal against it.

(2) The appeal must be made to an adjudicator (see regulation 18).

(3) The appeal must (except in the circumstances described in paragraph (4)) be made within the period of 28 days beginning with the day on which the notice of rejection is given.

(4) An adjudicator may allow a longer period within which an appeal may be made (whether or not the period of 28 days has expired).

(5) If the adjudicator concludes that one or more of the grounds in regulation 14 applies, the adjudicator must allow the appeal.

(6) Where an appeal is allowed, the adjudicator may give written directions to the litter authority which the adjudicator considers appropriate for the purpose of giving effect to the adjudicator's decision.

(7) Despite not allowing an appeal, an adjudicator may give a written recommendation to the litter authority that it cancel the penalty notice if the condition in paragraph (8) is met.

(8) The condition is that the adjudicator is satisfied that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled.

(9) An adjudicator must dismiss an appeal if the adjudicator concludes that—

- (a) none of the grounds in regulation 14 applies, and
- (b) there are no compelling reasons why the penalty notice should be cancelled.

Functions of litter authority following adjudication

17.—(1) A litter authority must comply with any direction given to it under regulation 16(6) as soon as practicable.

(2) A litter authority which is the subject of a recommendation under regulation 16(7) must reconsider whether to cancel the penalty notice, taking account of any observations made by the adjudicator.

(3) Within the period of 35 days beginning with the day on which the recommendation under regulation 16(7) is made, the authority must inform the appellant and the adjudicator in writing—

- (a) whether or not it accepts the adjudicator's recommendation,
- (b) if it does accept the adjudicator's recommendation, that the penalty notice is cancelled, and

(c) if it does not accept the adjudicator's recommendation, of the reasons for its decision.

(4) No appeal to an adjudicator lies against the decision of the litter authority under paragraph (3).

(5) If a litter authority fails to comply with paragraph (3), it is deemed to have accepted the adjudicator's recommendation and to have cancelled the penalty notice.

Adjudicators

18.—(1) A person who at any time holds office as an adjudicator for the purposes of Part 6 of the Traffic Management Act 2004^(a) by virtue of an appointment under regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007^(b) also holds office at that time (and on the same terms) as an adjudicator for the purposes of these Regulations.

(2) The litter authorities must—

- (a) provide, or make arrangements for the provision of, accommodation, administrative staff and facilities for adjudicators,
- (b) determine the places where adjudicators are to sit,
- (c) appoint a member of the administrative staff to fulfil the functions of the proper officer (for the purposes of the Schedule to the RUCS Regulations 2013 as it applies by virtue of regulation 19),
- (d) fix the date by which each adjudicator is to make the report mentioned in paragraph (5), and
- (e) make and publish an annual report to the Secretary of State on the discharge by adjudicators of their functions under these Regulations.

(3) The functions in paragraph (2) must be discharged by the joint committee or joint committees responsible for discharging functions relating to parking contraventions in accordance with regulation 16(1) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

(4) The litter authorities must pay the expenses associated with the adjudication process (including the expenses of the joint committee or joint committees and the remuneration of adjudicators)—

- (a) in such proportions as they may decide, or
- (b) in default of any decision, as may be determined by an arbitrator nominated by the Chartered Institute of Arbitrators on the application of any litter authority.

(5) Each adjudicator must prepare a report of the performance of the adjudicator's functions under these Regulations in each financial year.

(6) The report relating to a financial year must be given to the joint committee or joint committees as soon as practicable after the end of the financial year.

(7) For the purposes of paragraphs (5) and (6), each of the following is a "financial year"—

- (a) the period beginning with 1st April 2018 and ending with 5th April 2019, and
- (b) each successive period of 12 months.

Appeal procedure

19.—(1) The Schedule to the RUCS Regulations 2013 (which relates to procedure in adjudication proceedings) applies in respect of appeals made under regulation 16 as it applies in respect of adjudication proceedings under those Regulations but as if—

- (a) each reference to a charging authority (except that in paragraph 9(1)) were a reference to a litter authority;

(a) 2004 c.18.

(b) S.I. 2007/3483.

- (b) each reference to a notice of rejection were a reference to a notice of rejection given in accordance with regulation 15(3) to (5) of these Regulations;
- (c) each reference to a proper officer were to a proper officer appointed in accordance with regulation 18(2)(c) of these Regulations;
- (d) in paragraph 1(1) “appeal period” were defined as meaning the 28-day period referred to in regulation 16(3) of these Regulations;
- (e) in paragraph 1(2)—
 - (i) in the definition of “the original representations”, the reference to regulation 8(1), 32(3) or 35(3) (as the case may be) of the RUCS Regulations 2013 were a reference to regulation 14(1) of these Regulations;
 - (ii) the definition of “the relevant notice of rejection” were omitted;
- (f) in paragraph 2(2)(d)—
 - (i) the reference to a penalty charge notice were a reference to a penalty notice;
 - (ii) the reference to a penalty charge were a reference to a fixed penalty;
- (g) in paragraph 3(4)(a) the reference to a penalty charge notice were a reference to a penalty notice;
- (h) in paragraph 3(4)(c) the word “relevant” were omitted;
- (i) in paragraph 4(1) the reference to regulations 8(3), 32(4) or 35(4) (as the case may be) of the RUCS Regulations 2013 were a reference to regulation 14(3) to (4) of these Regulations;
- (j) for paragraph 5 there were substituted—

“Adjudicator’s power to request attendance of witnesses and production of documents

5.—(1) The adjudicator may, by notice in writing served on any person (including a party to the proceedings), request that person—

- (a) to attend, at a time and place specified by the adjudicator, to give evidence at the hearing of an appeal; and
- (b) to produce any documents in that person’s custody or under that person’s control, relating to any matter in the proceedings.

(2) An adjudicator may award the necessary expenses of any person other than the appellant who complies with a request under sub-paragraph (1).”.

- (k) in paragraph 9(1) the reference to a charging authority were a reference to a litter authority and any authorised officer of the authority (see regulation 10(1));
 - (l) in paragraph 11(1) there were inserted at the end “(including, where, despite not allowing the appeal, the adjudicator recommends that the penalty notice be cancelled, the reasons for that recommendation)”;
 - (m) in paragraph 17(1) the reference to the RUCS Regulations 2013 were a reference to these Regulations;
 - (n) in paragraph 17(4) the reference to an enforcement authority were a reference to a litter authority;
 - (o) Part 4 were omitted;
 - (p) in paragraph 21(1) the reference to the RUCS Regulations 2013 were a reference to these Regulations.
- (2) Any aspect of procedure in respect of appeals under regulation 16 not provided for under this regulation may be regulated by the adjudicators themselves.

Evidence produced by a recording device

20.—(1) Evidence of a fact relevant to proceedings conducted under regulation 19 may be given by the production of—

- (a) a record produced by a recording device, and
- (b) (in the same or another document) a certificate stating the circumstances in which the record was produced, signed by a person authorised to do so by the litter authority which installed the device.

(2) A “recording device” is a camera or other device capable of producing a record of—

- (a) the presence of a particular vehicle on the litter authority’s land (within the meaning given by regulation 4(4)), and
- (b) the date and time at which the vehicle is present,

and includes any equipment used in conjunction with the camera or other device for the purpose of producing such a record.

(3) A document purporting to be a record or certificate of the kind described in paragraph (1) is to be deemed to be such a record or certificate unless the contrary is proved.

PART 5**Consequential amendment****Amendment of the Environmental Protection Act 1990**

21. In section 87 of the EPA 1990, after subsection (4C)(a) insert—

“(4D) No proceedings may be instituted for an offence under subsection (1) which is a littering offence in respect of a vehicle within the meaning of section 88A(2) if—

- (a) a penalty notice has been given under section 88A to the keeper of the vehicle in respect of which the offence was committed, and
- (b) the fixed penalty has been paid or recovered in full.”.

7th February 2018

Thérèse Coffey
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about littering from vehicles in England.

Regulations 4 and 5 make provision for a litter authority (which is defined in regulation 3) to give a penalty notice to a person who is the keeper of a vehicle. The litter authority must have reason to believe that a littering offence has been committed in respect of the vehicle on the authority’s land.

(a) Subsections (1) to (4C) were inserted by section 18 of the Clean Neighbourhoods and Environment Act 2005.

Regulation 4(5) sets out circumstances in which a penalty notice must not be given (for example where a notice under section 88(1) of the Environmental Protection Act 1990 (“the EPA 1990”) (has been given to a person in respect of the same offence).

Regulation 6 makes provision about the amount of a fixed penalty. The amount of a fixed penalty in respect of a litter authority’s land is the amount specified by the authority for fixed penalty notices for leaving litter. If no amount is specified, it is £100. If the fixed penalty is not paid within the fixed penalty payment period (which is defined in regulation 2), it increases by 100%.

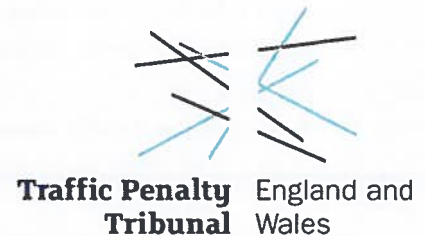
A litter authority may make provision about early payment of a lesser amount, which discharges liability for the full amount of the fixed penalty (see regulation 6(6) to (8)). The lesser amount must not be less than £50.

Part 3 (exemptions) sets out the circumstances in which a keeper is not liable to pay a fixed penalty (for example where a notice under section 88(1) of the EPA 1990 is subsequently given to a person in respect of the same offence).

Part 4 (representations and appeals) confers a right on the person who is given a penalty notice to challenge it and sets out the procedure for this.

Part 5 (consequential amendment) contains an amendment to section 87 of the EPA 1990 with the effect that a prosecution may not be brought under that section against a person who threw etc. litter where a litter authority has required the keeper to pay a fixed penalty in respect of the offence and the penalty has been paid or recovered in full.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.



RESPONSE TO CONSULTATION

“Reducing litter: Penalties for environmental offences”

Introduction

On behalf of the PATROL Joint Committee and the Adjudicators of the Traffic Penalty Tribunal please find below background information in respect of the PATROL Joint Committee and the Traffic Penalty Tribunal and answers to the questions set out in the consultation document.

Background information

The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises 309 local authorities in England (outside London) and Wales. The functions exercised by the PATROL Adjudication Joint Committee on behalf of its constituent councils are appointing independent adjudicators to the Traffic Penalty Tribunal (subject to the consent of the Lord Chancellor) and providing these adjudicators with administrative staff and accommodation

The statutory function of the Adjudicators of the Traffic Penalty Tribunal is to hear and decide appeals brought against Penalty Charge Notices (PCNs) issued by authorities in England (outside London) and Wales that operate civil parking, bus lane and moving traffic enforcement under the Traffic Management Act 2004 and Transport Act 2000. Adjudicators also consider appeals against PCNs issued for failing to pay a charge at the Dartford-Thurrock river crossing (where the enforcement authority is the Secretary of State for Transport) and the Durham Peninsular under the Transport Act 2000. The tribunal’s adjudicators will also hear appeals against penalties issued in respect of charging Clean Air Zones (CAZ) introduced under the Transport Act 2000.

PATROL also represents its member authorities on traffic management issues of mutual interest to its members and promotes best practice in public information to increase public understanding of traffic management objectives.

PATROL, the Traffic Penalty Tribunal and Littering from Vehicles

Some of PATROL's member authorities have expressed an interest in civil enforcement to address littering from vehicles.

PATROL and the Traffic Penalty Tribunal can bring the experience of traffic appeals to inform the process of education and awareness, enforcement and appeals processes.

The Traffic Penalty Tribunal operates an award winning online appeal system which all member authorities access for the purpose of parking, bus lane, moving traffic and road user charging appeals. This system is easily adapted to accommodate other enforcement streams operated by local authorities which allows all appeals to be managed from a single bespoke local authority appeals dashboard, even if this is operated from different departments within local authorities.

PATROL has drawn the attention of its members to the consultation and authorities will also send individual responses. PATROL will develop a network of local authority officers to promote information sharing and best practice.

Draft Statutory Instrument

Environmental Protection England

The Littering from Vehicles outside London (Keepers: Civil Penalties)

Regulations 2018

The consultation document included at Appendix C draft regulations for the purposes of civil enforcement of littering from vehicles. The Adjudicators of the Traffic Penalty Tribunal make the following observations.

- (i) Other civil enforcement regulations for parking, bus lanes, road user charging refer to "contraventions" rather than "offences". Consistency would be helpful, particularly as littering by pedestrians will still be enforced by fixed penalty notice.
- (ii) Other civil enforcement regulations have "penalty charge notices", (including London for littering from vehicles), the consultation document refers to civil penalty notices and the draft regulations to penalty notices. A consistent approach would be helpful to all parties.
- (iii) Whilst exemptions have been put in place for PSVs, taxis etc., there is no protection for the keeper who may have no control over the car or the actions of passengers.
- (iv) Clarity is required in respect of the arrangements for hire vehicles and the definition of hirer.
- (v) The Adjudicators welcome the inclusion of the ground of "compelling reasons" in Reg 11, Reg 13 (6).

- (vi) In other areas of civil traffic enforcement, there are time limits for the issue of penalty charge notices but none are mentioned here.
- (vii) Is it anticipated that civil enforcement officers would issue a penalty notice, for instance if the car is parked at the time the litter is jettisoned or will enforcement solely rely on cameras?
- (viii) Guidance may be required in terms of what is designated as “authorities land” or “local authority relevant highway” s89 (1) of the Environmental Protection Act 1990

The Adjudicators of the Traffic Penalty Tribunal have requested the opportunity to comment further on the draft regulations if the introduction of these powers progresses.

Responses to consultation questions relating to littering from vehicles

10. Do you agree with the proposed exemption for the keeper of public service vehicles, taxis and private hire vehicles when the littering offence is committed by a passenger?

Yes. There are views amongst authorities that this will not deter passengers. Alternative means of educating passengers could be considered.

11. Should the regulations provide for any other exemptions from liability to pay civil penalty notice (as opposed to grounds for appeal against a civil penalty notice)?

No. The inclusion of compelling reasons as a ground provides increased flexibility.

12. Should councils be able to use the income from civil penalties for littering from a vehicle in the same way as they can spend income from fixed penalties for littering offences?

This is a matter for individual authorities.

13. Should the default amount payable under a civil penalty notice be equivalent to the default amount payable under a fixed penalty notice for a littering offence?

No view

14. Do you agree that, to encourage prompt payment, a late payment notice is issued if the amount payable under the civil penalty notice is not paid within 28 days?

Consideration will need to be given to the time taken to notify the keeper of the PCN.

15. Do you agree that the maximum increase civil penalty payable under a late payment notice should be the amount payable under the civil penalty notice increased by 100% (i.e. double the amount of the civil penalty notice)?

Proportionality should be taken into account here. An excessive amount may reduce the likelihood of obtaining payment.

16. For local council respondents only: What impact would the introduction of civil penalty notices have on your council? Please consider both costs and benefits, and provide evidence to support your response.

A number of PATROL members have indicated that these powers would be helpful to deter littering from vehicles which is detrimental to the environment and communities and a drain on resources.

It is anticipated that there would not be high volumes of penalties issued however it is hoped that the introduction of civil enforcement would lead to a reduction in littering behaviour over the longer term thus reducing the costs of clearance and environmental impact.

17. For councils in London: We propose that the new powers should only be available to councils outside London, on the basis that London councils already have similar powers under the London Local Authorities Act 2007. Do you agree?

There is an argument for having a similar regime both inside and outside London to improve consistency and understanding for the motorist.

Contact:

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Dear colleague,

10 April 2018

We are committed to reducing litter on our roadsides and verges and want to make it easier for you to enforce against those who litter from their vehicles. We recognise that it can be particularly difficult for enforcement officers to identify which person in the vehicle committed the offence. From April 2018, you have new powers to hold the keeper of a vehicle responsible for littering offences committed from it.

Using the new powers, you will be able to issue the keeper of a vehicle with a civil penalty of between £65 and £150 (default £100), which is set at the same level as the fixed penalty for littering in the area. The 'keeper' is presumed to be the registered keeper unless otherwise proven. Unpaid penalties can be recovered through the Traffic Enforcement Centre, in the same way as other similar civil traffic penalties.

It is of course up to you to decide how best to meet your statutory duties to keep relevant land clear of litter and refuse, and to keep the highways clean. I am writing to encourage you to make use of these new powers, and to provide advice on the steps you may need to take in order to do so.

As set out in the Litter Strategy, creating a change in littering behaviour requires a combination of improved education and awareness, plus provision of the right infrastructure, supported by proportionate enforcement. We are also therefore consulting on improved guidance on the use of your enforcement powers to tackle littering and related offences, which we propose to incorporate into the statutory Code of Practice on Litter and Refuse. I encourage you to give us your views. The consultation closes on 8 June 2018, and can be found online at <https://consult.defra.gov.uk/environment/reducing-litter-proportionate-enforcement>

Yours sincerely,

Chris Preston
Deputy Director, Resources and Waste

Implementation advice: Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018

Introduction

Our roads and highways are the gateways to our towns and cities, and yet verges, traffic islands, and roadside paths are often marred by unsightly litter. Potential investors and customers' impressions of an area can be significantly harmed if they have to drive past accumulated rubbish on their routes into town. It is therefore also in your interests to ensure that the area is clean and attractive, in order to support a thriving local economy.

These new Regulations enable district councils in England (outside London), and the Council for the Isles of Scilly, to issue a civil penalty notice to the keeper of a vehicle from which litter is thrown. This removes the need to identify precisely who threw the litter before you can take enforcement action against this anti-social behaviour. In this context, "district" includes authorities which may call themselves district, metropolitan, borough, unitary or any other name: it simply means the council for the district.

A civil penalty is a civil fine which unlike a criminal penalty, does not carry the risk of a criminal prosecution. The 'keeper' of a vehicle is presumed to be the 'registered keeper', but evidence may be provided by showing that the vehicle was 'kept' by another person at the relevant time: the liability to pay the civil penalty rests with the keeper of the vehicle at the time of the offence.

In this advice, we use the term 'fixed penalty' to refer to a penalty notice issued in lieu of prosecution under section 88 of the Environmental Protection Act 1990. We use the term 'civil penalty' to refer to a civil penalty notice issued under the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018.

It is up to you whether or not to use these powers. We are absolutely clear that any enforcement action should be proportionate and in the public interest. Any surplus income from these penalties is ring-fenced to be spent on your statutory functions of keeping relevant land and highways clear of litter and refuse, and on enforcement against littering, graffiti and so on.

This advice is merely a guide: the legislation always takes precedence. See:

<http://www.legislation.gov.uk/ukSI/2018/171/contents/made>

Comparison with fixed penalties in lieu of prosecution for littering

In the case of criminal offences such as littering, a successful prosecution will require evidence sufficient to prove the offender's guilt beyond reasonable doubt. While a fixed penalty may be issued where the authorised officer has "reason to believe" that the offence has been committed, it will still be necessary to submit evidence proving the offence beyond reasonable doubt in order to prosecute the offender if the fixed penalty is unpaid. Failure to pursue unpaid penalties will undermine the threat of enforcement, and their effectiveness as a deterrent.

To issue a civil penalty for littering from a vehicle, enforcement officers have to be satisfied that, on the balance of probabilities, litter was thrown from that vehicle. If a civil penalty is not paid on time, the penalty amount automatically doubles. You can recover unpaid amounts as a civil debt or via county court order.

Relationship between fixed penalties in lieu of prosecution and civil penalties for littering from a vehicle.

You can only issue either a civil penalty, or a fixed penalty for littering in respect of any one littering offence. You can also cancel either type of penalty at any time before it is paid.

If you issue a civil penalty notice but then cancel it before it is paid, you may still issue a fixed penalty notice in respect of the same offence.

If you issue a civil penalty notice and it is paid, you cannot subsequently issue a fixed penalty notice or bring a prosecution against anybody for the same littering offence.

If you issue a civil penalty but, before it is paid, you also bring prosecution proceedings against anyone or issue a fixed penalty notice in lieu of prosecution in respect of the same offence, the vehicle keeper's liability to pay the civil penalty notice is discharged. This applies whether or not any prosecution is successful.

Therefore, if you issue a civil penalty notice and the recipient provides evidence as to the identity of the litterer, you will need to consider whether this is a sufficiently compelling reason to cancel the original civil penalty. You may also (separately) decide whether sufficient evidence has been provided to pursue criminal enforcement action (a fixed penalty notice or prosecution) against the alleged litterer. However, you may only issue one – or no – penalty notice in respect of a single littering offence.

Adopting an enforcement policy

As with other penalties for environmental offences, we are clear that penalties should only be given when in the public interest to do so. Disproportionate enforcement activity, which is not supported by suitable education/communications and provision of disposal facilities, undermines legitimate messages against littering.

Councils remain accountable to local residents for the decisions they take, including decisions on when and how enforcement against environmental offences will be carried out. We therefore recommend that enforcement authorities should publish, promote and explain their enforcement policies openly, so that local residents can understand their approach. This should include details of:

- a. the offences against which enforcement action will be taken
- b. the level of penalty for each offence (particularly following any changes)
- c. details of any early payment discounts
- d. arrangements for issuing fixed penalties (by post, electronically etc.)
- e. policies on enforcement against juvenile offenders
- f. policies in the event of non-payment
- g. appeals (if appropriate)
- h. policies on the use of income from fixed penalties
- i. what records are kept, and how information associated with enforcement action is used.

Enforcement authorities may also choose to make clear their policies on when a fixed penalty should not be issued.

Cameras/ recording devices and evidence from the public

As part of setting your enforcement policy, you will need to decide whether you intend (or are willing) to take enforcement action on the basis of CCTV evidence, or evidence supplied by members of the public.

To issue a civil penalty for littering from a vehicle, enforcement officers have to be satisfied that, on the balance of probabilities, litter was thrown from that vehicle on the litter authority's relevant land.

You may take enforcement action on the basis of evidence supplied by members of the public provided that, in your opinion, the evidence is sufficient to meet the relevant standards of proof. You may decide to adopt a policy of only issuing a notice based on multiple public reports of litter from the same vehicle, or a pattern of behaviour.

If you wish to use evidence from a recording device (such as a CCTV camera or dash-cam in one of your own vehicles) in appeal proceedings, you will need to produce the recording(s) and a certificate stating the circumstances in which the record was produced must be provided (signed by a person authorised to do so by the litter authority which installed the device).¹

If you intend to use recording devices to gather evidence in this way, you must ensure that you remain compliant with other relevant legislation, such as the Regulation of Investigatory Powers Act 2000, and the Protection of Freedoms Act 2012. The recording devices must be able to produce a record of the presence of a particular vehicle on the litter authority's land, and the date and time at which the vehicle is present.

Communications

If you have not previously carried out enforcement against littering from vehicles, before starting to issue penalties you should consider taking steps to inform local residents, and those driving through your area, of your intention to use these powers in future.

Before you can use the powers

Set the penalty level

Regulation 6 sets out how the amount of a fixed penalty is to be determined. The amount of a penalty for littering from a vehicle will be the same as the amount specified by the authority for fixed penalty notices for leaving litter. The amount of penalty may therefore vary from litter authority to litter authority, within the prescribed range.

Enforcement authorities can set fixed penalties for environmental offences within the ranges specified in the Environmental Offences (Fixed Penalties) (England) Regulation 2017. From 1 April 2018 for littering offences the range is between £50 to £150, with a default penalty of £100 if no local level has been set.² You therefore have significant flexibility to set penalties at an appropriate level to reflect local circumstances, including local ability to pay and your expected enforcement costs.

¹ Regulation 20

² From 1 April 2019, the minimum penalty will increase to £65, in line with changes to penalties for littering under the Environmental Offences (Fixed Penalties: England) Regulations 2017
<http://www.legislation.gov.uk/uksi/2017/1050/contents/made> Regulation 5

If the fixed penalty is not paid within the fixed penalty payment period (28 days - defined in Regulation 2), it will double.

Early-payment discounts

In order to encourage prompt payment, Regulation 6 provides for an early-payment discount to be offered if the penalty is paid within 14 days. Payment of this 'lesser amount' within 14 days discharges the person's liability to pay the full penalty amount. The 'lesser amount' must not be less than £50.

You will need to decide whether to offer an early-payment discount, and (if necessary) agree the level of the discounted penalty.

Income from penalties

Receipts from civil penalties for littering from vehicles can only be spent on functions relating to litter and refuse (including keeping land and highways clear of litter and refuse, and enforcement against littering and littering from vehicles), graffiti and fly-posting, controlling and enforcing against the unauthorised distribution of free literature.³

Prepare forms and systems

Penalty notice

Before you begin issuing civil penalties, you will need to prepare a civil penalty notice template/form.

Regulation 6 provides that a civil penalty notice for littering from a vehicle **must** state all of the following:

- The circumstances alleged to constitute the littering offence in question, including the registration mark (if known) of the vehicle concerned
- How long they have to pay the penalty (28 days from the date the penalty notice is given)
- The amount of the penalty if paid within 28 days
- That the amount of the fixed penalty will double if not paid within 28 days
- That the enforcing litter authority may recover any fixed penalty not paid within 28 days in court
- [If applicable] details of any early-payment discount available if the penalty is paid within 14 days (including the amount of the discounted penalty, which must not be less than £50)
- Details of how to pay (the name and address of the person to whom payment must be made, and the permissible methods of payment)
- That the recipient has a right to make representations to the enforcing litter authority
- The grounds on which representations may be made; and
- In general terms, how an appeal to an adjudicator can be made.

In order to cross-match with the details from the DVLA's database of registered keepers, it is strongly recommended that the penalty form also contain space for recording the following details;

- the make of the vehicle
- the model
- the colour

³ Regulation 11

The opening from which the litter was thrown (e.g. driver's side window) should also be noted.

Processes and management information

You will also need to establish internal policies and systems for processing and recording:

- penalties issued (including issuing officer, date, details of the offence, recipient's details, address to which the penalty is sent etc.);
- payments received (amount, date received – including payments following debt recovery)
- payments overdue (including penalties registered for debt recovery)
- representations received (including date received, ground(s) cited, supporting evidence etc.)
- outcome of considering representations (including date sent to penalty recipient)
- penalties cancelled/refunded and reasons
- penalties appealed and appeal outcomes

You may wish to use existing systems and/or software which could be adapted for this purpose – for example systems used for tracking other fixed penalties, or for civil parking enforcement.

It is recommended as good practice that enforcing authorities make information about their enforcement activities publicly available: a suitable management information system will also enable reports to be easily generated for this purpose.

Establish access to the DVLA Web-enabled Enquiry (WEE) System

Access to the DVLA WEE system is available to all councils upon request. If you do not currently have access, you should contact the DVLA at: Kadoeservice.support@DVLA.gsi.gov.uk

The WEE system is designed to allow councils access to data for the investigation/prosecution of a specific range of offences. In particular, an enquiry can be made for vehicle keeper details where “waste/rubbish is seen or witnessed being deposited in an open or public place which is not an authorised waste disposal site, or without the permission of the landowner”.

For the purposes of issuing a civil penalty to the keeper of a vehicle from which litter is thrown, the “keeper” to which the penalty notice should be issued is the person by whom the vehicle is kept at the time when the littering offence in question occurs. In the case of a registered vehicle this is presumed to be the registered keeper, unless it is proven otherwise.⁴

Authorise people to issue penalties

Enforcement staff (whether in-house, or under contract) **must** be authorised in writing to issue civil penalties for littering from vehicles. If you have already authorised staff or contractors to issue fixed penalty notices for littering etc, they will need separate, written authorisation to issue civil penalties for littering from vehicles.

Environmental enforcement officers may also be authorised to carry out other functions in addition to environmental enforcement, for example, parking enforcement duties, or vice versa.⁵

Enforcement authorities that choose to take this approach will need to ensure that neither function is compromised as a result of the integration of duties. Income from penalties issued under each statutory regime should be kept separate.

⁴ Anti-social Behaviour, Crime and Policing Act 2014, section 154(9)

⁵ 'Dual Function Civil Enforcement Officers', Department for Transport (2016), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/609788/statutory-guidance-local-authorities-enforcement-parking-contraventions.pdf

We are clear that, where councils choose to use a third-party enforcement service, they should use an approach which is not based on targets on the number of penalties given or revenue raised as this practice undermines public confidence in and support for a fair judicial system.

Enforcement authorities remain responsible for the whole enforcement process, whether they contract out part of it or not. Enforcement authorities should not contract out the consideration of representations or challenges against penalties.

The Regulations set out timescales for various stages of the process. For example:

- Regulation 15 requires that you consider and respond to representations against a penalty notice within 56 days.
- Regulation 6 provides that an unpaid penalty becomes recoverable 28 days after it is given.

You should therefore authorise and train enough staff to meet these timescales for the volume of work that you anticipate.

Train and equip your enforcement team

Training

Training should be seen as a legitimate and important aspect of running costs.

The processes for issuing and pursuing fixed penalty notices and civil penalties are not identical, and you should make sure that enforcement officers issuing civil penalties are fully trained in the detail of the regulations, the process for issuing penalties, and how to deal with associated representations, appeals and debt recovery. The office processes involved are also important and staff carrying them out need similar levels of skill, training and professionalism as the more visible on-street enforcement officers.

The process of considering challenges, representations and defence of appeals is a legal process that requires officers dealing with these aspects to be trained in the relevant legislation and how to apply it. They should be well versed in the collection, interpretation and consideration of evidence; writing clear but concise case-specific responses to challenges, enquiries and representations; presenting the authority's case to adjudicators.

If the service is to command public confidence and respect, it is essential to give enforcement staff at all levels the skills and training to do their jobs effectively, whether they are employed directly by the enforcing authority, or by a contractor. If you choose to outsource any area of enforcement to a private company, you are responsible for ensuring that the contractor meets the same standards as would be expected of your own authority.

Equipment

Enforcement officers should be equipped with a uniform or badge, and carry a Police and Criminal Evidence Act (PACE) Notebook for recording evidence to support a fixed penalty or prosecution. It is best practice for enforcement officers to carry identification e.g. a warrant card.

Make provision for appeals

You should offer individuals flexible and efficient ways to get in contact about penalties received, including e-mail and telephone. You should also ensure there is an adequate audit trail to rebut any accusations of unfairness.

The Regulations provide that a person to whom a penalty is given may make representations to the litter authority against the penalty on specified grounds. If you do not accept those representations,

the person has a right to appeal to independent adjudicators.⁶ The independent adjudicators and their support staff are collectively known as the Traffic Penalty Tribunal.

The Traffic Penalty Tribunal operates a digital by default online appeal system – FOAM (Fast Online Appeal Management). Appellants submit their appeal, authorities respond online and upload evidence and the adjudicator publishes a decision online. In some circumstances, the adjudicator will conduct a telephone hearing with all parties invited to participate. All local authorities outside London that operate civil parking enforcement use this system. A dashboard enables authorities to manage their cases and includes reporting functionality. The tribunal also operates an Assisted Digital Support programme for people who are not able to appeal online.

Regulation 18 provides for this function to be exercised by PATROL (Parking and Traffic Regulation Outside London), and that the expenses associated with the adjudication (including the expenses of the joint committee or joint committees and the remuneration of adjudicators) **must** be paid by the litter authorities.⁷ It will be up to the joint committee to decide and agree how to allocate these costs between the litter authorities.

You **must** therefore be a member of PATROL to use these powers. You can find more information about PATROL online at: <https://www.patrol-uk.info/>

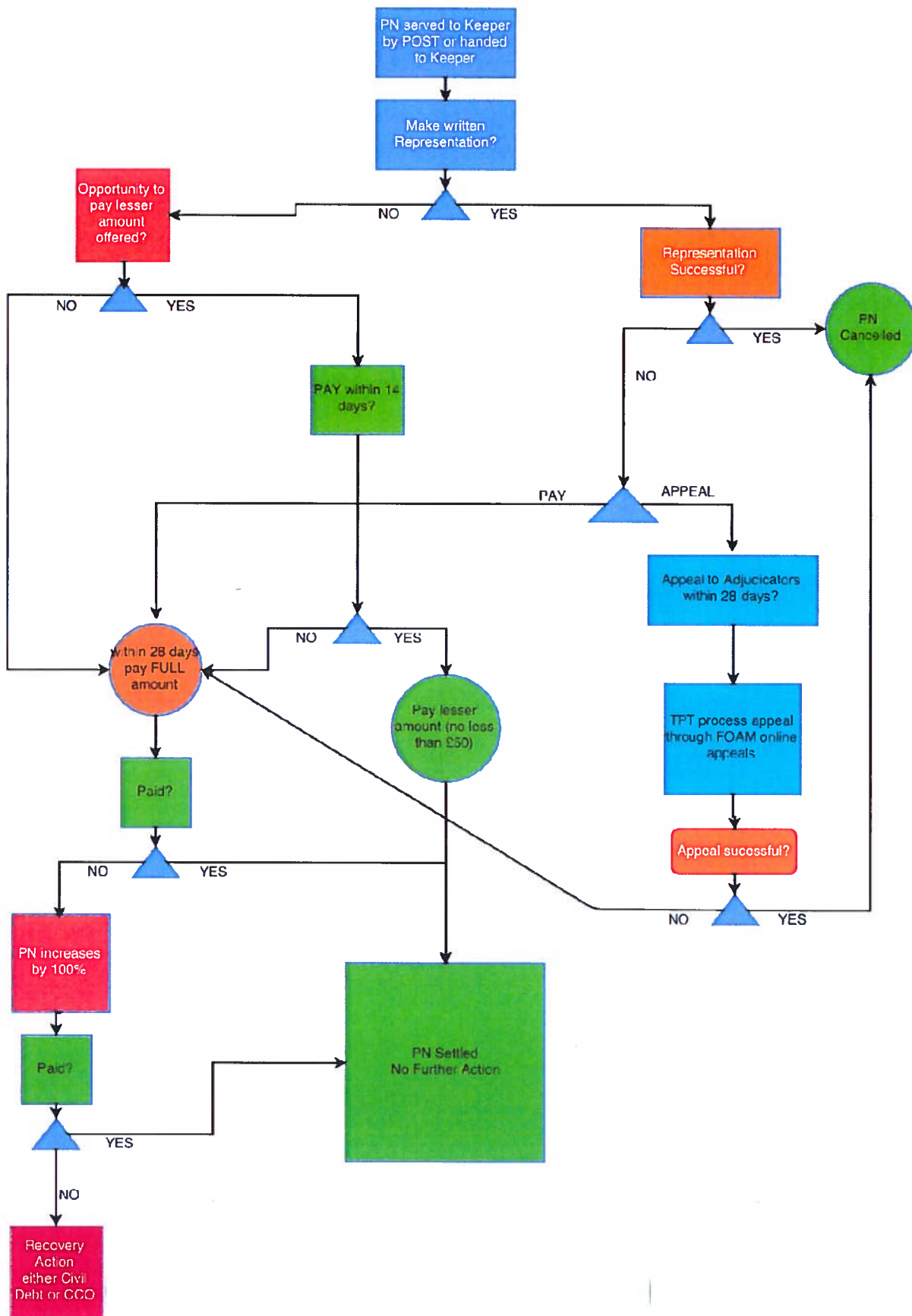
Prepare to pursue unpaid penalties

Debts arising from unpaid penalties can be registered with the Traffic Enforcement Centre (TEC) at Northampton County Court. Existing TEC customers can do this using contravention 75 and their existing prefix – individual identifier. New TEC customers should contact TECInsight@hmcts.gsi.gov.uk for further assistance.

⁶ See Regulation 14 and Part 4 of the Regulations

⁷ Regulation 18(3) provides for this function to be discharged by “the joint committee responsible for discharging functions relating to parking contraventions in accordance with regulation 16(1) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007”.

Flow chart of civil enforcement process





Department
for Environment
Food & Rural Affairs

Modification to the Code of Practice on Litter and Refuse: Guidance on effective enforcement

April 2018



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Any enquiries regarding this publication should be sent to us at

Litter@defra.gsi.gov.uk

www.gov.uk/defra

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Why we are consulting

1. Littering, and associated environmental offences like dog fouling, blight our communities and impose avoidable costs on the public purse, drawing money away from priorities such as social care and education. We committed in the Litter Strategy for England to publish improved guidance to promote proportionate and responsible enforcement.

Introduction

2. This consultation seeks your views on proposals by the Department for Environment, Food and Rural Affairs, to modify the Code of Practice on Litter and Refuse to incorporate guidance on the proportionate and effective use of fixed penalties (civil and criminal) against littering and related offences.

3. This will fulfil the following commitment, given in the Litter Strategy (April 2017):

Subject to consultation, we also intend to issue stronger guidance to enforcement authorities on the use of these enforcement powers. That guidance will make clear that fixed penalties should only be issued when it is in the public interest to do so, and when it is proportionate to do so. Our policy is clear that under no circumstances should councils view the use of fixed penalties for these offences as a means to generate income.¹

Scope of this consultation

4. This consultation applies to litter authorities in England which:
 - a. Are subject to one or both of the duties in section 89(1) and (2) of the Environmental Protection Act 1990, to keep relevant land clear of litter and refuse, and to keep the highways clean; and
 - b. Have the power to issue fixed penalty notices for littering and/or related environmental offences including littering from vehicles, the unauthorised distribution of free printed literature on designated land, graffiti, or fly-posting.
5. It is also relevant to the use of fixed penalty powers more generally, particularly those for related environmental offences such as abandoned vehicles, fly-tipping, nuisance parking, and (civil) offences related to domestic waste receptacles.

¹ [Litter Strategy for England](#) section 4.2.1

Who should read this consultation?

6. The proposals in this consultation are expected to be of greatest interest to:
 - Local authorities in England, (particularly district councils and unitary authorities),
 - National Park Authorities, and
 - The Broads Authority; English parish or community councils; the Local Government Association
7. Others who may have an interest include:
 - Environmental Non-Governmental Organisations and charities;
 - Any research institutions, groups or individuals with a particular interest in tackling environmental anti-social behaviour; and
 - The public.

Responding to this consultation

8. This consultation will run for 5 weeks from February 2018. Please send your comments on the proposals in this consultation paper to the following address:

Local Environmental Quality Team, Defra
Area 2B Nobel House
17 Smith Square
London SW1P 3JR

9. Or you can send your comments by email to litter@defra.gsi.gov.uk

Confidentiality and data protection information

10. A summary of responses to this consultation will be published on the Government website at: www.gov.uk/defra. The summary will include a list of organisations that responded **but not** personal names, addresses or other contact details.
11. Information provided in response to this consultation, including personal information, may be made available to the public on request, in accordance with the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs). Defra may also publish the responses to the FOIA/EIR requests on www.gov.uk/defra.
12. If you want your response, including personal information such as your name, that you provide to be treated as confidential, please explain clearly in writing when you provide your response to the consultation why you need to keep these details confidential. If we receive a request for the information under the FOIA or the EIRs we will take full account of your explanation, but we cannot guarantee that confidentiality can be

maintained in all circumstances. However, Defra will not permit any unwarranted breach of confidentiality nor will we act in contravention of our obligations under the Data Protection Act 1998 (DPA). An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as a confidentiality request.

13. Defra will share the information you provide in response to the consultation, including any personal data, with a third party of contracted external analysts for the purposes of response analysis and provision of a report.
14. Defra is the data controller in respect of any personal data that you provide, and Defra's Personal Information Charter, which gives details of your rights in respect of the handling of your personal data, can be found at:
<https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs/about/personal-information-charter>.
15. This consultation is being conducted in line with the "Consultation Principles" as set out in the Better Regulation Executive guidance which can be found at:
<https://www.gov.uk/government/publications/consultation-principles-guidance>.
16. If you have any comments or complaints about the consultation process, please address them to:
17. Consultation Co-ordinator
8A
8th Floor, Nobel House
17 Smith Square,
London, SW1P 3JR.
18. Or email: consultation.coordinator@defra.gsi.gov.uk

Background

Environmental enforcement

19. Councils and a number of other land managers are responsible for taking enforcement action against a range of “environmental offences” include littering, graffiti, fly-posting, and other offences which harm public spaces.²

20. In most cases, these environmental offences attract a criminal penalty. However, councils and other enforcing authorities may choose to issue fixed penalty notices (on the spot fines) as an alternative to prosecution. This reduces burdens on the justice system by avoiding the need for the majority of these cases to be heard in court, and also enables offenders to avoid a criminal record.

21. It is up to councils to decide whether to issue a fixed penalty notice in any individual case, and up to the offender to decide whether to pay it, or to defend the case in court risking prosecution and conviction. By far the majority of enforcement activity against offences such as littering is via fixed penalty notices, rather than prosecution.³

22. In some circumstances, certain councils also have powers to issue civil penalties:

- To the keeper of a vehicle from which litter is thrown; or
- In respect of certain domestic waste receptacle offences.

These civil penalties are issued in their own right, rather than in lieu of prosecution. If these penalties are not paid, the council may recover the sum owed through the county court as a civil debt.

Level of penalties

23. From April 2018, the maximum level of fixed penalties that councils will be able to impose for littering, the unauthorised distribution of free printed literature in a

² Prosecution or fixed penalty notice (ie criminal offences): littering; unauthorised distribution of free printed material in a designated area; graffiti; fly-posting; industrial/commercial waste receptacle offences, nuisance parking; abandoning a vehicle; audible intruder alarms (failure to nominate a keyholder or provide keyholder details); Noise Act 1996 offences; failure to provide a waste transfer note or waste carrier licence; fly-tipping.

Civil penalties (ie no criminal liability): domestic waste receptacle offences; littering from vehicles (from April 2018)

³ For example, in the last year for which data was collected (2008/09), local councils in England issued around 30,000 fixed penalty notices for littering offences. In 2013 just over 5,500 people were found guilty in the magistrates' courts for littering offences. (Figures from data.gov.uk and Ministry of Justice (2013))

designated area, graffiti and fly-posting will increase from £80 to £150. The default penalty for these offences will also increase from £75 to £100.

24. Subject to Parliamentary approval, from April 2018 district and unitary councils will also gain new powers to issue civil penalties to the keepers of vehicles from which litter is thrown.

25. The following table shows the levels of fixed and civil penalties that councils may impose for different offences (from April 2018):

Offence	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
<u>Littering</u>	£100	£50 (rising to £65 from April 2019)	£150	£50
<u>Graffiti</u>	£100	£50 (rising to £65 from April 2019)	£150	£50
<u>Fly-posting</u>	£100	£50 (rising to £65 from April 2019)	£150	£50
<u>Unauthorised distribution of free literature on designated land</u>	£100	£50 (rising to £65 from April 2019)	£150	£50
<u>Alarm noise: failure to nominate key-holder or to notify local authority of key-holder's details</u>	£75	£50	£80	£50
<u>Nuisance parking</u>	£100	£100	£100	£60
<u>Abandoning a vehicle</u>	£200	£200	£200	£120
<u>Fly-tipping</u>	£200	£150	£400	£120
<u>Failure to produce a waste transfer note</u>	£300	£300	£300	£180

<u>Industrial and commercial waste receptacle offences</u>	£100	£75	£110	£60
<u>Noise exceeding permitted level - domestic premises</u>	£100	£75	£110	£60
<u>Noise exceeding permitted level - licensed premises</u>	£500	£500	£500	£500 - no discount allowed
<u>Domestic waste receptacle offences</u> (civil penalty)	£60	£60	£80	£40
<u>Littering from a vehicle</u> (civil penalty)	£100	£65	£150	£50

Use of income

26. Since April 2017, the income that councils receive from these penalties has been (in most cases) ring-fenced for spending on their functions relating to the original offence. The following table shows the functions on which councils may spend this income:

Offence	FPN money can be spent on functions relating to:
Litter, graffiti, fly-posting, unauthorised distribution of free printed material on designated land	Litter and refuse (including keeping land and highways clear of litter and refuse, and enforcement against littering and littering from vehicles), graffiti and fly-posting controlling and enforcing against the unauthorised distribution of free literature
Nuisance parking	Road traffic, litter and refuse
Abandoning a vehicle	Road traffic, litter and refuse
Fly-tipping	There are no restrictions on how councils can use this income

Noise exceeding permitted levels - domestic premises	Statutory noise nuisance, noise at night and audible intruder alarms
Noise exceeding permitted levels - licensed premises	Statutory noise nuisance, noise at night and audible intruder alarms
Alarm noise - no keyholder	Statutory noise nuisance, noise at night and audible intruder alarms
Failing to show waste documents	Waste on land

27. Other authorities with enforcement powers must use the income from fixed penalties as follows:

- National Park authorities can use FPN receipts for their own litter enforcement.
- The Broads authority can use FPN receipts for functions relating to litter and anti-social behaviour.
- The Environment Agency must pay its FPN receipts to the Secretary of State.
- The police must pay receipts from FPNs issued by PCSOs to their local authority.

Proportionate enforcement

28. As set out in the Litter Strategy, there are many public misconceptions about enforcement activity against littering and related offences. Media coverage of enforcement activity, such as the recent BBC Panorama programme, *Inside the Litter Police*, often focusses on enforcement activity which is perceived as disproportionate, which undermines public confidence in its legitimacy.⁴

29. When exercising their enforcement powers, councils are acting in a quasi-judicial capacity, and we are clear that these powers must be exercised in such a way as to uphold public confidence in a fair judicial system. Fixed penalty notices or civil penalty notices should therefore only be issued when it is proportionate and in the public interest to do so. Disproportionate enforcement activity undermines legitimate messages against littering and other environmental offences. Our policy is clear that under no circumstances should councils view the use of fixed penalty notices or civil penalty notices as a means to generate income. Where councils choose to use a third-party enforcement service, they should use an approach which is not based on targets

⁴ <http://www.bbc.co.uk/programmes/b08mk133>

on the number of fines issued or revenue raised as this practice undermines public confidence in and support for a fair judicial system.

30. We want to support councils in implementing a proportionate and responsible approach to enforcement against littering and other related environmental offences, so that it operates as an effective deterrent and retains the support of the wider public. We have therefore committed to issuing improved guidance to councils on the use of their enforcement powers.

31. Taking proportionate and effective enforcement action against littering and related offences is a practical step that councils and other litter authorities can take to help them in delivering their statutory duties to keep relevant land clear of litter and refuse, and to keep the highways clean, so far as is practicable.⁵ As well as influencing the behaviour of those against whom enforcement action is taken, the use of proportionate enforcement can also help to deter others from committing offences which cause damage to local environmental quality. In turn, this will assist litter authorities in keeping their relevant land clear of litter and refuse.

32. We therefore propose to incorporate this improved guidance into the statutory Code of Practice on Litter and Refuse, to which councils and other land managers must have regard when discharging their duty to keep their relevant land clear of litter and refuse, so far as is practicable.

33. This new section 1A of the Code relates particularly to the use of fixed penalty notices in lieu of prosecution for the offences of littering (s87 EPA 1990), and the unauthorised distribution of free literature (para X Schedule 3A EPA 1990), and the use of civil penalties to penalise the keeper of a vehicle from which litter is thrown (s88A EPA 1990). As set out in Part 2 of the Code of Practice (Advisory standards for graffiti and fly-posting), duty bodies are also encouraged to manage the problems of graffiti and fly-posting as part of compliance with their section 89 duties. This guidance will therefore also be relevant to enforcement against these offences. More broadly, it sets out the policy framework within which the Government believes that litter authorities should be exercising all their environmental enforcement powers, including how to approach, carry out and review enforcement activity.

34. The proposed guidance represents good practice, and is based on a number of existing sources:

[Fixed penalty notices: issuing and enforcement by councils](#)

[Enforcement officers: issuing fixed penalty notices](#)

[Statutory guidance to local authorities on the civil enforcement of parking contraventions](#)

⁵ [Environmental Protection Act 1990, section 89](#)

Consultation questions

We welcome the views of local councils (enforcing authorities) on the proposed guidance.

In particular:

- 1 **Are any aspects of the guidance unclear?** (Please identify relevant paragraph numbers, and suggest how it could be clarified.)
- 2 **What changes, if any, will you need to make to existing practices in order to comply with the new guidance?**
- 3 **What do you estimate would be the costs of making any changes in order to comply with the guidance?**
- 4 **Do you foresee any savings attributable to compliance with the guidance?**

Proposed modification to the Code of Practice on Litter and Refuse: Section 1A – Effective enforcement

Modification to Code of Practice on Litter and Refuse – Effective enforcement

Contents

1. This guidance is published by the Secretary of State for Environment, Food and Rural Affairs under s89(7) of the Environmental Protection Act 1990 and is a modification to the Code of Practice on Litter and Refuse issued in 2006. The Code of Practice on Litter and Refuse provides practical guidance how to discharge the duties imposed on litter authorities to keep relevant land clear of litter and refuse, and on local authorities and the Secretary of State to keep clean those public highways for which they are responsible, as set out in the Environmental Protection Act 1990 under section 89(1) and (2).
2. Appropriate, effective and proportionate use of enforcement powers will help land-managers to comply with their duties to keep relevant land clear of litter and refuse, and to keep relevant highways clean. Enforcement should strike the balance between national consistency, local circumstances, and fairness and effectiveness.
3. This modification to the Code:
 - a. updates the Code in respect of the changes to fixed penalty levels, and the new civil penalties for littering from vehicles, that result from the introduction of the Environmental Offences Regulations (Fixed Penalties) (England) Regulations 2017 and the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018;
 - b. relates particularly to the use of fixed penalty notices in lieu of prosecution for the offences of littering (s87 EPA 1990), and the unauthorised distribution of free literature (para 9 Schedule 3A EPA 1990), and the use of civil penalties to penalise the keeper of a vehicle from which litter is thrown (s88A EPA 1990);
 - c. advises the relevant authorities of the procedures that they must follow, the procedures to which they must have regard, and the procedures that the Government recommends they follow when enforcing against littering and related offences;
 - d. sets out the policy framework within which the Government believes that litter authorities should be exercising their environmental enforcement powers, including how to approach, carry out and review enforcement activity;
 - e. contains information for members of the public, as well as local authorities, about environmental offences and their enforcement.
4. As set out in Part 2 of the Code of Practice (Advisory standards for graffiti and fly-posting), duty bodies are also encouraged to manage the problems of graffiti and fly-posting as part of compliance with their section 89 duties. This guidance will therefore also be relevant to enforcement against these offences.

5. This part of the Code of Practice is good practice guidance. Where it says that something must be done, this means that it is a requirement in either primary or secondary legislation. Where a statute imposes a duty on a local authority, a failure to comply will constitute a breach of statutory duty. If there appear to be differences between primary or secondary legislation and this Code, the legislation always takes precedence.
6. **Section 89(10) of the EPA stipulates that local authorities must have regard to the information contained in the Code of Practice on Litter and Refuse**, of which this modification forms part. It should be read alongside any guidance and further modifications to the [Code of Practice on Litter and Refuse](#) subsequently issued by the Government (available on the GOV.uk website).⁶

Enforcement action – prosecution and other penalties

7. Fixed penalties can provide enforcement agencies with an effective and visible way of responding to environmental crimes, and provide a lower-cost alternative to prosecution. There is no obligation on an enforcing authority to offer an alleged offender the option of paying a fixed penalty. Equally an alleged offender may choose not to accept or pay a fixed penalty, and choose instead to defend the case in court (at the risk of being liable for a potentially higher penalty on conviction). Since issuing a fixed penalty notice is an alternative to prosecution, if an alleged offender does not pay a fixed penalty, the enforcing authority should be prepared to prosecute them for the original offence. Failure to follow up on unpaid fixed penalty notices will undermine their effectiveness as an enforcement tool. Therefore the authority must ensure it collects enough evidence which can be used in court that is reliable and credible.
8. In some circumstances, where criminal proceedings would be considered disproportionate, civil penalties are available to maintain the deterrent threat of enforcement. Civil penalties are not an alternative to prosecution, and an unpaid penalty notice may be recovered by the enforcing authority as a civil debt, or as if under an order of the county court. Since there is no opportunity for the recipient of a civil penalty to defend their case in court, authorities using these civil penalties must also provide an appeals process (as set out in the relevant regulations).
9. In all cases, enforcing authorities have discretion about whether to take enforcement action in a particular case, and they may consider that other forms of sanctions or education may be more effective and appropriate in some cases. The overriding objective of enforcement action against environmental offences is to educate the offender and change their behaviour, and to deter others from committing the same offence. With this in mind, some enforcing authorities have successfully offered alternatives to formal enforcement action (such as completion of a stop-smoking programme as an alternative to a fixed penalty for littering cigarette ends).
10. The use of litter-picking as a sanction in itself must be handled with care, to avoid creating a perception that anyone seen litter-picking must be serving some form of penalty, which could deter law-abiding citizens from volunteering to take part in these activities. Community Payback is therefore best used in circumstances in which

⁶ <https://www.gov.uk/government/publications/code-of-practice-on-litter-and-refuse>

community volunteers are unlikely to be operating, such as tackling issues on private land, or to address particularly persistent or large-scale problems.

11. Fixed penalty notices should only be used for the offence for which they were created. Failing to abide by this rule may make prosecution for the original offence problematic as, if a fixed penalty notice goes unpaid, it could be open to challenge in the court. This in turn could create further problems for an authority if it had employed such practice over a period of time.⁷

Policy Objectives

12. Taking proportionate and effective enforcement action against littering and related offences is a practical step that councils and other litter authorities can take to help them in delivering their statutory duties to keep relevant land clear of litter and refuse. As well as influencing the behaviour of those against whom enforcement action is taken, the use of proportionate enforcement can also help to deter others from committing offences which cause damage to local environmental quality. In turn, this will assist litter authorities in keeping their relevant land clear of litter and refuse.
13. The principles of the Regulators Code apply to enforcement action carried out by local authorities. An effective environmental offences enforcement regime is one that is proportionate, consistent, targeted, transparent and accountable.
 - 1) Any person exercising a regulatory function to which this section applies must have regard to the principles in subsection (2) in the exercise of the function.
 - 2) Those principles are that—
 - a. regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
 - b. regulatory activities should be targeted only at cases in which action is needed.
 - 3) The duty in subsection (1) is subject to any other requirement affecting the exercise of the regulatory function.⁸
14. In particular, councils should not be taking enforcement action against people for petty or insignificant breaches. Similarly, enforcement action may be better targeted at problem areas, rather than applied across a whole local authority area.
15. Enforcement authorities should communicate to the community their reasons for their use of enforcement, and make it clear that enforcement is about supporting the achievement of a clean and attractive local environment: in no circumstances should enforcement be considered a means to raise revenue. Any perception that enforcement activity is being used intentionally to generate income is likely to undermine the legitimacy of the enforcement regime in the eyes of the local community, which in turn may diminish the deterrent effect.

⁷ This guidance relates to the use of enforcement powers under Part IV of the Environmental Protection Act 1990 to help keep land and highways clear of litter and refuse. Separate guidance is available on the use of other powers such as Community Protection Notices (pg 38) or civil penalties for domestic waste receptacle offences [hyperlink to be inserted]. Councils and other land managers must have regard to any relevant guidance when exercising their enforcement powers.

⁸ Legislative and Regulatory Reform Act 2006 section 21

16. Enforcement authorities should not view their enforcement regime in isolation. In addition to taking enforcement action, litter authorities should aim to reduce the commission of littering and other environmental offences through clear, well-designed communications, and the provision, regular emptying and maintenance of bins.

17. Enforcement authorities should also publish, promote and explain their enforcement policies openly, so that the public can understand their approach. This should include details of:

- a. the offences against which enforcement action will be taken
- b. the level of penalty for each offence (particularly following any changes)
- c. details of any early payment discounts
- d. arrangements for issuing fixed penalties (by post, electronically etc.)
- e. policies on enforcement against juvenile offenders
- f. policies in the event of non-payment
- g. appeals (if appropriate)
- h. policies on the use of income from fixed penalties
- i. what records are kept, and how information associated with enforcement action is used.

18. Enforcement authorities may also choose to make clear their policies on when a fixed penalty should not be issued.

19. It is recommended that enforcement authorities look into the benefits of consistent, and possibly collaborative, approaches to enforcement with neighbouring authorities.

Financial Objectives

20. The receipts from fixed penalties for environmental offences may be retained by litter authorities in accordance with the relevant legislation, and may only be spent in accordance with that legislation. Different rules on the use of receipts apply, depending on the enforcing authority and the offence:

Councils

21. Offence

Penalty receipts may be spent on functions relating to:

Litter / Graffiti / Fly-posting

Litter and refuse (including keeping land and highways clear of litter and refuse, and enforcement against littering and littering from vehicles), graffiti and fly-posting, controlling and enforcing against the unauthorised distribution of free literature

/ Unauthorised distribution

of free printer material on

designated land / littering from a vehicle

21. Offence

Penalty receipts may be spent on functions relating to:

(civil penalty)

Nuisance parking Road traffic, litter and refuse

Abandoning a vehicle Road traffic, litter and refuse

Fly-tipping There are no restrictions on how councils can use income

Noise exceeding permitted levels - domestic premises Statutory noise nuisance, noise at night and audible intruder alarms

Noise exceeding permitted levels - licensed premises Statutory noise nuisance, noise at night and audible intruder alarms

Alarm noise - no keyholder Statutory noise nuisance, noise at night and audible intruder alarms

Failing to show waste documents Waste on land

Other authorities:

22. National Park authorities can use fixed penalty notice receipts for their own litter enforcement.

23. The Broads authority can use fixed penalty notice receipts for functions relating to litter and anti-social behaviour.

24. The Environment Agency must pay its fixed penalty notice receipts to the Secretary of State.

25. The police must pay receipts from fixed penalty notice issued by PCSOs to their local authority.

Funding enforcement activity

26. Raising revenue should never be an objective of enforcement.
27. As far as is possible, enforcement should be self-financing, and neither national nor local taxpayers should be expected to meet any deficit. Any surplus income must only be spent in accordance with the provisions set out in the relevant enabling statute. We recognise that, for good governance purposes, enforcement authorities may need to forecast enforcement revenue in advance, but authorities should not set targets for revenue or number of penalties issued.
28. Enforcement authorities should run their enforcement operations efficiently, effectively and economically. Enforcement authorities should set fixed penalties, within the range specified in the Environmental Offences (Fixed Penalties) (England) Regulation 2017, at an appropriate level to reflect local circumstances, including local ability to pay.

Training and Professionalism

29. If the service is to command public confidence and respect, it is essential to give enforcement staff at all levels the skills and training to do their jobs effectively, whether they are employed directly by the enforcing authority, or by a contractor. For parish council enforcement officers, it is a legal requirement that they attend a suitable training course.⁹ Training should be seen as a legitimate and important aspect of running costs.
30. The office processes involved are important and staff carrying them out need similar levels of skill, training and professionalism as the more visible on-street enforcement officers. Enforcement authorities should provide enough staff for the volume of work. They should also make sure that those staff (whether employed directly by the authority or by a contractor to deal with informal challenges) have the skills, training, authority and resources to give the public a high-quality, professional, efficient, timely and user-friendly service.
31. Authorities that outsource any area of environmental offences enforcement to private companies should ensure that the contractor meets the same standards as would be expected of the authority itself.
32. Enforcement officers should wear a uniform or badge, and carry a Police and Criminal Evidence Act (PACE) Notebook for recording evidence to support a fixed penalty or prosecution. It is best practice for enforcement officers to carry identification e.g. a warrant card.

Dual Function Civil Enforcement Officers

33. Environmental enforcement officers may be authorised to carry out other functions in addition to environmental enforcement, for example, parking enforcement duties.¹⁰

⁹ Environmental Offences (Fixed Penalties) (England) Regulations 2017, regulation 12

¹⁰ 'Dual Function Civil Enforcement Officers', Department for Transport (2016), available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/609788/statutory-guidance-local-authorities-enforcement-parking-contraventions.pdf

Enforcement authorities that choose to take this approach must ensure that neither function is compromised as a result of the integration of duties. Income from penalties issued under each regime should be kept separate.

Collecting evidence

34. The enforcing authority will need to provide evidence of the offence either from direct observation, or report including details of:

- a. the offence
- b. the date and time
- c. the location
- d. the name and address of the offender
- e. the age of the offender
- f. the offender's appearance
- g. the weather and light conditions at the time
- h. the enforcement officer's identification number
- i. the fixed penalty number.

35. If an offence occurs in which litter is thrown or dropped from a vehicle, additional relevant details should be noted, in order to cross match with the details from the DVLA's database, including;

- a. the make of the vehicle
- b. the model
- c. the colour

The opening from which the litter was thrown (e.g. driver's side window) should also be noted.

36. Enforcing authorities may take enforcement action on the basis of CCTV evidence, or evidence supplied by members of the public provided that, in the enforcing authority's opinion, the evidence is sufficient to meet the standards of proof relevant to the offence or contravention in question. In the case of criminal offences such as littering, a successful prosecution will require evidence sufficient to prove the offender's guilt beyond reasonable doubt. While a fixed penalty may be issued where the authorised officer has "reason to believe" that the offence has been committed, it will still be necessary to submit evidence proving the offence beyond reasonable doubt in order to prosecute the offender if the fixed penalty is unpaid. Failure to pursue unpaid penalties will undermine the threat of enforcement, and their effectiveness as a deterrent.

37. In the case of civil contraventions (including penalties issued to the keeper of a vehicle from which litter is thrown), the evidence must prove the offenders' guilt on the balance of probabilities.

38. Any photographs, video footage and notes by the enforcement officer about the circumstances should be kept as further evidence that the offence took place and to help resolve any disputes.

39. Enforcing authorities should provide their staff with the appropriate equipment, training and guidance to collect such evidence in the circumstances that the authority has prescribed.

40. Authorities should disclose their evidence at the earliest possible opportunity.

Keeping records

41. In order to operate a fair and effective and enforcement system, enforcing authorities will need to keep records of:

- a. all penalty notices issued, and decisions taken at each stage from issue through to payment or prosecution;
- b. any representations received against each penalty notice;
- c. the evidence on which each penalty notice is based, in case the case goes to court.

Issuing fixed penalty notices in lieu of prosecution

42. A fixed penalty notice in lieu of prosecution should only be issued when all of the following apply:

- a. an offence has been committed
- b. a fixed penalty notice is a proportionate response in the circumstances (see below for circumstances under which a fixed penalty notice should not be issued)
- c. there is sufficient evidence of the offender's guilty to support prosecution if the fixed penalty is unpaid
- d. the offender understands why the fixed penalty notice is being issued
- e. the enforcement officer believes that the name and address given by the offender are correct.

43. A fixed penalty notice must be issued to the person who has committed the offence. Where possible, a fixed penalty notice should be issued on the spot. Alleged offenders should be made aware of an offence at the time, and given an opportunity to rectify it (if appropriate). If necessary, a fixed penalty notice can also be issued by post.

44. A fixed penalty notice in lieu of prosecution must state all of the following:

- a. the alleged offence, for example, "littering"
- b. details about the offence, for example, what sort of litter was dropped
- c. where and when the offence took place
- d. the fine imposed (and if there's a discount for paying early)
- e. how the fine can be paid.

45. A fixed penalty notice in lieu of prosecution should state all of the following:

- a. how the penalty notice has been issued (in person or by post)
- b. when the fine must be paid by (this must be at least 14 days from the date of issue)

46. A fixed penalty notice should not conflate the amount of the fixed penalty (which can be up to £150) with the potential fine that could be imposed by a court on conviction for the offence (potentially up to £2,500).

47. If the enforcing authority operates an informal challenge process for fixed penalties issued in lieu of prosecution, the fixed penalty notice should also include instructions on how to bring a challenge, including:

- a. how, when and where to challenge
- b. what happens if the challenge is successful (ie no further action will be taken and the fixed penalty notice will be cancelled)
- c. what happens if the challenge is rejected and the offender doesn't pay (the offender should be prosecuted, unless the enforcing authority has other compelling reasons to cancel the fixed penalty notice)
- d. how to complain.

When not to issue a fixed penalty notice in lieu of prosecution

48. Fixed penalty notices should not be issued if any of the following apply:

- a. there is no criminal liability – for example if the offender is a child under the age of 10 (the child's parents should be informed instead)
- b. enforcement action is inappropriate or would be disproportionate for the offence – for example, if the offender is vulnerable or the offence is trivial and it would not be in the public interest to prosecute
- c. prosecution is more suitable – for example, if:
 - the offence is major, e.g. racist or other forms of abusive graffiti, or deliberate smashing of glass
 - the offence is committed by a persistent offender
 - the offender is violent or aggressive
- d. A littering offence is accidental - for example if something falls from someone's pocket. In order to maintain public trust in the legitimacy of enforcement action against littering, fixed penalties for littering should only be issued where there is evidence of an intent to drop litter. It is not in the public interest to issue a fixed penalty notice where there is not clear evidence that the individual intended to cause litter. Alleged offenders should also be given the chance to pick up the litter before a fixed penalty is issued, and they should be warned that a penalty will be issued if they refuse to do so.

Persistent offenders

49. Some people commit environmental offences deliberately and often, and may also fail to pay the fixed penalties issued against them. A person can be classed as a 'persistent offender' if there are multiple recorded offences by the individual and the penalties for these have not been paid, represented against or appealed against within the relevant time frame, or their representations and appeals have been rejected but they have still not paid (or been prosecuted). In such circumstances, a further fixed penalty is unlikely to be appropriate and enforcement authorities should consider prosecuting.

Issuing fixed penalty notices on private land

50. It is an offence to drop litter on any land within the area of a principal litter authority which is open to the air on at least one side, and to which the public have access (with or without payment). This includes private land to which the public have access.

51. There are no explicit powers of entry associated with enforcement against littering. Before entering private land to take enforcement action in connection with littering offences committed on that land, enforcement officers should consider whether the landowner's consent is required. Enforcing authorities may wish to discuss their

approach to enforcement with the owners of large areas of private land to which the public routinely have access (e.g. shopping centres, retail parks, transport hubs etc.).

Getting the offender's details

52. It is an offence if an alleged offender fails to provide their name and address in order for a fixed penalty to be issued. The police may be called to assist if the offender refuses to provide their details, or provides false details. A police community support officer (PCSO) may detain the offender for up to 30 minutes before a police constable arrives, and a further fixed penalty may be issued if a person refuses to supply their details, or provides false details.

Issuing civil penalties for littering from vehicles

53. A penalty notice for littering from a vehicle must state all of the following:

- a. The circumstances alleged to constitute the littering offence in question, including the registration mark (if known) of the vehicle concerned
- b. How long they have to pay the penalty (28 days from the date the penalty notice is given)¹¹
- c. The amount of the penalty if paid within 28 days
- d. That the amount of the fixed penalty will double if not paid within 28 days
- e. That the enforcing litter authority may recover any fixed penalty not paid within 28 days in court
- f. [If applicable] details of any early-payment discount available if the penalty is paid within 14 days (including the amount of the discounted penalty, which must not be less than £50)
- g. Details of how to pay (the name and address of the person to whom payment must be made, and the permissible methods of payment)
- h. That the recipient has a right to make representations to the enforcing litter authority
- i. The grounds on which representations may be made; and
- j. In general terms, how an appeal to an adjudicator can be made.

Using the DVLA's database

54. The Driver and Vehicle Licensing Agency (DVLA) vehicle keeper database may be used to establish the ownership of vehicles used in connection with the commission of criminal offences, including littering.

55. For the purposes of issuing a civil penalty to the keeper of a vehicle from which litter is thrown, the "keeper" to which the penalty notice should be issued is the person by whom the vehicle is kept at the time when the littering offence in question occurs. In the case of a registered vehicle this is to be presumed, unless the contrary is proved, to be the registered keeper.

¹¹ In the case of penalty notices issued by first-class post to an address in the UK, the notice is taken to be given on the second working day after posting (fifth working day in the case of an address outside the UK). If the notice is sent electronically, it is taken to be given on the working day immediately following the day on which it was sent.

Enforcement against Young People

Children

56. Fixed penalties are issued in lieu of prosecution. A valid fixed penalty therefore cannot be issued to a child under 10, as they are below the age of criminal responsibility. Enforcement authorities may contact the child's parents to make them aware of the offence.

Juveniles (aged 10-17)

57. Fixed penalties may be issued to young people between the ages of 10 to 17. As a matter of good practice, it is recommended that enforcement officers issuing fixed penalties to juveniles should:

- a. always be in uniform
- b. never touch a young person
- c. approach from the front, not behind
- d. identify themselves and offer formal identification
- e. ideally work in pairs

Juveniles aged 10 to 15

58. Fixed penalties may be issued on-the-spot to 10 to 15-year-olds if:

- a. the offender is known to the enforcement officer; and
- b. the offender's school has agreed to the use of fixed penalties.

59. Enforcement authorities should notify the offender's parents, guardian or school as soon as possible.

60. If the enforcement officer does not know the offender, or the school has not agreed to the use of fixed penalties, officers should obtain the young person's details, and details of their parents or legal guardian in order to make further enquiries. If it is subsequently decided that a fixed penalty is suitable, it should be issued to the offender in person with a parent or legal guardian present. If the fixed penalty must be issued by post, the offender's parent or legal guardian should be notified at the same time.

Juveniles aged 16 to 17

61. Enforcement officers should obtain all of the following details from the offender:

- a. name
- b. address
- c. age
- d. date of birth

62. They should also obtain the name and address of a parent or legal guardian of the offender.

63. The young offender should be informed that this information will be shared with their local youth offending team.

64. If it is necessary to interview a young person under 17 under caution, an appropriate adult must be present.

Payment options

65. Enforcement authorities should offer people a range of facilities for paying penalty notices. Where they provide payment centres these should be safe and accessible. Enforcement authorities should ensure that any payment facility (particularly telephone and online payments) can confirm any amount outstanding if part payment only has been received.

66. If there are unusual delays with the postal system, authorities should make allowances for late payments made by post when considering whether a payment was received within the statutory period. Enforcement authorities may wish to keep the envelope that the payments came in, as the franking can be used as evidence of the date of posting.

67. A fixed penalty notice is deemed 'paid' as soon as it is received by the enforcement authority. The enforcement authority should promptly close the case. An authority's systems should accurately record the day on which it receives payments so that no further enforcement action is taken.

68. If a fixed penalty notice is issued in lieu of prosecution, recipients must be given 14 days to pay before any prosecution proceedings can be brought.

69. Recipients of civil penalty notices have 28 days from the date of receipt in which to make the payment, otherwise the penalty will double. If a civil penalty notice is issued by post, the enforcing authority should use first class post, and it is deemed to have been received on the second working day after posting (or the fifth working day, if sent to an address outside the UK).

70. To encourage prompt payment, enforcing authorities may offer recipients a reduction in the penalty if paid before this deadline. The period during which a discount for early payment is offered must be no more than 14 days and to avoid confusion, it is recommended that it should not be more than 10 days. The minimum discounted penalty is set out in the relevant legislation:

71. Offence

	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
Littering	£100	£50 (increasing to £65 from 1 April 2019)	£150	£50
Graffiti	£100	£50 (increasing to £65 from 1 April 2019)	£150	£50

71. Offence

	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
<u>Fly-posting</u>	£100	£50 (increasing to £65 from 1 April 2019)	£150	£50
<u>Unauthorised distribution of free literature on designated land</u>	£100	£50 (increasing to £65 from 1 April 2019)	£150	£50
<u>Alarm noise: failure to nominate key-holder or to notify local authority of key-holder's details</u>	£75	£50	£80	£50
<u>Nuisance parking</u>	£100	£100	£100	£60
<u>Abandoning a vehicle</u>	£200	£200	£200	£120
<u>Fly-tipping</u>	£200	£150	£400	£120
<u>Failure to produce a waste transfer note</u>	£300	£300	£300	£180
<u>Industrial and commercial waste receptacle offences</u>	£100	£75	£110	£60
<u>Noise exceeding permitted level - domestic premises</u>	£100	£75	£110	£60
<u>Noise exceeding permitted level - licensed premises</u>	£500	£500	£500	£500 - no discount allowed

72. Discounts for early payment may also be offered for civil penalty notices:

Contravention	Default penalty	Minimum full penalty	Maximum full penalty	Minimum discounted penalty
Littering from a vehicle	£100	Equivalent to local fixed penalty for littering offences £65 - £150		£50
<u>Domestic waste receptacle offences</u>	£60	£60	£80	£40

73. Enforcing authorities may choose to send recipients of penalty notices a reminder letter. Again, it is recommended that these are sent out no earlier than 7 days from the date the penalty was issued. The reminder letters should inform the recipient of the following:

- a. how much they must pay
- b. when they must pay by
- c. what happens if they don't pay
- d. how they can make representations (civil penalties) or challenge the notice (penalties in lieu of prosecution)

74. Enforcing authorities may also choose to offer recipients the option of paying in instalments if they cannot afford the full amount.

Providing a quality service

75. Enforcement authorities remain responsible for the whole enforcement process, whether they contract out part of it or not, and should provide a sufficient number of suitably trained and authorised officers to consider representations on their merits in a timely and professional manner. Enforcement authorities should not contract out the consideration of representations or challenges against penalties.

76. It is good practice for all challenges or representations to be considered by the service manager, or equivalent, who has delegated authority to consider them. All challenges or representations should be addressed to them and not the person that issued the penalty notice.

77. Enforcement authorities should make sure that their processes for handling representations, challenges, and appeals are efficient, effective and impartial.

Processes must comply with all relevant primary legislation and regulations.¹² Authorities are encouraged to seek independent quality assurance of their environmental offences enforcement processes.

78. Enforcement authorities should deal with offenders promptly and professionally. Authorities are encouraged to set time and quality targets for dealing with queries, in addition to any statutory time limits and those set out in this Guidance. As good practice they should publish information about their enforcement activity (see section 8).
79. Enforcement authorities should offer individuals flexible and efficient ways to contact them, including e-mail and telephone. They should ensure there is an adequate audit trail to rebut any accusations of unfairness.

Considering challenges / representations and appeals

80. The process of considering challenges, representations and defence of appeals is a legal process that requires officers dealing with these aspects to be trained in the relevant legislation and how to apply it. They should be well versed in the collection, interpretation and consideration of evidence; writing clear but concise case-specific responses to challenges, enquiries and representations; presenting the authority's case to adjudicators.
81. Enforcement authorities have a duty not to fetter their discretion. They should approach the exercise of discretion objectively and without regard to any financial interest in the penalty or decisions that may have been taken at an earlier stage in proceedings. Authorities should formulate (with advice from their legal department) and then publish their policies on the exercise of discretion. They should apply these policies flexibly and judge each case on its merits. An enforcement authority should be ready to depart from its policies if the particular circumstances of the case warrant it.
82. It is in the interests of the authority and the individual to resolve any dispute at the earliest possible stage. Authorities should take account of the enforcement officer's actions in issuing the fixed penalty notice but should always give challenges and representations a fresh and impartial consideration.
83. Authorities should ensure that their legal departments are involved in establishing a processing system that meets all the requirements of the law. They should also consult them about complex cases.

The exercise of discretion

84. The exercise of discretion should, in the main, rest with back office staff as part of considering challenges against fixed penalty notices and representations that are made to the local authority. This is to protect enforcement officers from allegations of inconsistency, favouritism or suspicion of bribery. It also gives greater consistency in the enforcement of environmental offences regulations. However, councils should recognise

¹² See in particular Part 4 of the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

the role of councillors to raise issues on behalf of their ward constituents, and more generally, for councillors to scrutinise the manner in which the broader policy operates.

85. The enforcement authority should have clear policies, instructions and training available on how to exercise such authority. These policies should form the basis for staff training and should be published.

Challenges against fixed penalty notices (i.e. informal challenges)

86. This section applies to challenges to fixed penalty notices issued in lieu of prosecution for criminal offences, including littering, and unauthorised distribution of free literature etc.

87. Although there is no formal right of appeal against a fixed penalty notice issued in lieu of prosecution, if an alleged offender does not accept liability for the offence, there is no requirement on them to pay the fixed penalty. The assumption should always be that if a fixed penalty is unpaid, the case should be prosecuted, giving the alleged offender the opportunity to defend their case in court. To prevent unnecessary cases reaching the courts, it is therefore good practice for enforcing authorities to operate an informal challenge process against fixed penalty notices. As such, there are no fixed grounds on which a challenge may be made.

88. An authority has a discretionary power to cancel a fixed penalty notice at any point during the process. It can do this even when an undoubted contravention has occurred if the authority deems it to be appropriate in the circumstances of the case. Under general principles of public law, authorities have a duty to act fairly and proportionately and are encouraged to exercise discretion sensibly and reasonably and with due regard to the public interest.

89. If the enforcing authority operates an informal challenge process for fixed penalty notices, it should ensure that, whatever ways are available to lodge an informal representation, there is an adequate audit trail of the case, showing what decision was taken and why.

90. If the enforcing authority does choose to offer an informal challenge process, the grounds on which representations may be made should be published and be made available to the public. Such grounds might include, but are not limited to:

- a. if the person issued with the penalty was not the person that committed the offence – this might be the case if someone challenged for an offence has given someone else's details;
- b. if the person issued with the fixed penalty notice brings forward evidence that could undermine any later prosecution;
- c. if evidence is provided that the person issued with a fixed penalty notice is in some way vulnerable and the enforcement of the fixed penalty notice would not be in the public interest;
- d. if evidence is provided that enforcement would, for any other reason, not be considered to be in the public interest.

91. Consideration should take into account the authority's own guidelines for dealing with extenuating, or mitigating circumstances. If the evidence or circumstances (including

mitigating circumstances) provide grounds for cancelling the fixed penalty notice, then the enforcement authority should do so and let the individual know. If the enforcement authority considers that there are no grounds for cancellation, it should tell the individual and explain its reasons.

92. It is also considered important that anyone who wants to take advantage of an appeals process is not disadvantaged by doing so. Where an authority offers a discount for early payment of a fixed penalty notice it should still be offered in the event of an unsuccessful appeal, providing that the appeal is lodged before the close of any relevant early payment window.

93. Authorities should always make it clear that an individual who has an informal challenge rejected may still choose not to pay the fixed penalty and instead defend their case in court.

Formal challenges against civil penalty notices for littering from vehicles

94. The recipient may dispute the issuing of a civil penalty notice at two stages:

- a. Once a civil penalty notice has been served, an individual has up to 28 days to make a formal representation to the authority based on any one or more of the grounds for appeal set out in Regulation 14 of the Littering from Vehicles Outside London (Civil Penalties: Keepers) (England) Regulations 2018; and
- b. If a representation is rejected by the enforcing authority, the individual may appeal against the Notice of Rejection to an independent adjudicator.

95. Enforcement authorities should maintain a clear separation between the staff that decide on the issuing and processing of PCNs and the staff that decide on representations, especially in cases referred back by the adjudicators, to ensure that decisions are seen to be impartial. Authorities should run fair and efficient systems for assessing formal challenges.

96. Enforcement authorities should ensure that only fully trained staff make decisions on challenges, on the facts presented, and be specific on which officers have the authority to cancel penalty notices. Elected members and unauthorised staff should not play any part in deciding the outcome of individual challenges or representations.

97. Officers dealing with formal representations should be familiar with all aspects of environmental offences enforcement, particularly the legal nature of the process, so that they can judge whether or not a representation falls within the statutory grounds or the authority's guidelines for exceptional cases. Fair and efficient systems for carrying out this work should ensure that the number of cases going to an adjudicator is minimised – so saving the authority time and expense – without allowing people to evade an appropriate penalty.

98. Representations must be made in writing. The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 set out 12 formal grounds on which representations may be made:

99. A person to whom a penalty notice is given may make written representations to the litter authority if it appears to the person that one or more of the following grounds apply;

1. Ground A is that the littering offence in question did not occur.
 2. Ground B is that the person became the keeper of the vehicle after the littering offence occurred.
 3. Ground C is that the person had disposed of the vehicle to another person before the littering offence occurred.
 4. Ground D is that the vehicle was a stolen vehicle when the littering offence occurred.
 5. Ground E is that the person;
 - a. was engaged in the hiring of vehicles at the time of the littering offence, and
 - b. was not the keeper of the vehicle at that time by virtue of a vehicle hire agreement.
 6. Ground F is that the person was not the keeper of the vehicle for a reason not mentioned in grounds B to E.
 7. Ground G is that the litter authority was not authorised to give the person a penalty notice.
 8. Ground H is that the person is not liable to pay the fixed penalty by virtue of regulation 12 (Public service vehicles and licensed taxis etc.).
 9. Ground I is that liability to pay the fixed penalty has been discharged in the circumstances set out in regulation 13 (Discharge of liability where action taken against person who littered).
 10. Ground J is that the fixed penalty exceeds the amount payable under these Regulations.
 11. Ground K is that the litter authority has failed to observe any requirement imposed on it in relation to the imposition or recovery of the fixed penalty.
 12. Ground L is that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).¹³
100. Authorities must consider representations made on these grounds. The enforcement authority should acknowledge receipt of the representation and explain the process, including what supporting evidence must be supplied, and when a decision notice will be dispatched.
101. The enforcement authority should consider representations as quickly as possible and serve notice of its decision on the person making the representations, within a maximum of 56 days of the service of the representations, whether or not it accepts that the ground in question has been established.
102. An enforcement authority which accepts a representation must cancel the penalty notice and refund any sum already paid. Cancellation does not prevent the authority from serving another penalty notice for the same litter offence to another person.

¹³ Regulation 14

103. If it is possible for the council to identify the person who actually littered, it may still choose to issue a fixed penalty notice for littering to that person, with the possibility of prosecution remaining if the fixed penalty is not paid. However, if a fixed penalty notice is issued, the council cannot also issue a civil penalty notice to the keeper of the vehicle for the same offence. If the person who threw the litter is identified after a civil penalty notice has been issued, but before it has been paid, the council may choose to cancel the civil penalty and decide (if it has sufficient evidence) to issue a fixed penalty or prosecute the litterer. If a civil penalty notice has already been paid or recovered in respect of the offence, and subsequently the person who actually littered is identified, then any liability on the part of the litterer for the original littering offence has already been discharged and no enforcement action (fixed penalty, nor prosecution) may be taken against the litterer.

104. An enforcement authority which rejects a representation must serve a notice stating that the penalty must be paid unless an appeal is made to an adjudicator. The enforcement authority must in a notice of rejection set out the general form and manner in which an appeal can be made and explain that the adjudicator has the power to award costs against either party.

105. The adjudicator may also, where an appeal is allowed, give written directions to the litter authority which the adjudicator considers appropriate for the purpose of giving effect to their decision.

106. An adjudicator may (despite not allowing an appeal) give a written recommendation to the litter authority that it cancels the penalty notice if the adjudicator is satisfied that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled.

107. An adjudicator must dismiss an appeal if the adjudicator concludes none of the grounds set out in regulation 14 of the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 apply, or there are no compelling reasons why the penalty notice should be cancelled.

108. The enforcement authority should give the recipient clear and full reasons for its decision on a representation, in addition to the minimum required information. Failure to explain such a decision may be seen as maladministration. If, following an unsuccessful representation, an authority decides to offer a new discount period for prompt payment, it should set out the dates.

109. Enforcement authorities should respond promptly to adjudicators concerning appeals and meet time limits set by legislation or the adjudicator's judicial powers.

110. There should be a motivation for authorities to work to keep cases out of the court, where possible, as this is time consuming for all parties and can be expensive. By encouraging payment, this avoids a costly and burdensome process of prosecution.

Non-payment of fixed penalty notices - prosecuting offenders

111. Should a fixed penalty notice go unpaid then the normal course of action will be to prosecute for the original offence in the magistrates' court. An enforcement authority must wait 14 days after issuing a fixed penalty notice before taking legal action, and must begin legal proceedings within 6 months of the offence.

112. Failure to pursue unpaid notices will discredit the use of fixed penalties in the locality, and will lead to declining rates of payment. The need to pursue unpaid fixed penalty notices must be considered in the development of an enforcement strategy and the necessary resources made available. It is not acceptable for an authority to decide after a fixed penalty notice has been issued that it does not have the resources to prosecute if the notice is unpaid.

Non-payment of (civil) penalty notices

113. Should a penalty notice be unpaid after the 28-day payment period has expired and no representations against the penalty notice have been made to the enforcing authority, then the penalty will automatically double (ie increase by 100%). At this point, it becomes a civil debt due to the authority and is enforceable through a streamlined version of the normal civil debt recovery process in the county court.

Reporting

114. Reporting is an important part of accountability. Enforcement authorities should report regularly and consistently to help the public understand and accept enforcement and council use of taxpayers' money. In addition it provides management information for internal performance evaluation and comparison with other councils. Monitoring also helps the authority to identify where it needs to improve.

115. The Government believes that in principle all data held and managed by local authorities should be made available to local people unless there are specific sensitivities to doing so (e.g. protecting vulnerable people or commercial and operational considerations). The Government also expects local authorities to be transparent about how they spend taxpayers' money and the services they deliver. It is a statutory requirement for local authorities covered by the Transparency Code to comply with [Part 2 of the Local Government Transparency Code 2015](#) which sets out the minimum data that local authorities should be publishing.

116. We consider that as good practice local authorities should publish the following information about their enforcement activity (for each of the environmental offences, including the new civil penalties for littering from vehicles):

- a. number of (a) fixed penalties notices and (b) civil penalty notices issued
- b. number of (a) fixed penalty notices and (b) civil penalty notices cancelled
- c. number of (a) fixed penalty notices and (b) civil penalty notices paid
- d. number of (a) fixed penalty notices and (b) civil penalty notices paid at discount rate
- e. number of prosecutions undertaken following non-payment of a fixed penalty notice (whether the case is concluded or not)
- f. number of prosecutions undertaken for environmental offences for which a fixed penalty notice was not offered

- g. number of civil penalty notices cancelled following an appeal made to an adjudicator
- h. number of civil penalty notices pursued as civil debts following non-payment
- i. number of fixed penalty or civil penalty notices written off for other reasons (e.g. procedural error, not in the public interest to pursue, alternative sanctions used etc.)
- j. total net income from (a) fixed penalty and (b) civil penalty notices for each of the environmental offences, and net income from civil penalty notices for littering from vehicles
- k. total spent on enforcement activity against (a) environmental offences and (b) littering from vehicles offences

117. Where external contractors are used, the full text of such contracts/legal agreements, should be placed in the public domain by the council - to provide additional scrutiny and reassurance that such contracts are not being used as a revenue raiser. The Local Government Transparency Code already requires that councils falling under the Code publish contracts over £5,000 and discourages the use of commercial confidentiality clauses to prevent such publication. As best practice, the Government would also encourage an annual breakdown of fines and revenue, which could be done through an annual scrutiny review.

Use of income from fixed penalties and penalty notices for littering from vehicles

118. Councils may spend the income from fixed penalties issued for littering offences on their functions relating to litter (including keeping their relevant land clear of litter and refuse, keeping relevant highways clean, and enforcement against littering), and on enforcement against graffiti and fly-posting offences.

119. This spending may include spending on communications and education to abate littering, or on the provision of bins and other street litter disposal infrastructure.

Appraising Enforcement

120. Enforcement authorities should monitor their environmental offences policies, enforcement regimes and associated regulatory framework (including fixed penalty levels). They should appraise them when reviewing their local plans, local development framework or community strategy and make recommendations for improvements to members. Enforcement authorities should keep abreast of developments in neighbouring authorities and look into the benefits of consistent, and possibly collaborative, approaches to enforcement.

121. Appraisals should take account of any relevant information that has been collected as part of the environmental offences enforcement process, in particular about the practical effectiveness of the scheme. They will benefit from interviews with enforcement officers, who are in a unique position to identify changes to environmental offences patterns, and with office staff, who see challenges and representations and the reasons for them.

122. Enforcement authorities should consult locally on their policies when they appraise them. Enforcement authorities should maintain regular dialogue and joint activity where appropriate with on-street contractors.

123. The appraisal should take account of:

- a. existing and predicted levels of offending;
- b. availability of relevant infrastructure, such as bins;
- c. adequacy, accuracy and quality of signage and other communications;
- d. level of enforcement necessary for compliance;
- e. levels of penalties;
- f. payment and prosecution rates;
- g. the need to resource the operation effectively and ensure that staff are appropriately trained; and
- h. impact on the accumulation rates of litter.

124. Enforcement authorities should judge the performance of contractors and staff according to how far desired objectives have been achieved. Outcome indicators might include compliance statistics, the number of appeals, and the localised impact that enforcement appears to have had on relevant offending and the accumulation rate of litter. Performance management of enforcement staff, including rewards or penalties, should never be based on the volume of penalties issue, nor on a fixed amount of revenue to be raised. Enforcement authorities should have a Service Level Agreement for enforcement operations “in house”, incorporating the specification terms and conditions required by the client department, just as for a contract with an external service provider. Any such Service Level Agreement should reflect these principles.

125. Where external contractors are used, private firms should not be able to receive greater revenue or profits just from increasing the volume of penalties, since this runs contrary to the overall aim of reducing the number of offences committed.

Annex A – Relevant Legislation

Fixed Penalties – Index of Legislation

126. The main legislation and regulations providing for fixed penalties for the environmental offences is as follows:

- Environmental Protection Act 1990 ¹⁴
- Clean Neighbourhoods and Environment Act 2005 ¹⁵
- Anti-social Behaviour Act 2003 ¹⁶
- Refuse Disposal (Amenity) Act 1978 ¹⁷

¹⁴ <http://www.legislation.gov.uk/ukpga/1990/43/contents>

¹⁵ <http://www.legislation.gov.uk/ukpga/2005/16/contents>

¹⁶ <http://www.legislation.gov.uk/ukpga/2003/38/contents>

¹⁷ <http://www.legislation.gov.uk/ukpga/1978/3/contents>

- Environmental Offences (Fixed Penalties) (England) Regulations 2017 ¹⁸
- Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 ¹⁹

¹⁸ <http://www.legislation.gov.uk/uksi/2017/1050/contents>

¹⁹ <http://www.legislation.gov.uk/ukdsi/2018/9780111163818/contents>



Response to Consultation on Proposed modification to the Code of Practice on Litter and Refuse: Section 1A – Effective enforcement.

Introduction

The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises over 300 local authorities in England (outside London) and Wales. The principal function of the Joint Committee is to make provision for independent adjudication in respect of traffic penalty charge notices issued by local authorities. This is delivered through the Traffic Penalty Tribunal which comprises 30 adjudicators and their support staff.

The adjudicators of the Traffic Penalty Tribunal decide appeals against penalties issued by local authorities in England (outside London) and Wales who undertake civil enforcement of parking, bus lanes and, in Wales, moving traffic contraventions. The tribunal also decides appeals arising from road user charging enforcement at the Dartford-Thurrock River and Mersey Bridge Crossings. In the case of the former, the Charging Authority is Highways England and for the latter it is Halton Borough Council. Road User Charging enforcement is also undertaken by Durham County Council. The tribunal also decides appeals against penalties issued by local authorities in England (outside London) for littering from vehicles. Further information about the Traffic Penalty Tribunal can be found at www.trafficpenaltytribunal.gov.uk.

In addition, the Joint Committee recognises the importance of public information to promote understanding of the civil enforcement. The PATROL web site at www.patrol-uk.info includes information on enforcement processes and PATROL promotes the production of local authority annual reports on parking and other civil enforcement matters to increase transparency and understanding of the objectives behind enforcement.

PATROL welcomes the opportunity to respond to the Department for Environment Food and Rural Affairs' consultation on the Modification to the Code of Practice on Litter and Refuse: Guidance on effective enforcement.

General Comments

The split between civil and criminal liability for differing offences is a challenge for local authorities from the perspective of delivering a new type of enforcement.

The Code of Practice helpfully makes reference to the Statutory Guidance on Civil Parking Enforcement, a recommendation for Environmental Teams to have regard to the experience gained by Parking Teams in civil enforcement could assist understanding of the differences in the two approaches.

The split is also a matter to take into account in public education.

Will the implementation advice be combined into the Code of Practice?

Paragraph 2

PATROL welcomes the emphasis on proportionate and fair enforcement. The issue of consistency is frustrated by the varying levels of penalties that councils may impose for littering from vehicles and the flexibility in terms of offering discounts. Perhaps the reference later to having a coordinated approach between neighbouring authorities could also be included here.

Paragraph 9

Paragraph 9 is to be welcomed and the best practice evidence from motoring enforcement should be communicated to local authorities that educational alternatives are more effective in changing behavior than enforcement alone.

Paragraph 14

It is unclear what constitutes a “petty or insignificant” breach. Does this relate to the manner in which the litter was deposited? The litter so

deposited? The particular circumstances of member of the public? The circumstances of the area?

Paragraphs 15 and 17

PATROL promotes the importance of education ahead of enforcement. In addition, it regards transparency in enforcement activities as vital to public understanding of the objectives of enforcement. Annual reports provide the opportunity to demonstrate transparency including details of income and expenditure and the use of any surplus.

Paragraph 32

“It is best practice for enforcement officers to carry identification e.g. a warrant card”

Members of the public should be left with no confusion that the notice has been issued by an authorised officer.

Paragraph 34

There is no mention in the list of the “litter deposited” This is recognised in Paragraph 44 and so in collating evidence such information should also be included.

Paragraph 53

There is a minor grammatical error in list value (a) (know) should be (known).

There is no reference to a contravention code or what litter was deposited

Paragraph 110

Reference to “court” may be confusing within this section.

Paragraph 113

What is meant by a “streamlined” version of the normal civil debt recovery process?

Paragraphs 114 to 116

Local authorities should be encouraged to go beyond the minimum requirements of the Transparency Code 2015 and use the opportunity to set the quantitative information within the context of the authority's objectives and policies on littering.

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June 2018

Clean Air Zones - update as at 1 June 2018

Mandatory Zones	News / links	Plan date	Consultation	Start date	Charging Zone	Summary
Leeds Council	https://news.leeds.gov.uk/leeds-to-consult-on-clean-air-zone-as-air-quality-and-health-impacts-are-put-top-of-the-agenda/	October 2017	On class B proposals Jan-Feb 2018	Tbc subject to government approval of plan, but likely to be 2019	Yes Class B £100 buses/ coaches/ HGV and £12.50 taxis	The proposed charging Clean Air Zone would cover all roads within the Outer Ring Road, with the motorways forming the southern boundary. £1.8m DEFRA funding for air quality initiatives including electric vehicle charging points, electric taxis, raising public awareness
Derby	https://www.derby.gov.uk/transp-ort-and-streets/air-quality/clean-air-zones/proposed-working-options/	Under consultation	Current	Phase 1 by 2020 Phase 2 (wider area) by 2025	Yes Class B Buses/ Coaches/ HGV and taxis	£2.7m funding for sustainable travel choices. Phase 1 Class B to cover area within the inner ring road (except bus station) by 2020 phase 2 to cover area within the outer ring road by 2025
Birmingham	https://www.birmingham.gov.uk/info/20076/pollution/1280/what-is-birmingham-doing-about-air-pollution	Not yet produced	In 2018	By 2020	n/a	Verbal update to be provided.
Southampton	https://www.southampton.gov.uk/environmental-issues/pollution/air-quality/clean-air-zone.aspx	Under review	To be reviewed in 2018 with a view to introduce a charging zone in 2019	2017 on non-charging basis charging by 2019	Current non-charging – under review	Mandatory Clean Air Zone to be introduced in 2019 with access restrictions and to include Penalty Charge Notices. Exact area and which vehicles will be liable for charging / how much will be payable yet to be agreed
Nottingham	https://www.nottinghampost.co.uk/news/new-clean-air-zone-nottingham-1340366	To be submitted in Sept 18	No plan as yet	2019	Possibly	Plan to be submitted in September 2018

Other (non-mandatory) councils considering Clean Air Zones	News and links	Plan date	Consultation	Start date	Charging	Summary
Bath & NE Somerset	https://www.bathecho.co.uk/news/community/council-continues-plans-proposed-clean-air-charging-zone-bath-78389/	Dec 2018	Started in April 2018 on class B, C or D Clean Air Zone	2020	Yes 3 options being considered	Small zone around Queen Square, south and east of Royal Crescent. Decision on the preferred option to be taken before December 2018
Cardiff	https://fleetworld.co.uk/cardiff-council-runs-consultation-on-clean-air-zones/	Sept 2018	Closes 1 July 2018	2019	Under consultation	Broad consultation through green paper to gauge public support for a Clean Air Zone including a charging zone as well as other measures to reduce air pollution
Cambridge	https://www.cambridge-news.co.uk/news/cambridge-news/clean-air-zone-pollution-gcp-14421073				Possible	The Greater Cambridge Partnership has carried out preliminary work on potential areas that could be included within a CAZ
Bristol	https://www.cleanairforbristol.org/what-we-are-doing/what-is-bristol-city-council-doing-about-it/	March 18		2019/2020	Under consultation	Option 1 – package of 16 complementary measures <ul style="list-style-type: none"> • Option 2 – Medium CAZ (C) with 12 complementary measures • Option 3 – Medium CAZ (D) with 11 complementary interventions • Option 4 – Small CAZ (C) with 12 complementary measures • Option 5 – Small CAZ (D) with 11 complementary measures
York	http://democracy.york.gov.uk/documents/g10195/Decisions%2025th-Jan-	Committee report agreed	Detailed work underway	2020	No	Bus based ultra-low emission Clean Air Zone

	2018%2017.30%20Executive.pdf?T=2	Jan 18						
Coventry	https://www.airqualitynews.com/2018/01/11/coventry-rules-vehicle-charging-scheme/	n/a	n/a	n/a	n/a	n/a	Coventry City Council has ruled out a large Clean Air Zone (January 2018)	
Hull	http://www.hullcc.gov.uk/portal/page-_pageid=221,652895&_dad=portal&&_schema=PORTAL	n/a	n/a	n/a	n/a	n/a	No information available on Hull City Council's website about Clean Air Zones	
Leicester	http://www.hullcc.gov.uk/portal/page-_pageid=221,652895&_dad=portal&&_schema=PORTAL	n/a	n/a	n/a	n/a	n/a	Air Quality Action Plan (2015-26) does not include references to Clean Air Zones	
Liverpool	https://liverpool.gov.uk/media/9111/liverpoolagap_final-report17-01-2011.pdf	n/a	n/a	n/a	n/a	n/a	Air Quality Action Plan (2011) does not include references to Clean Air Zones	
Manchester	https://www.manchestereveningnews.co.uk/news/greater-manchester-news/proposed-clean-air-plan-slammed-13010391	n/a	n/a	n/a	n/a	n/a	Clean Air Zone proposal to charge drivers £7.50. The Directorate General for Mobility and Transport has launched a study to consider the cumulative and knock on effects of a CAZ on other areas.	
Newcastle	https://www.newcastle.gov.uk/sites/default/files/wwwfileroot/environment-and-waste/pollution/newcastle_gates_head_lez_feasibility_report_sep13.pdf	n/a	n/a	n/a	n/a	n/a	Newcastle University modelled 9 different scenarios including Low Emission Zones for Euro 5 and 6 buses only and concluded that exceedances could be resolved by 'natural' vehicle replacement without the need for regulation.	
Sheffield	https://www.sheffield.gov.uk/home/pollution-nuisance/low-emission-zone	n/a	n/a	n/a	n/a	n/a	Sheffield City Council has stated it has 'no intention whatsoever' of charging private car users to travel in the city. But that it will consider charging for buses, coaches and HGVs. The Low Emission Zone feasibility study recommendations do not include CAZs	

Stoke	https://www.stoke.gov.uk/directories_record/333075/air_quality_status_annual_report_2017	n/a	n/a	n/a	n/a	n/a	No reference to Clean Air Zones in 2017 Air Quality Status report
Brighton and Hove	https://www.brighton-hove.gov.uk/content/environmental/noise-and-pollution/air-quality-management-city	n/a	n/a	n/a	n/a	n/a	Considering bus based Ultra Low Emission Zone and increasing electric vehicle charging points but no current plans for a Clean Air Zone



Parking (Code of Practice)

A BILL

TO

Make provision for and in connection with a code of practice containing guidance about the operation and management of private parking facilities; and for connected purposes.

Knight moves forward

Government to back regulation of parking on private land

The government has given its blessing to a Private Member's Bill that seeks to place regulation of the private parking sector on a statutory footing. The Bill had already been endorsed both by organisations representing the parking sector and motorists. The Parking (Code of Practice) Bill passed its second reading in the House of Commons on Friday 2 February. It was presented by Sir Greg Knight MP and supported by a cross-party group of MPs comprising Jacob Rees-Mogg, Daniel Zeichner, Kevin Brennan, Pete Wishart and Graham P Jones.

The prospects for the Bill becoming law were boosted on 28 January when communities secretary Sajid Javid confirmed that government would be supporting its aims. "For too long drivers have suffered from unjust fines at the hands of dodgy parking firms," said Javid. "We need a fairer, clearer and more consistent system that brings the small minority of unscrupulous operators in line with those who are behaving appropriately."

"That is why government is putting the brakes on these rogue operators and backing new laws that will put a stop to aggressive behaviour and provide a simpler way for drivers to appeal fines."

Under its proposals, a new code of practice will be drafted up with stakeholders, and would provide the clarity of a single set of rules for private parking, with clearer processes for appeals.

The communities secretary would also have the power to raise a levy on the sector to fund the production, publishing and enforcement of the code.

At present, there are two parking trade associations, the British Parking Association (BPA) and the International Parking Community (IPC). Each has a code of practice that their members are required to abide by. A single code is intended to set a higher standard for practices across the sector, especially in the area of appeals against parking tickets.

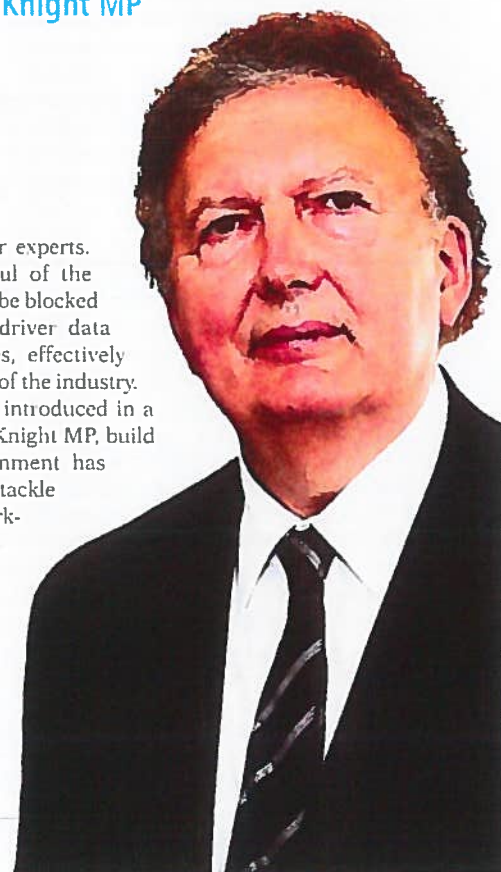
A Ministry of Housing, Communities and Local Government (MCHLG) announcement stated the plans will deliver on a manifesto commitment to tackle "rogue" parking operators. A MCHLG spokesperson said: "A stringent new code of practice will be developed by the Secretary of State in conjunction with motorists

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Self-regulation hasn't worked and we need to put this on a statutory footing to stop motorists being ripped off. We need to have a fairer, more transparent and consistent enforcement system
Sir Greg Knight MP

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groups and other experts. Those falling foul of the rules would then be blocked from accessing driver data and issuing fines, effectively forcing them out of the industry. These measures, introduced in a Bill by Sir Greg Knight MP, build on action government has already taken to tackle rogue private parking operators, including banning wheel clamping and towing, and over-zealous parking enforcement by councils and parking wardens."



Andrew Pester, chief executive, British Parking Association (BPA)

We applaud Parliament's vote to support Sir Greg's Bill, which will make parking fairer for both consumers and operators. We are delighted that MPs from across the House have shown their support for the creation of consistent standards across the sector together with a truly independent appeal process.



The BPA's membership already complies with a robust Code of Practice, which has been continuously improved for over 10 years, through consultation. With two Codes of Practice in the sector and the potential for more, it's essential that we avoid a race to the bottom when it comes to standards – Sir Greg's Bill will help to achieve this. The Parking (Code of Practice) Bill calls for a single, mandatory code of practice which will help ensure consistent and fair practices across all Accredited Trade Associations. It is vitally important that the code of practice as set out by this Bill delivers a positive outcome, so that consumers can trust that their experiences will be of a consistently high standard.

Will Hurley, chief executive, The International Parking Community (IPC)

From the outset, we have been pushing for fairness, clarity and consistency for all parties when it comes to parking vehicles on private land. These are the key requirements for establishing trust and respect and we're delighted such words were given so much prominence during the second reading of Sir Greg Knight's Private Member's Bill. It is also very pleasing to see the progression of the Bill acting as a catalyst for greater co-operation throughout the industry, as it is in the interest of all responsible operators and all motorists that best practices and high standards are achieved and maintained throughout the sector.



It's important that any new mandatory code hits the right balance to fulfil the stated objectives for improving parking practices and providing effective, fair, practical and positive outcomes in all areas at all times. Consequently, just as the needs and interests of motorists should be satisfied, so too should motorists be clear about their obligations when parking on private land. It's vital any new code is definitive and applied consistently to provide motorists, landowners and parking operators with all the assurances and standards they rightly expect.

Steve Gooding, director, RAC Foundation

Motorists will be delighted that the government is throwing its weight behind Sir Greg Knight's move to bring some much needed regulatory rigour to the world of private parking. We all hoped the ban on clamping would end the sharp practices that had come to plague private parking, but the fact that companies are issuing millions of penalty tickets annually is clear evidence that something is still going badly awry. Drivers don't want a parking free-for-all, but they do want a system that is fair to all parties and that's what a code of practice set by government – rather than the industry itself – should bring about.



Louise Hutchinson, director, Parking and Traffic Regulation Outside London (PATROL)

PATROL supports Greg Knight's Bill because motorists do not readily recognise who is providing a car park, and it is not always clear whether it is provided by a council or privately. The confusion is exacerbated by some private operators replicating the 'look and feel' of notices by using the language of public civil enforcement. It is inevitable that some of the practices of the public sector are mistakenly associated with local authorities.



There has been media coverage of issues relating to parking on private land and on land owned by public authorities (e.g. NHS hospital parking), including:

- Practices that could be in breach of consumer protection laws, such as companies setting excessive parking charges, or levying excessive penalties for overstaying which are dressed up as official 'parking fines'
- Practices that undermine the principle underlying the formation of a contract, including unclear or missing signage, or a lack of transparency on charges and/or fines
- Failure to treat drivers fairly when they incur a penalty, including the failure to provide information, consider appeals fairly and the aggressive use of bailiffs.

Motorists support regulation of private parking sector

RAC survey shows 78% of drivers want a parking regulator and 72% a national appeals system



An overwhelming majority of motorists support the Private Member's Bill to introduce better regulation of private parking companies, claims the RAC. The motoring organisation had called on the government to introduce better regulation of the private parking sector and welcomed Sir Greg Knight's Bill when it was first put before Parliament in July 2017.

Ninety-three per cent of drivers surveyed by the RAC think Sir Greg Knight MP's Parking (Code of Practice) Bill is a good idea, with a further 81% saying private parking firms have a bad reputation. The survey was carried out with 1,429 members of the RAC Opinion Panel from 24-28 January 2018.

The top reason cited by motorists for this poor reputation is that the level of fines, or parking charge notices (PCNs) as they are properly known, is disproportionate to the contravention, with 84% claiming this to be the case. Nearly three-quarters (72%) said car park signs, which contain the all-important terms and conditions, were often hard to read or hidden, and 69% believe that the fees operators charge for parking are too high. In addition, nearly two-thirds stated that the companies operate aggressive debt collection policies.

Asked what they would most like to see the Bill deliver, 81% of motorists cited a national standard on signs outlining parking rates and consequences of breaking the rules. Seventy-eight per cent want a parking regulator which enforces a code of practice and three-quarters (74%) want PCNs for contraventions to be capped.

And, 72% would like to see the introduction of a national system to appeal against PCNs, regardless of which operator issues them.

In order to raise consumer confidence the RAC believes the Bill should enable a minimum set of standards of conduct for all private parking operators, covering the following areas:

- A set of enforcement standards
- Improved conditions for access to the DVLA database
- A ban on 'shop a motorist' style practices that incentivise ticketing
- A fair and effective national appeals process
- A ban on so-called 'ghost ticketing' and incentivising ticketing
- Guidance on the size of penalties to ensure that they are proportionate to the amount of time overstayed and subject to an overall cap
- Minimum standards of conduct for private parking companies when attempting to recoup penalty charges, to discourage over-aggressive debt management
- Clear and consistent signage for drivers when they park so they can see what they are agreeing to.

RAC roads policy spokesman Nicholas Lyes said: "The motorists we questioned expressed very strong views about the practices of private parking companies, presumably based on numerous unfortunate experiences. So it is excellent news that the government will support Sir Greg Knight's Bill into law. The RAC has long campaigned for such a code to be introduced so we are hopeful this will lead to a better experience for everyone who uses car parks run by private parking companies. Importantly, this Bill will facilitate a set, of national guidelines which we hope will make the appeals process simpler, tighten access to the DVLA database and bring higher standards to a sector which clearly has a poor reputation among motorists."

PARKING WORLD



The Brighton & Hove City Council team receiving a PARI Award

Start spreading the news

Parking annual reports are an excellent way for councils to engage with the public, stakeholders and their own staff, says **Paul Nicholls**

We are passionate about parking annual reports at Brighton & Hove City Council. We have been producing them since 2008 and were fortunate enough to win the very first PATROL PARC Award, and have been shortlisted for the past eight years, winning the last two awards. Annual reports are an excellent way to communicate key facts about your parking team's performance and priorities to stakeholders. Annual reports also let you explain how parking services fit into wider traffic management, transport, social, economic and environmental policies.

For example, together with our partners at Sussex Police and East Sussex County Council, we have set up an innovative system to tackle Blue Badge misuse where, rather than prosecuting first time offenders, we offer them a Community Resolution Order as a final warning. This means they attend, at their own expense, an awareness course about the impact of Blue Badge misuse on disabled people. About 400 people have so far attended these courses, with only two prosecuted for re-offending.

The parking annual report is an ideal opportunity to showcase local initiatives happening around the country, and share best practice. And in an age of fake news, annual reports help to provide trust in the information to our stakeholders. This includes other parking managers when benchmarking our services as we tackle the new challenges ahead such as catering for electric or autonomous vehicles or making the most of technology.

Top tips for report writers

- **R**emind the teaming to hand the data books relevant to the reader.
- **E**ncourage staff to take ownership, check their figures and write. Encourage new ideas and ideas to make it theirs.
- **P**ublish local photos, private photos, a series of photos and a full report.
- **O**ne consistent style through out, one call, if there's more than one output.
- **R**eady check results by a senior team parking specialist, up to the CEO, controlling the SPA, not just a translation.
- **T**ell it all - make the story yours too.
- **S**implify and keep it short, but showcase the success of the service.

It is commendable that PATROL now publishes a link to every annual report next to the authority's listing on its website. Having them all in one place makes it very easy to review other parking reports and find out what others are doing, and whether they have tackled similar issues.

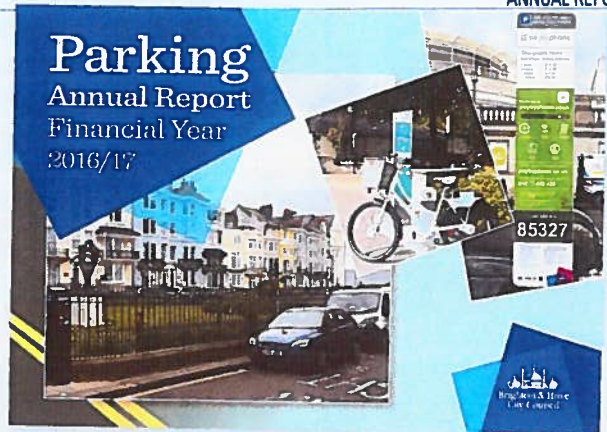
Brighton & Hove's annual reports can be downloaded by clicking here:

www.brighton-hove.gov.uk/content/parking-and-travel/parking/parking-annual-reports

Paul Nicholls is parking strategy and contracts manager at Brighton & Hove City Council

Paul Nicholls joined Brighton & Hove City Council in 2001 and initially helped manage the introduction of civil parking enforcement in the city. His team has also implemented: Brighton's Low Emission Zone, phone parking, and is tackling Blue Badge misuse (two British Parking Awards 2016).

ANNUAL REPORTS



Why annual reports matter

Brighton & Hove City Council busts some myths that may be discouraging you from writing a parking annual report

Myth 1: You don't have to produce an annual report

Being a parking manager is a fascinating job. You meet so many different people in the course of your work, all with their different parking needs. At Brighton & Hove I have met air quality campaigners, been to Brighton & Hove Albion FC, met disabled groups, visited small villages with rural parking issues, city centre residents, lifeboat crews and many more. All kinds of people come to us for help with their parking problems and for information.

The Transport Select Committee got to the bottom of why we produce parking annual reports when it wrote: "Greater transparency is essential to ensure that the public can see how local authorities are spending funds from both parking charges and enforcement activity. Local authorities must work harder to dispel any misunderstandings on parking finance. Annual reports are a key part of this and all local authorities should produce them. Such reports should explain how each authority measures performance in relation to parking enforcement: activity and parking compliance."

So how do you measure performance? The Transport Committee was not prescriptive about what should be measured. Performance should be defined at the local level by local priorities. The issues in Westminster are different from those in a coastal town or for a county council. What is important is that those performance measures reflect the engagement with the community and the solutions and priorities being developed within your own local parking service. This might be bus journey times or congestion for bus operators or taxi companies. It could be air quality, customer service, congestion, school enforcement, compliance or road safety.

Myth 2: Only parking managers can produce reports

It seems to be the default assumption that parking managers write the annual report. But we have lots of different teams working in different areas of parking, from the permits team, the appeals team,

cont actors, bus lane enforcement officers etc. In large services it can become easy for the teams carrying out these functions to get a bit stuck in their own silos, removed from other teams.

Over the years our annual report has become more of a team effort. All the different elements of parking services now come together and own the document, writing a section each and explaining key developments in their team over the past year.

What do you end up with? Our enforcement contractor has written about a day in the life of a civil enforcement officer. The team that deals with car parks produced a section that deals with car park refurbishment. The signs and lines team talked about the sign's refresh programme. This year there was a piece on how much has been spent on bicycle parking as this was an area that our councillors thought important to cover.

One barrier to communication that we have encountered with this type of approach is that we all speak 'parking' terms like NTDs, VRMs, PCNs, CP2s and IMAs all make sense to us, but it doesn't make for a very engaging annual report if the reader needs to keep looking these terms up in the glossary. It is really very important to 'translate' the report so that everyone can understand it.

Myth 3: No publicity is good publicity!

Going back 10-15 years our residents turned first to the local newspaper for their news about parking. Many still do. We frequently found ourselves responding to non news stories that were very attention grabbing, but focused on quite trivial matters. We can learn from newspapers in how they present their information to catch the eye through a headline or photo.

The good thing with an annual report is that we write the headlines. Through analysing the data, we can pick out the key messages and service developments that we consider to be important milestones. Making our parking information easy to digest and presenting it in a format that the public want to read can really make a difference.

If road traffic safety is important to you locally, then the data is your by year on how you are performing against those measures should be published. Including information from frequently asked Freedom of Information requests can also certainly be a time saver over the year.

PARKING WORLD



Myth 4: It's a report, so no pictures

Pictures are important in communicating a sense of place and for generating interest. Rather than presenting a long, wordy document, use photographs and graphics to grab interest.

Build up your photo image library throughout the year. If you are removing your pay & display machines, take a picture of them being removed. If new ones are being delivered, take a picture of them arriving. 'Before and after' pictures are particularly effective if you are undertaking car park refurbishment or introducing a controlled parking zone.

Myth 5: No-one ever reads annual reports...

You have gone through all this effort to produce an annual report but then nobody reads it. The solution is to take the report to your target audience. An important part of that audience is your own parking staff. All of our staff receive hard copies of the parking annual report, whether they are a supervisor who has been working in parking for 15 years or an apprentice who has been with us for two weeks. It gives them a real opportunity to see the service as a whole, and so understand the part they play in meeting service priorities.

Councillors are another important target audience. We include our annual report in a committee paper in order to give councillors an opportunity to scrutinise all aspects of the service.

So, how do we know if people are reading our annual report? We actively produce over 75 hard copies of the report, including those sent to our local libraries. Of course, the annual report is mainly read of course on our website, which means that we can track how it is being accessed.

We use Google Analytics to see how many people visit our parking pages. Year on year the traffic keeps on increasing and is now just under the 10,000 daily page views mark. The most viewed page is the 'Car parks' page. Through Google Analytics you can get information on how many unique users visit and for how long they were looking at a particular page. For us our parking pages are each viewed on average for one minute, but our stakeholders spend, on average 3



Annual reports are an excellent way to communicate key facts about your parking team's performance and priorities to stakeholders
Paul Nicholls



minutes and 18 seconds looking at our annual report, quite a short time to get across key messages. Tracking online traffic, also means we can make this annual report a three dimensional document with plenty of links to other relevant information for the reader.

At Brighton & Hove Pride every August we produce a page with information on our closures, transport and how it is affected during the weekend. However, analytics revealed that we had only about a 100 hits, which was not a huge amount given that over 100,000 people who visit for the event.

So last year we went to the organisers of Pride and offered them a link to our parking pages from their site. We also used our Twitter account to tweet out a link to our 2,700 followers. And we asked our corporate Twitter account, which has 57,000 followers, to also share the link. This year the same page about event parking and road closures for Pride was our fifth most popular with 17,700 views. That showed to me what a difference you can make relatively easily by reaching out to your target audience.

It is one thing to producing a report, but the job's not truly finished without promoting it. In our report next year we will certainly be including stats on how many times the report has been viewed as a measure of how effectively we have reached our target audiences.

ANNUAL REPORTS

It's time to hand in those reports

PATROL launches latest round the Parking Annual Report by Councils Awards

PATROL's annual search for the best parking report produced by a local authority is underway. The Parking Annual Report by Councils (PARC) Awards recognise best practice by local authority parking teams in communicating with the public and other key stakeholders. Reports will be judged by an independent jury and the best submissions will be revealed at an event held in the summer.

Parking and Traffic Regulation Outside London (PATROL) is a joint committee that represents 316 local authorities. In parallel to running the awards, PATROL produces a regularly updated Annual Report Toolkit, which provides advice on how to write, design and distribute reports.

"The PARC Awards are an opportunity for local authorities to be recognised for expressing how they are delivering an outstanding service in their area," says Louise Hutchinson, director of PATROL.

"We recognise that throughout England and Wales authorities differ in size and scale. Many councils have embraced collaborative working and there are often differences between unitary and two tier authorities. The awards look to embrace these differences and welcome entries from across the spectrum of local authorities. We are not looking for the glossiest report - though a report that is accessible and easy to read is important - we want to see a report that engages with residents, visitors and businesses, tackles issues and informs."

www.patrol-uk.info

Deadline: The deadline for entries is 31 January 2018.
How to enter: Local authorities can enter by emailing their entries to enquiries@patrol-uk.info.
Any queries related to completing a report or the awards in general can be directed to parking@patrol-uk.info.



PATROL's Annual Report Toolkit 2017-2018 for local authorities can be downloaded at www.patrol-uk.info/docs/toolkit/PATROL_2017_Toolkit.pdf

The PARC Award categories

PATROL will be opening up the Outstanding Overall Reporting Award to the Outstanding Major Report in addition to the PATROL award. A small number of authorities who have shown they have demonstrated some of best practice reporting including:

- 1. Innovation and new services**
How have you improved the way you deliver services to your customers? What innovative ideas have you implemented? How have you improved the way you deliver services to your customers? How have you improved the way you deliver services to your customers?
- 2. Customer service**
How do you ensure that your customers have a positive experience? What performance indicators do you use to measure customer service? How do you ensure that your customers have a positive experience?
- 3. Presentation of finance and statistics**
How do you present your financial and statistical information? How do you ensure that your financial and statistical information is presented in a clear and concise manner? How do you ensure that your financial and statistical information is presented in a clear and concise manner?
- 4. Outstanding Digital Format Award (NEW)**
For digital reports that are presented in a digital format, the Outstanding Digital Format Award will recognise the local authority that has made the most of digital formats to present the world's best and accessibility of providing information to their community.

PATROL Awards 2015-16

Full Report Award winner:
Brighton & Hove City Council

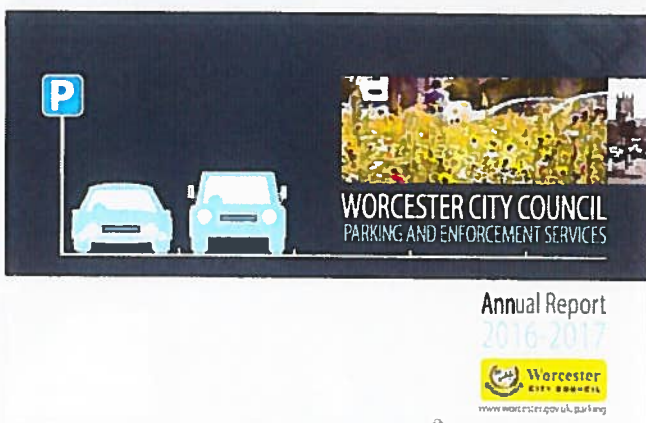
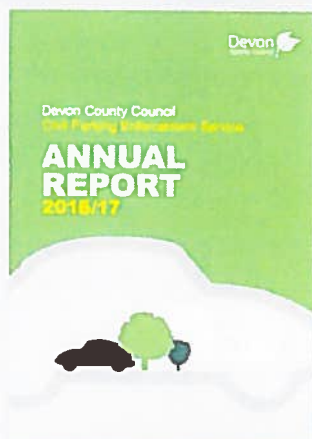
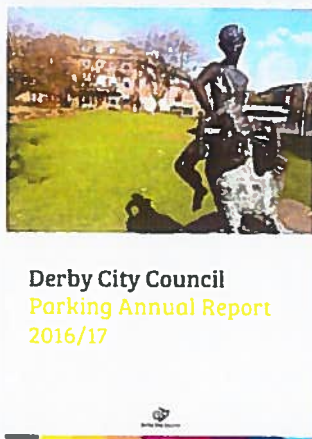
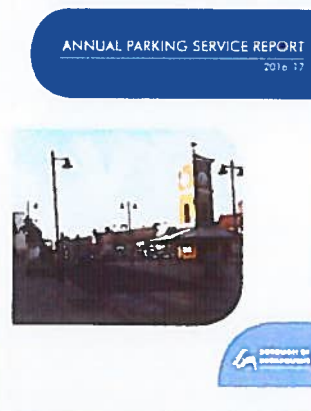
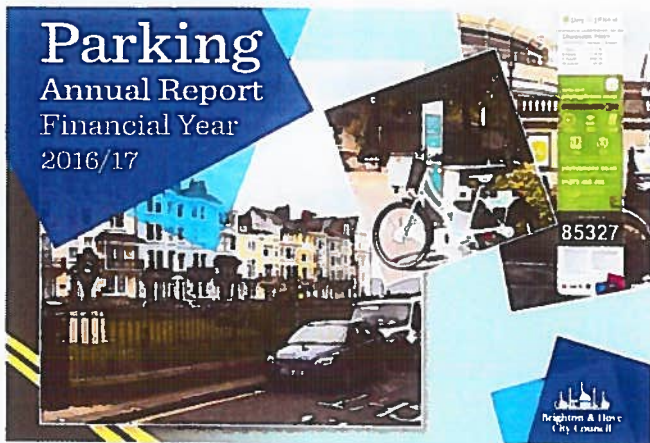
Shortlisted:
• Ashford Borough Council
• Cheshire County Council
• Walsley City Council

Concise Report Award winner:
South Lakeland District Council

Shortlisted:
• Devon County Council
• Mole Valley District Council
• South Tyneside Council

Recognised for best practice reporting:
• Devon County Council - Customer Service
• Cheshire County Council - Presentation of Finance and Statistics
• Cheshire County Council - Information and News Service





PATROL reveals annual report award short list

Eight local authorities have been named as finalists in PATROL's annual search for the best local authority parking reports.

Annual reports are used by councils undertaking civil parking enforcement to present their parking policies, parking information and details about performance to the general public.

PATROL (Parking and Traffic Regulation Outside London) is the body that represents local authorities across England and Wales that have adopted civil enforcement. As part of its commitment to improving the presentation of public information about civil enforcement, PA-

TROL promotes best practice in local authority parking annual reports through the PARC (Parking Annual Reports by Council) Awards.

An independent jury has short-listed entries from the following councils:

- Borough of Broxbourne
- Brighton & Hove City Council
- Cumbria County Council
- Derby City Council
- Devon County Council
- Durham County Council
- Sunderland City Council
- Worcester City Council.

The independent review group comprises: Peter Bayless (head

of traffic and safety at Hampshire County Council – retired), Kelvin Reynolds (director of policy and public affairs, British Parking Association), David Leibling (RAC Foundation), Jo Abbott (communications manager; RAC Foundation – retired) and Natasha Monroe (marketing and brand manager at public relation company Four Colman Getty).

The PARC Award winners will be announced at a special reception at the House of Commons on 10 July.

The event will be sponsored by Huw Merriman MP for Belfill and Battle and member of the Transport Select Committee.

Raconteur and former MP Gyles Brandreth will present trophies for the Best Overall Report as well as Best Practice in Financial Reporting, Customer Service and Innovation.

PATROL director Louise Hutchinson said: "PATROL is grateful to the review group for identifying reports that can inspire other authorities to adopt new approaches to communicating what they are trying to achieve through civil parking enforcement and the steps they are taking locally to meet the needs of residents, businesses and visitors." www.patrol-uk.info

PARKING WORLD



What's driving the future of parking?

Parking World 2017 took place at London's Kia Oval on 9 November

Parking professionals from across the UK and Europe discussed the future of parking management at this year's Parking World, which was programmed for Parking Review in partnership with PATROL and the Traffic Penalty Tribunal.

This year's Parking World looked at how parking and traffic management policy is evolving to meet the challenges of new vehicle technologies and digital connectivity around air quality.

There was a focus on the progress of parking in town and city centres, the role of parking in managing air quality, how parking data is central to the evolution of smart cities, provision for the growth of electric vehicles, and the economics of parking. This month we showcase talks by:

- Jamie Macrae, PATROL
- English Hutchinson, PATROL
- Caroline Shepherd, Traffic Penalty Tribunal
- Ian Worrell, Traffic Penalty Tribunal
- Paul Worrell, Brighton & Hove City Council
- Nick Lister-Davies



Caroline Shepherd, Paul Worrell, Michael Green and Ian Worrell discussed engaging with the public

Preparing for tomorrow's parking world

Local authorities will have a central role in managing how drivers park and travel in the future, says PATROL Joint Committee chair **Jamie Macrae**

The principal objective of PATROL (Parking and Traffic Regulation Outside London) is to provide independent adjudication to its member authorities for parking and traffic appeals in England and Wales excluding the London authorities. This is delivered through the Traffic Penalty Tribunal.

With 310 members, PATROL ranks as one of the largest Joint Committees across England and Wales because of the devolved nature of traffic regulations.

PATROL has used its economies of scale to invest in, develop, and roll out the tribunal's award winning digital online appeals platform. This has transformed the appellants' user experience and the tribunal's management of cases. PATROL has brought about significant efficiencies for its member authorities, estimated to be in the region of about £160 per appeal case.

Fast Online Appeals Management (FOAM), our online platform, is handling both parking, bus lanes and moving traffic appeals, as well as those arising from road user charging penalties issued at the Dartford-Thurrock River Crossing and the recently opened Mersey Gateway Bridge Crossing.

Parking is a popular media topic, and often the perception is that parking and enforcement activities are a 'cash cow' for local authorities. However, many authorities simply break even or make a loss. Where a surplus is made, and in accordance with Section 55 of the Road Traffic Regulation Act 1984, the surplus must be expended in a range of transport measures.

PATROL is committed to improving public information and transparency about civil enforcement. The PARC (Parking Annual Reports by Councils) Awards, promote and share best practice amongst authorities in producing parking annual reports. As part of its commitment to encouraging openness and transparency, PATROL has produced a 'toolkit' to assist local authorities in producing their reports.

Now, as we consider new challenges and opportunities in traffic management, the importance of public information should not be underestimated in assisting understanding of local authority objectives and promoting compliance.

As chair of the PATROL, I am constantly reminded of the complexity of local traffic management challenges facing our member authorities, whether they be responsible for city centres, historic market towns or seaside resorts. There are common themes though, including pavement parking, the absence of moving traffic powers for English authorities, and restrictions on the use of camera enforcement. In all these cases, PATROL will continue to gather evidence and seek to change the national conversation and influence government policy.

PATROL and the Traffic Penalty Tribunal were both honoured to be asked by Parking Review to be event partners for Parking World 2017, so perhaps it should be called 'Tomorrow's World' given the revolution in parking and traffic management on the programme



Transport decisions need to be taken in the knowledge that they can have an impact on local health and quality of life, road safety and the environment
Cllr Jamie Macrae

The challenges and opportunities discussed at Parking World are matters for both parking and traffic managers and local authority members. I was pleased to note that a number of councillors attended the event representing PATROL member authorities.

Local government has a real role in shaping parking policy. Councils are responsible for managing traffic including on-street and off-street parking and councillors are asked to approve parking policies and where and how the authority charges. Local authority parking and transport strategies have to balance the needs of residents, businesses, services and visitors. Decisions are taken to promote accessibility and connectivity, at the same time as supporting population and economic growth.

Transport decisions are also taken in the knowledge that they can impact on local health and quality of life, road safety and the environment. The planned introduction of Clean Air Zones and the potential for enforcement of littering from vehicles are just two examples which show that local transport planning is not simply about assisting people to effectively move from A to B.

As a former cabinet member with responsibilities for economic development and regeneration, strategic highways and housing policy, I am well aware of the vital role that parking and traffic management plays supporting the fabric of our towns and cities. We are aware that parking regularly features as a concern for our residents and businesses.

My authority, Cheshire East Council, aims to deliver 36,000 new homes together with major highway infrastructure and town centre redevelopments in its Local Plan 2010-2030. New housing developments are required to meet environmental and sustainability benchmarks, such as electric charging points in every home. These requirements will need to be constantly reviewed to meet changing demands and take advantage of innovative solutions.

PATROL

The challenge for local authorities is bringing these changes to existing towns and streets, managing the combination of autonomous, connected and 'old school' vehicles as well as maximising public or shared transport, cycling and walking.

So what does the future hold? Over the next 20 years, cars will evolve into connected and autonomous vehicles (CAVs) that can be booked via shared Mobility as a Service (MaaS) platform. Parking bays will become re-charging stations for electric vehicles, while cyclists will become passengers and towns and cities will be cleaner, safer and less congested places. That's one vision of the future, but is it the one for which parking and traffic managers should be planning? Events like Parking World help us assess whether this vision becomes the reality.

Central government is setting an ambitious agenda and timetable to promote a cleaner environment as well as harnessing the opportunities that data brings through connected vehicles and ultimately autonomous vehicles.

Local authorities will be at the heart of making this vision a reality. But they will face an array of challenges including local authority lead in times, infrastructure investment choices with swiftly evolving technical solutions, digital engagement and data analysis in a time of rapid technological change, updating traffic, regulation orders and factors outside of the authority's control such as the ability of power supply companies to respond to electric charging demand.

The local authority landscape is becoming increasingly varied. City Deals and combined authorities have increasing devolved powers and funding. Unitary and metropolitan authorities, with responsibility for a range of local strategies will require nimble partnership working to achieve strategic goals across a range of policy areas.

Transformational issues such as the emergence of connected, autonomous and electric vehicles and the national air quality agenda all add additional layers of complexity for local authority parking and traffic management. These are issues that PATROL and its members will be keeping under constant review.

Cllr Jamie Macrae is chair of the PATROL Joint Committee
Cllr Jamie Macrae (Cheshire East Council) has held the position of chair of the PATROL Joint Committee for England and Wales since 2013. An elected member for over 20 years he has held cabinet portfolios for strategic transport, strategic housing, planning, economic development and regeneration in Cheshire East.

He currently chairs the authority's development company (Engine of the North) and is an appointed member of The Peak District National Park Authority. His professional career as a chartered architect and a member of RIBA (the Royal Institute of British Architects) spanned 30 years in the UK construction and design sectors.

PATROL delivers member authorities significant savings

PATROL

270m+ in member authority savings since introduction of PATROL Joint Committee (2010-2017)

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PARKING WORLD



Wish you were here?

P is for Partnership

Public authorities can harness their local knowledge and ability to work together to manage the evolution of motoring and parking, says PATROL's Louise Hutchinson

Parking and Traffic Regulation Outside London (PATROL) has 310 member local authorities from across England and Wales. The towns, cities and counties that PATROL represents are very diverse. By enabling local authorities to work in partnership, PATROL offers substantial economies of scale, which allow it to invest in things that may be unaffordable for a single authority. One example of that is the shared investment in our digital appeal platform FOAM (Fast Online Appeal Management) which has been an award winning IT solution.

Not only was the FOAM project built on good technology, but it also focussed very much on what users needed. We saw the system's users not just being the appellants, but also the local authorities responsible for responding to appeals, the adjudicators who were reaching the decisions, and the administrative staff who are supporting these participants.

As a Joint Committee, PATROL is committed to raising awareness of the objectives of civil enforcement. It places great importance on sharing best practice amongst authorities. There are lots of new ideas and new things coming along. If everybody is thinking in a silo then that is a wasted opportunity. Instead, we try to promote a right first time approach which is based on real experience.

Partnerships for the future

Working in partnership and sharing ideas will be vital to the ability of local authorities to manage the highway and parking in an era of electric, connected and automated vehicles.

The world is in a state of transition. We don't know how long this period of transition will be, but we know that it is going to be complex. The challenge is working out when new ideas come into the mainstream.

In the 1970s the American scientist and futurist Ray Kurzweil came up with the adage: "We tend to overestimate the effect of a technology in the short run and underestimate the effect in the long run."

The challenge facing us today is understanding where we are in the cycle of change, whether that be for autonomous vehicles, connected vehicles or electric ones.

There are many questions to answer, such as how and where we will power electric vehicles and whether or not automated vehicles will increase accessibility for people with limited mobility?

Living in an era of change

Technology is unpredictable, opportunistic, disruptive, delivered by an increasing number of players, not just local authorities but

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We need to look at ways to persuade people to change their behaviour using nudge theory

Louise Hutchinson

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PARTNERSHIPS



also the private sector and a range of partners.

There is fear of technology, but also high expectations about how technology will perform. People are using technology in their everyday lives to buy from Amazon and soon, and now expect that all services will be delivered in a digital way.

However, technology is only one tool in the box in terms of planning for the future. When developing FOAM, our experience at the Traffic Penalty Tribunal and PATROL is that technology is key, but it became clear that it was very important to look at our processes, improve them, and to understand what our user expectation were.

For people planning transport and parking the debate is not just about technology, it is about trying to meet all those other requirements, whether they be economic, environmental, quality of life and health, social issues, as well as what will our town centres look like in the future. All in all, a really complex mix.

In terms of planning for the future, it's combined rather than just about parking and transport. It needs to embrace a whole range of professionals, whether they be the environmental and health teams. It is about a connected rather than a fragmented approach, and sharing best practice.

Parking as a key service

Besides parking, the 'P' word that we need to remember is partnerships. Local authorities have responsibility for managing traffic in their area but clearly doing that alone is impossible.

We need to look at ways to persuade people to change their behaviour using nudge theory. We should also be building on local knowledge.

What do parking departments have to bring to this really important debate that covers all these disciplines and takes on board all this new technology?

They bring an understanding of their local area. It is important to recognise parking departments are engaging with the public all the time to get their feedback. They are: managing space through permits, managing loading; planning for events; running car parks; promoting accessibility for Blue Badge holders and other groups; and managing school access.

Parking departments are 'street wise' because they are on the sharp end of all this. They are meeting the needs not only of residents but visitors, businesses, services and schools. They are managing a limited resource. They know the peaks and troughs in demand, about where people are heading, and for how long they stay. They have an understanding of driver behaviour.

Local authorities have the parking infrastructure on street and off-street, and they have massive experience of running zones, pavement and loading systems.

And it is local authorities that make Traffic Regulation Orders. They need to consider how we get real information to connected cars about where they can and cannot park, so they do avoid receiving a penalty.

However, it is important to remember about transport and parking as a service is that it's not about money, then just providing the actual infrastructure. We need to be designing services that people want to use, not just devising systems because the technology is there to make them possible, even though that tends to be the more attractive element.

Louise Hutchinson is director of PATROL (Parking and Traffic Regulation Outside London)

Louise Hutchinson has been director of PATROL since 2006. PATROL represents 310 local authorities in England (outside Wales). PATROL's primary function is to make provision for independent adjudication for appeals against enforcement penalties.

This is delivered through the Traffic Penalty Tribunal, which provides adjudication for parking, bus lanes and, in Wales, moving traffic penalties. Road user charging adjudication is also provided for appeals arising from penalties issued at the Dart, Tees and River Crossing (Dart Charge), the new Mersey Gateway Bridge (Merseyflow) as well as the congestion charge zone at the Durham Peninsula.

PATROL is also committed to improving information that assists public understanding of the objectives of civil enforcement as well as the enforcement and appeals process. The PATROL Parking Annual Reports by Councils (PARC) Awards scheme recognises and shares best practice in local authority reporting.

Prior to joining PATROL, she was director of a voluntary sector organisation delivering services to people with disabilities where public awareness and stakeholder engagement were just as essential.

PARKING WORLD



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With the emergence of connected and automated vehicle technologies, it is time to ask why parking penalties should be imposed on motorists?
Caroline Sheppard
99

Let's look to the future

Caroline Sheppard says that, when it comes to designing parking regulations for the age of connected and automated vehicles, we should focus on at the road ahead instead of looking in the rear-view mirror

When I was interviewed in 1992 to be the very first parking adjudicator for the new decentralised enforcement scheme in London, I said that my first objective was to have the best tribunal in the country, and my second was to have no work. I think the Traffic Penalty Tribunal is now perhaps the most advanced tribunal in the country, something the Courts & Tribunals Service agrees with, especially regarding our technology. But we are still busy. When I said I hoped there would be no work that I meant was that, as things evolved, I expected that local authorities would become so good at managing parking that there would be no need to have an appeal!

However, 25 years on, I now think my second ambition might come to pass. With the emergence of connected and automated vehicle technologies, it is time to ask why parking penalties should be imposed on motorists? If these new technologies deliver on their promise nobody need be lined. If there were no penalties there will be no appeals so there would be no Traffic Penalty Tribunal, and I would have no work.

Welcome to the future

What we are seeing is the emergence of Technology as a Service. But as with anything new, many people fear technology and there

is huge suspicion, and indeed risk, about how technology is and can be used. This concern started with the police and speeding cameras, with many motorists saying they were entrapped or were being used for revenue-raising. To some extent, the hearts and minds of the motoring world have not yet been won over by technology. But the connected and autonomous vehicle technologies that are being developed today are precisely the initiatives that are winning over forward-looking generations. And, of course, it is a generational perspective.

When you look at events like Parking World, just think about how many people attending are under 30. In truth, not many. Here we all are, trying to talk about the future, but the people who are going to make the future happen aren't here!

A generational change

When you look at urban millennials what is striking is that none of them seem to own cars. In Hamburg, where my son lives, when they go out, they look at their mobile phone, pick up a car, drive it to work, a meeting or at the airport. They leave the car and the minute they get out someone else gets in and drives it away.

But the shared economy does not necessarily fit with current regulations and how they have been put in place in the past. Traffic

and parking regulations that once seemed a good idea may now be inhibiting future initiatives and better ways to deal with transport today. For example, the requirement to give the Congestion Charge in London, or to use the Dartford Crossing, can create a challenge for car-sharing schemes. This problem will increase when the Clean Air Zones are introduced. These are all barriers to providing car-sharing services which, after all, reduce the congestion and pollution that the schemes are there to deter.

It's time to look forward

When it comes to the new world of motoring, like Janus, we look in different directions. For me, Janus represents looking one way at the benefits technology can deliver, while seeing the other way the public's misanth that it results in disproportionate enforcement. Looking forwards, by developing Technology as a Service, appropriate changing mechanism can be embedded in connected vehicles removing the need for a penalty regime. This requires a different approach to parking regulations.

There needs to be reform of the Traffic Regulation Order system. Parking regulations are not keeping up with modern technology. Even today, they must be made under provisions enacted more than 30 years ago by the Road Traffic Regulation Act 1984, which is the legislation that allows public authorities to regulate the use of road space.

As an aside, it should be borne in mind that in this country, roads are public highways; they have been since the Middle Ages. This is common public law. As they are public highways, essentially they are held in the name of the Crown as the Queen's highways. Traffic authorities are simply managing them on behalf of the Crown, who holds them in public trust as they belong to you and me - the public.

Returning to whether the 1984 Act provisions can embrace new technology, paying to park by phone is a fantastic new facility, but there are aspects of this service that may not actually fit in with the 1984 Act. For example, public authorities cannot pass on cost charges. There is no provision within the 1984 Act for these charges to be passed on, so the authority needs to absorb them. Equally, if mistakes are made in allocating payment the regulations may have been complied with insofar as the motorist did pay to park.

Things are complicated

The problem is that to change regulations to accommodate new ways of doing things is very complicated, lengthy and costly. The procedure, as set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996, is incredibly onerous.

In the DfT consultation about whether to simplify the process and remove the requirement to advertise in the local press local authorities, the AA, the RAC and the public all supported the changes. But the government preferred to listen to the objections of the newspaper industry, which, not surprisingly opposed changes to traffic orders having to be advertised. So, nothing has changed in procedures, which are hugely costly and bring time delays.

Parking as a Service

I was awarded my OBE for services to motorists, and I am very proud of that as I see it as a consumer award. In the consumer world technology is used to provide a better service. Analytics and other innovations enable companies to tailor their services to the needs of individuals. This tailoring is something that will be available via connected and automated vehicles. In a sense your vehicle is going to become like a mobile phone. It will direct you to the right places and pay for your parking.

This may be contentious, but the antics of the private parking industry have not really helped the public's acceptance of technology and its effects. It is also a very odd business model. There are now more than four million requests a year by parking companies managing private land for vehicle keeper information to the DVLA for vehicle keeper information.

This implies these private parking companies think four million people have not used their product in the way it should be used. In any other consumer industry they would be using that data to say, "how can we improve our service so that it serves people better?"

TRAFFIC PENALTY TRIBUNAL

This is a contentious problem because the public, seldom know the difference between the public car parks and the private ones. If they get grumpy with the private industry and the use of ANPR that feeling militates against all car park providers and assesses technology with swinging tines.

Use enforcement technology with a light touch

The RAC Foundation commissioned an excellent report from Dr Adam Snow, Automated Road Traffic Enforcement, Regulation, Governance and Use, which looked at how technology has been used until now to enforce traffic and parking regulations.

It is now clear that camera enforcement is only appropriate for absolute offences, strict liability in legal terms. For example, speeding is strict liability; you are either going more than 30mph or you are not. Yellow boxes are, however, not strict liability because, for example, a vehicle can stop when turning right, or if a pedestrian suddenly steps out in front of you. Inappropriate use of technology for yellow boxes is one area that has caused scepticism on the part of the public.

To win hearts and minds, it has to be absolutely clear that camera enforcement is appropriate and not being used for revenue raising.

Another common complaint among drivers is that they often have to overpay where the parking system is based on predicting their length of stay. The obvious reason many people are overpaying for parking is that they want to avoid a fine. Again, this is a very old business model. It is a bit like going into a shop and saying, "I am going to pay you a bit more for this product just in case I do something wrong. I hope not to do something wrong, but the charge for doing so is so great that I will pay 10% more."

Let's work together

It is important that everyone involved in parking - local authorities and the private sector alike - stand shoulder-to-shoulder to ensure the public recognise that parking is a service and a benefit, not a hazard and a financial risk.

Let us also recognise that democracy is still fundamental in determining the rules and regulations governing the operation of public parking. At a national level and at local level, consultation and engagement will help us face in the right direction and devise regulations that benefit all who use our streets and roads. That means considering the needs of pedestrians, cyclists and people who breathe the air.

If all this works, I won't have a job!

Caroline Sheppard OBE is chief adjudicator of the Traffic Penalty Tribunal

Caroline Sheppard has been the chief adjudicator of the Traffic Penalty Tribunal (TPT), since 1999. She and her team of 30 lawyers comprise the tribunal that decides parking and bus lane appeals from approximately 300 councils in England and Wales in the civil enforcement scheme. She was appointed as the first chief adjudicator for London in 1992 in the run up to the implementation of the RTA powers in London, and has played a significant role of the creation of the adjudication services first in London, and then for appeals relating to councils outside London. She has been instrumental in driving the commitment to provide a user focussed tribunal, recently introducing telephone and video conference hearings.

She is a champion of the use of technology for the tribunal case management and takes a leading role in developing the new award winning TPT on-line appeal system.

She began her legal career as a barrister and worked for some years in the London Magistrates' Courts, in particular overseeing London's fixed Penalty Office and Central Processing Unit for the enforcement of parking fines.

Sheppard regularly speaks at conferences about tribunal initiatives as well parking and traffic law and gives interviews to promote awareness of the appeals process. She was elected as a member of the Council of Justice, the all-party law reform and human rights organisation in 2015.

Sheppard was awarded an OBE in the summer of 2017 for services to motorists, having received a Lifetime Achievement Award from the parking industry earlier in the year.

PATROL ADJUDICATION JOINT COMMITTEE

Date of Meeting: 10th July 2018
Report of: The Director in consultation with the Resources Working Group and Sub Committee
Subject/Title: Draft Annual Return 2017/18

1.0 Report Summary

1.1 This report presents the draft annual return for the year 2017/18

2.0 Recommendations

That the Joint Committee:

- a) Notes the outturn position against the 2017/18 budget included within the report. (Appendix 1)
- b) Approves the surplus of income over expenditure of £203,074 (which excludes £252,352 combined Highways England (Dartford-Thurrock River Crossing) and Halton Borough Council (Mersey Gateway Bridge Crossing surpluses) being added to the Joint Committee's reserves.
- c) Determines that the Executive Sub Committee review the basis for defraying expenses following budget monitoring at the half-year point at their meeting in October 2018.
- d) Approves the 2017/18 draft Annual Return (Appendix 2) and notes the balance sheet (Appendix 3) and cash flow (Appendix 4) and audit timetable
- e) Notes the Annual Internal Audit Report 2017/18 (Appendix 5))
- f) Approves the revised Financial Regulations for 2018/19 (Appendix 6)
- g) Approves the revised Scheme of Financial Delegation (Appendix 7)
- h) Approves the Code of Corporate Governance (Appendix 8)

3.0 Reasons for Recommendations

3.1 To finalise accounts for 2017/18.

4.0 Financial Implications

4.1 As outlined in the report

5.0 Legal Implications

5.1 None

6.0 Risk Management

6.1 None

7.0 Background and Options

7.1 This report provides background information in respect of:

- a) The outturn position against the 2017/18 budget included within the report. (Appendix 1)
- b) The surplus of income over expenditure of £203,074 (which excludes £252,352 Highways England (Dartford-Thurrock River Crossing and Halton Borough Council (Mersey Gateway Bridge Crossing surpluses) being added to the Joint Committee's reserves.
- c) The basis for defraying expenses following budget monitoring at the half-year point at their meeting in October 2018.
- d) The 2017/18 draft Annual Return (Appendix 2), balance sheet (Appendix 3) and cash flow (Appendix 4) and audit timetable.
- e) The Internal Audit Report 2017/18 (Appendix 5)
- f) The revised Financial Regulations 2018/19 (Appendix 6)
- g) The revised Scheme of Financial Delegation (Appendix 7)
- h) The Code of Corporate Governance (Appendix 8)

8.0 Outturn Position against the 2017/18 budget

Introduction

- 8.1 The adjudication service is operated on a self-financing basis with income obtained by defraying expenses amongst member authorities and providing adjudication services to non-member authorities as determined by statute.
- 8.2 At the meeting of Executive Sub-Committee held on 31st January 2017 it was agreed to adopt the revenue budget estimates for 2017/18 set out in this report.
- 8.3 At the meeting of the Executive Sub-Committee held on 31st January 2017 the Lead Officer was given authorisation in consultation with the Chair, Vice Chair and Assistant Chair to incur expenditure against the revenue budget in excess

of the £3,476,480 set by the Committee should the need arise, provided such expenditure is within the total income for the year.

- 8.4 The outturn position to 31st March 2018 is enclosed at Appendix 1.
- 8.5 Additional income is derived from a recharge to the Bus Lane Adjudication Service Joint Committee and the provision of adjudication for appeals arising from road user charging enforcement at the Dartford-Thurrock River Crossing and at the Mersey Gateway Bridge Crossing.
- 8.6 The Joint Committee's income is derived from a pre-estimate of the number of penalty charge notices (PCNs) each council will issue. Corrections are applied at the 6 month and 12 month points once the actual number of PCNs issued is known.
- 8.7 Should it be the case that there is a need for greater expenditure than that provided for in the approved budget, there is a recommendation to authorise the Director to incur additional expenditure, provided such expenditure does not exceed the income for the current year.
- 8.8 Should it be the case that the revenue account falls into deficit then the surplus from previous years is available.
- 8.9 Should there be greater income than expenditure in the year then there is a recommendation that this be transferred into the succeeding year as reserves.

Expenditure

- 8.10 Expenditure was lower than budgeted by £624,068 (18.0%) (see Appendix 1). This was in the main due to a high forecast for adjudicator expenditure based on appeal volumes at the time of budgeting resulting in a positive outturn variance of £328,893. In addition, efficiencies have been achieved through the FOAM (Fast Online Appeal System).
- 8.11 Staffing costs show a positive variance to budget by £163,611 (14.1%). This was due to a number of vacancies remaining in the budget, but not needing to be recruited to by March 2018.
- 8.12 IT costs were adverse to budget by £29,134 (11.4%), this is predominantly caused by the upgrade of the Telephone system and associated set-up costs, bringing website maintenance in-house and the introduction of a number of in-house reporting tools not identified at the time of budgeting.
- 8.13 The budget line Service Management and Support relates to the business services provided by Cheshire East Council, the host authority. There is a small positive variance (£1098.00) on this line.
- 8.14 Supplies and Services costs show a positive variance of £26,137 (6.9%). This is primarily due to unused legal and consultancy costs

- 8.15 Premises costs are underspent by £31,074 (15.1%). This is primarily due to budgeted refurbishment and office restructure which was not required in the year in question.

Income

- 8.15 Overall, income was £221,651 (6.3%) adverse to budget (see Table 1).

Income from Dartford River Crossing was adverse to budget by £232,083 (20.2%), due to lower than forecast PCNs issued. This is, in part, due to the reduction in charge per PCN from 45 pence to 35 pence from October onwards.

The recharge for bus lane adjudication service costs also shows an adverse variance of £66,547 (13.5%).

Parking income was adverse to budget by £144,390 (7.8%), this is due to the reduction from 40 pence per PCN charge to 35 pence per PCN which was backdated to April.

Mersey Gateway income was considerably higher than budgeted giving a positive variance to budget of £205,141.

Bank interest continues to out-perform budget forecast giving rise to a positive variance of £3,023 (33.6%).

Outturn

- 8.16 The outturn for 2017/18 was a surplus of £455,426.

Of this total surplus, £190,900 is ring-fenced to Highways England in respect of road user charging at the Dartford-Thurrock River Crossing, and £61,452 ring-fenced in respect of Halton Borough Council (Mersey Gateway Bridge Crossing).

- 8.17 The Joint Committee is asked to approve the surplus of income over expenditure of £203,074 (which excludes the ring-fenced amounts at 8.16 above) being added to the Joint Committee's reserves.

Reserves

- 8.18 As at 31st March 2018 total reserves were £3,442,141 as set out below:

	TOTAL	PATROL	Dartcharge	Mersey Gateway
Reserves Brought Forward 01.04.17	3,182,460	3,116,338	66,122	0
<i>Of which are:</i>				
<i>General Approved Reserve</i>		1,308,205		
<i>Approved Property Reserve</i>		221,340		
<i>Approved Technology Reserve</i>		350,000		
<i>TOTAL Approved Reserve</i>	1,879,545	1,879,545		
Free Reserves 01.04.17	1,302,915	1,236,793	66,122	0
Drawdown of Technology Reserves 2017/18	-195,745	-195,745		
Surplus / (Deficit) for 2017 / 18	455,426	203,074	190,900	61,452
Closing Reserves at 31.03.18	3,442,141	3,123,667	257,022	61,452
<i>TOTAL Approved Reserve</i>	1,879,545	1,879,545	0	0
Free Reserves at 31.03.18	1,562,596	1,244,122	257,022	61,452
			**	
** note: includes £50,000 contingency agreed with Highways England				
Movement in Reserves 31.03.18	259,681	7,329	190,900	61,452

8.19 The utilisation of these reserves in 2018/19 is subject to a reserve policy statement approved in January 2018. This included three elements:

i) **The General Reserve**

The General Reserve aims to mitigate the risk arising from:

- a) Reduction in income as a result of individual enforcement authority issues.
- b) Reduction in income as a result of issues affecting civil enforcement across all or a majority of enforcement authorities
- c) Unanticipated costs associated with legal action
- d) Unanticipated expenditure due to unforeseen circumstances
- e) Overrun on expenditure
- f) Meeting contractual obligations in the event of closure.

The approved General Reserve for 2018/19 is £1,308,205.

ii) **The Property Reserve**

This provides an indemnity to the Host Authority in relation to any outstanding rent associated with the current lease that they have entered into on behalf of the Joint Committee. Provision is made for two years' additional lease beyond

that budgeted for in 18/19. The renewed lease includes a break clause at three years.

The approved Property Reserve for 2017/18 is £296,575.

iii) **Technology Reserve**

For 2018/19 the approved technology reserve is £250,000 to support the development of the final modules in FOAM.

8.20 A total approved reserve of £1,920,228 for 2018/19 leaves at 1st April 2018 a free reserve of £1,521,913 of which £257,022 is ring-fenced for Highways England (Dartford-Thurrock River Crossing), and £61,452 for Halton Borough Council (Mersey Gateway Bridge Crossing).

	TOTAL	PATROL	Dartcharge	Mersey Gateway
Reserves brought forward at 01.04.2018	3,442,141	3,123,667	257,022	61,452
<i>Of which are:</i>				
<i>General Approved Reserve</i>	<i>1,373,653</i>	<i>1,373,653</i>		
<i>Approved Property Reserve</i>	<i>296,575</i>	<i>296,575</i>		
<i>Approved Technology Reserve</i>	<i>250,000</i>	<i>250,000</i>		
TOTAL Approved Reserve for 18/19	1,920,228	1,920,228	0	0
Free Reserves 2018/19	1,521,913	1,203,439	257,022	61,452

8.21 In January 2018, the Joint Committee in considering establishing the basis for defraying expenses in 2018/19, agreed to maintain a charge of 35 pence per PCN for PATROL.

8.22 The Joint Committee agreed to review the basis for charging in July. The recommendation of the Resources Working Group and Sub Committee is to request that the Executive Sub Committee are asked to review this at their meeting in October in the light of budget monitoring for the first half of 2018/19.

9. The Draft Annual Return 2017/18

9.1 The draft annual return for 2017/18 is included at Appendix 2. There is no longer a statutory requirement for the Joint Committee’s accounts to be externally audited and published, however a decision was taken to continue this practice to demonstrate transparency. The accounts are published on the PATROL website. Similarly, there is no longer a requirement to make records available for inspection and to publish the notice relating to such.

The accounting statement for 2016/17 has been prepared in accordance with the requirements of the Audit Commission’s Small Bodies Annual Return.

- 9.2 The completion of the return removes the requirement for a full set of accounts however a Balance Sheet and Cash Flow Statement are provided for information at Appendix 4 and 5.

At 31st March 2018 the cash flow position is £3,486,445. The cash position has increased since the start of the year by £209,601. Despite the overall surplus of £455,426 reserves have been used to fund the FOAM project to implement the online appeals management system (£195,745).

- 9.3 The external audit timetable is as follows:

Stage	2017/18
Display Notice	No longer required
Draft annual return submitted to PATROLAJC for approval	10 th July 2018
Make records available	No longer required
Submission of Annual Return and Supporting Documents to BDO	31 st July 2018

10. Internal Audit Report 2017/18

- 10.1 Internal audit is provided by the Host Authority. The internal audit report for 2017/18 is included at Appendix 3. There is 1 recommendation and management response. The number and priority level of internal audit recommendations has continued to reduce.

	14/15	15/16	16/17	17/18
Low	11	6	3	0
Med	12	11	7	1
High	2	2	1	0
TOTAL	25	19	11	1

- 10.2 As a result of improvements made over the last year, the overall finding is “Good Assurance” which is the highest level assurance which can be given.

Low level findings are considered by the Resources Working Group and Sub Committee.

11. Financial Regulations

Minor grammatical changes have been made in Section 13.1 and 13.2.

12. Scheme of Financial Delegation 2018/19

The Scheme of Financial Delegation has been revised in the light of the recommendation from Internal Audit and can be found at Appendix 4. The Scheme of Delegation has been updated to reflect personnel changes and changes in reporting lines.

A new section has been added at 5 (i) which documents the authorisations required for on-line banking transactions. The organisation has always required two authorisations for any payment and this is reflected in the on-line banking arrangements. In addition, users that raise payments are not able to authorise to ensure segregation of duties.

13. Code of Corporate Governance

A copy of the Code of Corporate Governance is enclosed at Appendix 4.

14. Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566

Email: lhutchinson@patrol-uk.info

PATROL Outturn to 31/03/2018

	Year to Date				Full Year			
	31/03/2018	31/03/2018	31/03/2018	31/03/2018	2017/18	2017/18	2017/18	2016/17
	Year to Date	Budget	Var to Budget	Var to Budget	Forecast Outturn	Full Year Budget	Var to Budget	Prior Year Result
Income								
Parking Income	1,695,610	1,840,000	(144,390)	-7.8%	1,695,610	1,840,000	(144,390)	1,935,869
Other Income	0	0	0	0.0%	0	0	0	54,649
Bank Interest	12,023	9,000	3,023	33.6%	12,023	9,000	3,023	13,144
Dart Income	915,417	1,147,500	(232,083)	-20.2%	915,417	1,147,500	(232,083)	1,113,818
Mersey Gateway Income	209,141	4,000	205,141	5128.5%	209,141	4,000	205,141	0
Recharge for Bus Lane Adjudication Costs	426,443	492,990	(66,547)	-13.5%	426,443	492,990	(66,547)	420,095
Moving Traffic	49,205	36,000	13,205	36.7%	49,205	36,000	13,205	0
Total Income	3,307,838	3,529,490	(221,651)	-6.3%	3,307,838	3,529,490	(221,651)	3,537,576
Expenditure:								
Adjudicators	911,826	1,240,718	328,893	26.5%	911,826	1,240,718	328,893	994,404
Staff	995,882	1,159,493	163,611	14.1%	995,882	1,159,493	163,611	1,062,749
Premises / Accommodation	174,528	205,602	31,074	15.1%	174,528	205,602	31,074	165,691
Transport	81,685	84,075	2,389	2.8%	81,685	84,075	2,389	81,112
Supplies and Services	350,219	376,356	26,137	6.9%	350,219	376,356	26,137	371,876
IT	284,621	255,487	(29,134)	-11.4%	284,621	255,487	(29,134)	382,534
Services Management and Support	48,902	50,000	1,098	2.2%	48,902	50,000	1,098	48,440
Audit Fees	4,750	4,750	0	0.0%	4,750	4,750	0	5,400
Contingency	0	100,000	100,000	100.0%	0	100,000	100,000	0
Total Expenditure	2,852,412	3,476,480	624,068	18.0%	2,852,412	3,476,480	624,068	3,112,205
Surplus / (Deficit)	455,426	53,009	402,417	759.1%	455,426	53,009	402,417	425,371

0 0

Breakdown of Surplus	455,426	53,009		455,426		425,371
PATROL	203,074	41,889		203,074		409,250
Mersey Gateway	61,452	-437		61,452		0
Highways England	190,900	11,558		190,900		16,121

APPENDIX 1 PATROL Outturn 31st March 2018.

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Joint Committees

Return for the financial year ended 31 March 2018

The return on pages 2 to 5 is made up of four sections:

- **Sections 1 and 2** are completed by the person nominated by the Joint Committee
- **Section 3** is completed by BDO LLP as the reviewer appointed by the Joint Committee.
- **Section 4** is completed by the Joint Committee's internal audit provider.

Completing your return

Guidance notes, including a completion checklist, are provided on page 6 and at relevant points in the return. Also our extranet contains useful advice for you to refer to, see below.

Complete all sections highlighted in red. Do not leave any red box blank. Incomplete or incorrect returns require additional work and so may incur additional costs.

Send the return, together with your bank reconciliation as at 31 March 2018, an explanation of any significant year on year variances in the accounting statements and any additional information requested, to us, BDO LLP, by the due date.

We will identify and ask for any additional documents needed for our work. Therefore, unless requested, do not send any original financial records.

Once we have completed our work, the completed return will be returned to the Joint Committee.

It should not be necessary for you to contact us for guidance.

Section 1 – Governance statement 2017/18

We acknowledge as the members of

Enter name of reporting body here:

PARKING & TRAFFIC REGULATIONS OUTSIDE LONDON ADJUDICATION JOINT COMMITTEE

Our responsibility for ensuring that there is a sound system of internal control, including the preparation of the accounting statements. We confirm, to the best of our knowledge and belief, with respect to the accounting statements for the year ended 31 March 2018, that:

	Agreed		'Yes'
	Yes	No*	Means that the body:
1 We approved the accounting statements prepared in accordance with the guidance notes within this Return.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Prepared its accounting statements and approved them.
2 We maintained an adequate system of internal control, including measures designed to prevent and detect fraud and corruption and reviewed its effectiveness.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Made proper arrangements and accepted responsibility for safeguarding the public money and resources in its charge
3 We took all reasonable steps to assure ourselves that there are no matters of actual or potential non-compliance with generally accepted good practice that could have a significant financial effect on the ability of the body to conduct its business or on its finances and have reported our financial results to our host authority for inclusion in their accounts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Has only done what it has the legal power to do and has complied with general accepted good practice
4 We carried out an assessment of the risks facing the body and took appropriate steps to manage those risks, including the introduction of internal controls and/or external insurance cover where required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Considered the financial and other risks it faces and has dealt with them properly.
5 We maintained throughout the year an adequate and effective system of internal audit of the body's accounting records and control systems.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Arranged for a competent person, independent of the financial controls and procedures, to give an objective view on whether internal controls meet the needs of the body.
6 We took appropriated action on all matters raised during the year in reports from internal audit and external reviews.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Responded to matters brought to its attention by internal and external reviewers.
7 We considered whether any litigation, liabilities or commitments, events or transactions, occurring either during or after the year-end, have a financial impact on the body and where appropriate have included them in the accounting statements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Disclosed everything it should have about its business activity during the year including events taking place after the year-end if relevant.

The governance statement is approved by the Joint Committee and recorded as minute reference

Date

Signed by:

Chair

Signed by:

Clerk

*Note: Please provide explanations on a separate sheet for each 'No' response. Describe how the joint committee will address the weaknesses identified.

Section 2 – Accounting Statements 2017/18 for

Enter name of reporting body here:

PARKING & TRAFFIC REGULATIONS OUTSIDE
LONDON ADJUDICATION JOINT COMMITTEE

	Year ending		Notes and guidance
	31 March 2017 £	31 March 2018 £	
1 Balances brought forward	3497252	3182460	Total balances and reserves at the beginning of the year as recorded in the body's financial records. Value must agree to Box 7 of previous year.
2 (+) Income from local taxation and/or levy	-		Total amount of local tax and/or levy received or receivable in the year including funding from a sponsoring body. Excluding any grants received.
3 (+) Total other receipts	3,537,576	3,307,838	Total income or receipts as recorded in the cashbook less the taxation and/or levy (line 2). Include any grants received here.
4 (-) Staff costs	2,081,136	1,906,766	Total expenditure or payments made to and on behalf of all employees. Include salaries and wages, PAYE and NI (employees and employers), pension contributions and employment expenses.
5 (-) Loan Interest/capital repayments	-		Total expenditure or payments of capital and interest made during the year on the body's borrowings (if any).
6 (-) All other payments	1,771,231	1,141,392	Total expenditure or payments as recorded in the cashbook less staff costs (line 4) and loan interest/capital repayments (line 5).
7 (=) Balances carried forward	3182460	3442141	Total balances and reserves at the end of the year. Must equal (1+2+3) – (4+5+6)
8 Total cash and short term investments	3,285,149	3,490,169	The sum of all current and deposit bank accounts, cash holdings and short term investments held as at 31 March – to agree with bank reconciliation.
9 Total fixed assets plus other long term investments and assets	-	-	The original Asset and Investment Register value of all fixed assets, plus other long term assets owned by the body as at 31 March
10 Total borrowings	-	-	The outstanding capital balance as at 31 March of all loans from third parties (including PWLB)

I certify that for the year ended 31 March 2018 the accounting statements in the return present fairly the financial position of the Joint Committee and its income and expenditure, or properly present receipts and payments, as the case may be.

Signed by Responsible Financial Officer:



Date

25/6/18

I confirm that these accounting statements were approved by the Joint Committee on:

and recorded as minute reference:

Signed by Chair of meeting approving these accounting statements:

Section 3 – External Report 2017/18 Certificate

We present the findings from our review of the return for the year ended 31 March 2018 in respect of:

Enter name of reporting body here:

PARKING & TRAFFIC REGULATIONS OUTSIDE LONDON ADJUDICATION JOINT COMMITTEE

Respective responsibilities of the Joint Committee and the reviewer

The Joint Committee has taken on the responsibility of ensuring that its financial management is adequate and effective and that it has a sound system of internal control. The Joint Committee prepares a return which:

- summarises the accounting records for the year ended 31 March 2018; and
- confirms and provides assurance on various governance matters in accordance with generally accepted good practice

This report has been produced in accordance with the terms of our engagement letter dated [date] ("the Engagement Letter") and in accordance with the International Standard on Related Services 4400 applicable to agreed-upon-procedures engagements as published by IAASB.

We have performed the following work in respect of the return prepared by the Joint Committee:

- agreed to bank reconciliation to the annual return and the bank statements
- agreed the Annual return figures back to the trial balance
- ensured the trial balance and accounting statements adds up
- agreed the precept to the funding body
- agreed any loans to the PWLB or whoever the loan is with
- checked the comparative figures to the prior year accounts
- undertake an analytical review of the figures and investigated any variances in excess of 10%
- agree that the accounting statements and annual governance statement have been signed and dated as required.
- investigated any NO answers to the Annual Governance Statement
- investigated any NO answers in the Internal auditor report

[No exceptions were found / Apart from the following exceptions, noted below, no exceptions were found.]

We have not subject the information contained in our report to checking or verification procedures except to the extent expressly stated above and this engagement does not constitute an audit or a review and, as such, no assurance is expressed. Had we performed additional procedures, an audit or a review, other matters might have come to light that would have been reported.

You were responsible for determining whether the agreed upon procedures we performed were sufficient for your purposes and we cannot, and do not, make any representations regarding the sufficiency of these procedures for your purposes.

Our report is prepared solely for the confidential use of the joint committee. Our report must not be used for any purpose other than for which it was prepared or be reproduced or referred to in any other document or made available to any third party without the written permission of BDO LLP.

We accept no liability to any other party who is shown or gains access to this report.

Reviewer signature

BDO LLP

Section 4 – Annual internal audit report 2017/18 to

Enter name of reporting body here:

PARKING & TRAFFIC REGULATIONS OUTSIDE LONDON ADJUDICATION JOINT COMMITTEE

The Joint Committee's internal audit service provider, acting independently and on the basis of an assessment of risk, carried out a selective assessment of compliance with relevant procedures and controls expected to be in operation during the financial year ended 31 March 2018.

Internal audit has been carried out in accordance with the Joint Committee's needs and planned coverage.

On the basis of the findings in the areas examined, the internal audit conclusions are summarised in this table. Set out below are the objectives of internal control and alongside are the internal audit conclusions on whether, in all significant respects, the control objectives were being achieved throughout the financial year to a standard adequate to meet the needs of the Joint Committee.

Internal control objective	Agreed? Please choose one of the following		
	Yes	No*	Not covered**
A. Appropriate accounting records have been kept properly throughout the year.	✓		
B. The Joint Committee's financial regulations have been met, payments were approved and VAT was appropriately accounted for.	✓		
C. The Joint Committee assessed the significant risks to achieving its objectives and reviewed the adequacy of arrangements to manage these.	✓		
D. The annual taxation or levy or funding requirements resulted from an adequate budgetary process; progress against the budget was regularly monitored; and reserves were appropriate.	✓		
E. Expected income was fully received, based on correct prices, properly recorded and promptly banked; and VAT was appropriately accounted for.	✓		
F. Petty cash payments were properly supported by receipts, all petty cash expenditure was approved and VAT appropriately accounted for.	* ✓		
G. Salaries to employees and allowances to members were paid in accordance with the body approvals, and PAYE and NI requirements were properly applied.	✓		
H. Asset and investments registers were complete and accurate and properly maintained.	✓		
I. Periodic and year-end bank account reconciliations were properly carried out.	✓		
J. Accounting statements prepared during the year were prepared on the correct accounting basis, agreed to the cash book, were supported by an adequate audit trail from underlying records, and, where appropriate, debtors and creditors were properly recorded.	* ✓		

For any other risk areas identified by the Joint committee (list and other risk areas below or on separate sheets if needed) adequate controls existed:

*SEE INTERNAL AUDIT REPORT - APPENDIX B FOR MORE DETAILS.

Name of person who carried out the internal audit: JOSIE GRIFFITHS

Signature of person who carried out the internal audit:  Date: 25/06/18

*Note: If the response is 'no' please state the implications and action being taken to address any weakness in control identified (add separate sheets if needed).
 **Note: If the response is 'not covered' please state when the most recent internal audit work was done in this area and when it is next planned, or, if coverage is not required, internal audit must explain why not (add separate sheets if needed).

Guidance notes on completing the 2017/2018 return

1. Make sure that your return is complete (i.e. no empty red boxes), and is properly signed and dated. Avoid making any amendments to the completed return. But, if this is unavoidable, make sure the amendments are drawn to the attention of and approved by the body, properly initialled and an explanation provided to us. Returns containing unapproved or unexplained amendments will be returned and may incur additional costs.
2. Use the checklist provided below. Use a second pair of eyes, perhaps a member of the committee or the Chair, to review your return for completeness before sending it to us.
3. Do not send us any information not specifically asked for. Doing so is not helpful. However, you must notify us of any change of Clerk, Responsible Financial Officer or Chair.
4. Make sure that the copy of the bank reconciliation or letter confirming the balance held on your behalf which you send with the return covers all your bank balances. If the joint committee holds any short-term investments, note their value on the bank reconciliation. We must be able to agree your bank reconciliation to Box 8 on the Accounting statements. You must provide an explanation for any difference between Box 7 and Box 8.
5. Explain fully significant variances in the accounting statements on page 3. Do not just send in a copy of your detailed accounting records instead of this explanation. We want to know that you understand the reasons for all variances. Include a complete analysis to support your explanation.
6. If we have to review unsolicited information, or receive an incomplete bank reconciliation, or you do not fully explain variances, this may incur additional costs for which we will make a charge.
7. Make sure that your accounting statements add up the balance carried forward from the previous year (Box 7 of 2017) equals the balance brought forward in the current year (Box 1 of 2018).
8. Do not complete section 3. We will complete it at the conclusion of our work.

Completion checklist – ‘No’ answers mean you may not have met requirements		Done?
All sections	All red boxed have been completed?	
	All information has been sent with this return?	
Section 1	For any statement to which the response is ‘no’, an explanation is provided?	
Section 2	Approval by the body confirmed by the signature of Chair of meeting approving the accounting standards?	
	An explanation of significant variations from last year to this year is provided?	
	Bank reconciliation as at 31 March 2018 agrees to Box 8?	
Section 4	An explanation of any difference between Box 7 and Box 8 is provided?	
	All red boxed completed by internal audit and explanations provided?	

BALANCE SHEET - PATROL

	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18
	p12	p1	p2	p3	p4	p5	p6	p7	p8	p9	p10	p11	p12
Current Assets													
LA Debtors	116,331	530,705	268,236	198,222	523,732	203,729	138,956	530,464	350,851	176,221	432,740	205,133	122,739
Other Debtors	119,477	123,111	112,913	130,841	115,380	111,518	113,624	91,407	79,987	103,024	89,183	60,825	137,992
VAT													
Cash and Bank	3,276,844	3,107,675	3,269,720	3,140,795	3,067,569	3,277,465	3,288,694	3,231,507	3,203,021	3,291,430	3,414,714	3,453,442	3,486,445
Total	3,512,652	3,761,491	3,650,869	3,469,858	3,706,681	3,592,712	3,541,274	3,853,378	3,633,859	3,570,675	3,936,637	3,719,401	3,747,175
Current Liabilities													
Trade Creditors	211,622	165,018	166,199	81,680	20,155	62,388	134,928	220,364	41,148	6,485	164,399	32,353	162,724
Other Public Bodies	118,570	395,865	228,848	95,601	386,180	181,503	32,767	226,957	178,358	150,154	307,912	220,270	142,311
Other Creditors	330,192	560,883	395,047	177,281	406,335	243,890	167,695	447,321	219,506	156,640	472,311	252,623	305,035
Total	3,182,460	3,200,607	3,255,822	3,292,577	3,300,346	3,348,821	3,373,579	3,406,057	3,414,353	3,414,036	3,464,325	3,466,777	3,442,140
Net Current Liabilities													
Long Term (Liabilities)/Assets	0	0	0	0	0	0	0	0	0	0	0	0	0
NET ASSETS	3,182,460	3,200,607	3,255,822	3,292,577	3,300,346	3,348,821	3,373,579	3,406,057	3,414,353	3,414,036	3,464,325	3,466,777	3,442,140
Financed By:													
Pension Reserve													
Reserves BF	3,768,231	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460	3,182,460
Reserves drawdown (tech)	-520,693	-12,500	-12,500	-25,000	-50,000	-59,445	-59,445	-98,045	-117,365	-136,666	-156,885	-176,185	-195,745
Reserves drawdown (RUCA)	-490,450												
Current Year Surplus	425,371	30,647	85,862	135,117	167,886	225,806	250,564	321,642	349,259	368,241	438,750	460,503	455,426
TOTAL NET WORTH	3,182,460	3,200,608	3,255,822	3,292,578	3,300,346	3,348,822	3,373,579	3,406,057	3,414,353	3,414,035	3,464,325	3,466,778	3,442,141

CASH FLOW - PATROL

	Mar-17 p12	Apr-17 p1	May-17 p2	Jun-17 p3	Jul-17 p4	Aug-17 p5	Sep-17 p6	Oct-17 p7	Nov-17 p8	Dec-17 p9	Jan-18 p10	Feb-18 p11	Mar-18 p12
Opening Cash Balance	3,388,039	3,276,844	3,107,675	3,269,720	3,140,795	3,067,569	3,277,465	3,288,694	3,231,507	3,203,021	3,291,430	3,414,714	3,453,442
Decrease / (Increase) in LA Debtors	15,134	-414,373	262,469	70,014	-325,510	320,003	64,772	-391,508	179,613	174,629	-256,519	227,607	82,394
Decrease / (Increase) in Other Debtors	-26,527	-3,634	10,198	-17,928	15,461	3,862	-2,105	22,217	11,420	-23,037	13,841	28,358	-77,167
Decrease / (Increase) in VAT Debtor	0	0	0	0	0	0	0	0	0	0	0	0	0
Increase / (Decrease) in Trade Creditors	45,657	-46,604	1,181	-84,519	-61,525	42,233	72,540	85,436	-179,216	-34,662	157,914	-132,046	130,371
Increase / (Decrease) in other Public Body Creditors	0	0	0	0	0	0	0	0	0	0	0	0	0
Increase / (Decrease) in Other Creditors	-101,626	277,296	-167,018	-133,247	290,579	-204,678	-148,736	194,190	-48,599	-28,203	157,758	-87,642	-77,959
Movement on Reserves	-43,834	18,148	55,214	36,756	7,768	48,476	24,758	32,478	8,296	-318	50,290	2,453	-24,637
Closing Cash Balance	3,276,844	3,107,676	3,269,720	3,140,796	3,067,569	3,277,465	3,288,694	3,231,507	3,203,021	3,291,429	3,414,714	3,453,443	3,486,445



Internal Audit

**PATROL (Parking and Traffic Regulations
Outside London) 2017/18**

Report Status: Final

Report Date: 5th June 2018

Prepared by: Lucy Nelson

Distribution List:

Louise Hutchinson – PATROL, Director

Erica Maslen – PATROL, Central Services Manager

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1 Introduction and background

1.1 PATROL (Parking and Traffic Regulations Outside London) has been established to enable councils undertaking civil parking enforcement in England and Wales and civil bus lane and moving traffic enforcement in Wales to exercise their functions under:

- section 81 of the Traffic Management Act 2004 (TMA) and Regulations 17 and 18 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the English General Regulations);
- section 81 of the TMA and Regulations 16 and 17 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) Wales Regulations 2013 (the Welsh General Provisions Regulations);
- Regulations 12 and 13 of The Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (the Road User Charging Regulations).

1.2 These functions are exercised through PATROL in accordance with Regulation 16 of the English General

Regulations and Regulation 15 of the Welsh General Provisions Regulations.

1.3 The Bus Lane Adjudication Service Joint Committee (BLASJC) has been established to enable councils in England undertaking civil enforcement of bus lanes to exercise their function under Regulation 11 of The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (the Bus Lane Regulations)."

1.4 These functions are exercised through BLASJC in accordance with Regulation 12 of the Bus Lane Regulations.

1.5 Under the above legislation and regulations, Councils operating civil traffic enforcement functions are responsible for funding the provision of adjudication. The Councils carry out this function through a Joint Committee. The PATROL and Bus Lanes Adjudication Joint Committees perform this function in accordance with legislation and regulations and the constituent authorities of each Joint Committee defray expenses in such a proportion as the Joint Committees decide.

1.6 The Traffic Penalty Tribunal also provides adjudication in respect of penalties issued for failure to pay the road user

charge at the Dartford-Thurrock River Crossing and the Mersey Gateway Bridge. PATROL has entered into a Memorandum of Understanding with the Secretary of State for Transport in this respect.

- 1.7 PATROL is classed as a small relevant body in accordance with the Accounts and Audit Regulations 2015, and prior to 2015/16 had to complete a Small Bodies Annual Return (SBAR) summarising their annual activities at the end of each financial year. This requirement was removed for 2015/16 by the Accounts and Audit Regulations 2015; however, the Body has decided to still complete the SBAR on an annual basis as good practice and in the spirit of openness and transparency.
- 1.8 Cheshire East Council was appointed as the Host Authority to the PATROL Adjudication Joint Committee and Bus Lane Adjudication Joint Committee on 1st January 2013. As part of this role, the Council has delivered the Body's Internal Audit service.
- 1.9 Where reference is made to policies and procedures within this report, these are PATROL'S, not Cheshire East Council's unless specified otherwise.

- 1.10 We have previously issued a draft report to present our key findings and actions, (reported on an exception basis), to confirm the factual accuracy of the findings and to agree recommended actions. This final report is issued now that the recommended actions, along with responsibilities and timescales have been agreed.

2 Objectives, scope & methodology

- 2.1 In order to complete Section 4 of the 2017/18 SBAR, we had to determine whether the ten stated internal control objectives have been achieved throughout the 2017/18 financial year to a standard adequate to meet the needs of the Body. The control objectives are:
- A. Appropriate accounting records have been kept properly throughout the year
 - B. The body's financial regulations have been met, payments were supported by invoices, expenditure was approved and VAT appropriately accounted for
 - C. The body assessed the significant risks to achieving its objectives and reviewed the adequacy of arrangements to manage this
 - D. The annual taxation or levy or funding requirement resulted from an adequate budgetary process; progress against the budget was regularly monitored; and reserves were appropriate

- E. Expected income was fully received, based on correct prices, properly recorded and promptly banked; and VAT was appropriately accounted for
- F. Petty cash payments were properly supported by receipts, expenditure was approved and VAT appropriately accounted for
- G. Salaries to employees and allowances to members were paid in accordance with body approvals, and PAYE and NI requirements were properly applied
- H. Asset and investment registers were complete and accurate and properly maintained
- I. Periodic and year-end bank account reconciliations were properly carried out
- J. Accounting statements prepared during the year were prepared on the correct accounting basis (receipts and payments or income and expenditure), agreed to the cash book, were supported by an adequate audit trail from underlying records, and where appropriate, debtors and creditors properly recorded

2.2 In order to satisfy the above control objectives, we carried out a programme of audit testing on the following areas:

- Assets
- Banking and Cheques
- Budgetary Control
- Income

- Payroll
- Procurement
- Purchase Cards
- Risk Management

2.3 PATROL does not operate a petty cash/imprest system (Control F on the SBAR). However, they do have a number of purchase cards linked to their bank account. As such, and as per the testing carried out in previous years, a review of processes and controls in operation in relation to the cards was undertaken.

2.4 The separate Joint Committees for PATROL Adjudication Service and Bus Lanes Adjudication Service share the same systems and processes. Therefore, where appropriate, audit work focussed on PATROL and assurance can be drawn from this for Bus Lanes.

2.5 Where sample testing was undertaken, sampling was proportionate to the volume of transactions in relation to the PATROL and Bus Lanes. Furthermore, the samples selected included transactions completed throughout the whole of 2017/18 in order to ensure that the findings are as comprehensive and reliable as possible and also capture an accurate reflection of the practices in place. Although reasonable assurance can be drawn from these findings it is

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never possible to give complete assurance that all issues have been uncovered, as we are unable to test every transaction.

- 2.6 Following last year's audit (2016/17) where the Body received a "Limited Assurance" audit opinion, it was agreed by the Director of PATROL and Internal Audit to carry out a follow up review. The review was undertaken in December 2017 and a separate audit report issued 17th January 2018 to provide assurance to the Joint Committee that the identified weaknesses had been appropriately addressed.

3 Key Findings

- 3.1 A total of 77 controls have been tested covering all areas detailed in the control objectives on the SBAR. This draft report is intended to highlight the areas where improvements are required, either in the control itself or to improve compliance with the controls.
- 3.2 As a result of the testing, 1 recommended action has been raised in this report and can be found at **Appendix A**. The actions raised relate to non-compliance with the controls the Body has established in its processes and procedures.
- 3.3 The area identified for improvement is as follows:

Control Objective F

- Approval of purchase card transactions should be carried out in accordance with the approved Scheme of Financial Delegation.

4 Audit Conclusion and Opinion

- 4.1 The audit has concluded that the majority of the 10 control objectives detailed on the 2017/18 SBAR are effectively managed for both the PATROL and Bus Lane Adjudication Joint Committees. Appendix B confirms the results of the audit work as it will be entered on the SBAR.
- 4.2 Testing has identified a small number of inconsistencies in the application of the controls in place and areas for improvement. Implementation of the recommended action detailed in **Appendix A** will improve the control environment and help ensure the identified risks are mitigated.
- 4.3 Internal Audit utilises a formal opinion system (see Appendix C). Taking into account the systems and procedures in place to manage the operation of PATROL, along with the follow up and associated testing which concluded that the actions arising from the PATROL 2016/17

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audit were successfully implemented the Body has been given a "Good Assurance" opinion:

Good Assurance

Controls are in place to mitigate against the risks identified in the terms of Reference. Testing has shown that controls are working effectively and consistently to ensure that key risks are well managed.

Appendix A – Audit Findings & Recommended Actions

<i>F. Petty cash payments were properly supported by receipts, expenditure was approved and VAT appropriately accounted for</i>			
Finding	Implication	Recommended Action	Priority
<p>A sample of 20 purchase card transactions were reviewed to ensure the purchases made appeared appropriate and that the transactions had been reviewed and approved in accordance with the Scheme of Financial Delegation (SoFD).</p> <p>The following issue was noted:</p> <ul style="list-style-type: none"> 1 purchase made by the Stakeholder Engagement Manager was independently approved by the Central Services Manager; however, in accordance with the SoFD the Director should approve these transactions. <p>All cardholder transactions are reviewed and approved on a monthly basis, once the statement is received. Therefore, not only has the above transaction been incorrectly authorised, but any other purchases made by the cardholder in the same period have also been approved incorrectly.</p> <p>The Central Services Manager confirmed that this was due to staff absence and that the transactions were brought to the Director's attention as a matter of course.</p>	<p>Purchase card facilities could be ineffectively managed and used inappropriately.</p> <p>Furthermore, in instances where purchase card transactions are not approved in accordance with the SoFD there may be an increased risk of fraud or theft going undetected, which could ultimately lead to financial loss to the Body.</p>	<p>Purchase card transactions should be approved in accordance with the Scheme of Financial Delegation.</p> <p>Furthermore, the SoFD should be reviewed to ensure business continuity is maintained in the event of staff absences.</p>	Medium
Management Response			
<p>Agreed: Yes – To revise the Scheme of Financial Delegation to allow two authorised signatories. Responsibility: E Maslen / Joint Committee Target Date: If no, please provide further details: For approval by the Joint Committee on 10th July 2018.</p>			

Appendix B – Summary of Audit Results for the 2016/17 Small Bodies Annual Return

Section	Objective	Agreed		
		Yes	No	Not Covered
A	Appropriate accounting records have been kept properly throughout the year	✓		
B	The body's financial regulations have been met, payments were supported by invoices, expenditure was approved and VAT appropriately accounted for	✓		
C	The body assessed the significant risks to achieving its objectives and reviewed the adequacy of arrangements to manage this	✓		
D	The annual taxation or levy or funding requirement resulted from an adequate budgetary process; progress against the budget was regularly monitored; and reserves were appropriate	✓		
E	Expected income was fully received, based on correct prices, properly recorded and promptly banked; and VAT was appropriately accounted for	✓		
F	Petty cash payments were properly supported by receipts, expenditure was approved and VAT appropriately accounted for	✓ *		
G	Salaries to employees and allowances to members were paid in accordance with body approvals, and PAYE and NI requirements were properly applied	✓		
H	Asset and investment registers were complete and accurate and properly maintained	✓		
I	Periodic and year-end bank account reconciliations were properly carried out	✓		
J	Accounting statements prepared during the year were prepared on the correct accounting basis (receipts and payments or income and expenditure), agreed to the cash book, were supported by an adequate audit trail from underlying records, and where appropriate, debtors and creditors properly recorded	✓ **		

* PATROL does not operate a petty cash/imprest system due to the use of purchase cards; therefore, a review the processes and controls in operation in relation to the cards was undertaken

** The work undertaken by Cheshire East Council Internal Audit provided assurance that controls are operating effectively. However, this assurance is given subject to any findings/actions raised in the forthcoming 2017/18 External Audit.

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Appendix C – Audit Opinion and Priority Rating for Individual Actions

Audit Opinion

An overall opinion on the control environment will be given on completion of the audit work. This opinion relates **only** to those risks identified or systems tested.

Where the audit opinion given is either limited or no assurance, consideration will be given to including those areas in the Annual Governance Statement.

There are four possible opinions: good assurance, satisfactory assurance, limited assurance, and no assurance.

The following table explains the various assurance levels in terms of the controls in place and how testing has shown them to be operating. It also gives an indication as to the priority rating of recommendations you might expect at each assurance level, although please note this is for guidance only as the final opinion lies at the discretion of the Auditor.

Assurance Level	Explanation
Good Assurance	Controls are in place to mitigate against the risks identified in the terms of Reference. Testing has shown that controls are working effectively and consistently to ensure that key risks are well managed. No high level recommendations have been made although there may be a small number at medium level. Some changes in the control environment may be beneficial to enhance performance and realise best practice.
Satisfactory Assurance	Controls are adequate to address the risks identified in the terms of reference. Testing has shown that there are some inconsistencies in the application of the controls, and attention is needed to improve the effectiveness of these controls. Recommendations will normally be no higher than medium level.
Limited Assurance	Controls are either not designed to mitigate the risks identified in the terms of reference, or testing has shown there to be significant non-application of controls. There are likely to be a number of high priority recommendations and/or a large number at the medium level. Attention is needed to improve the quality and effectiveness of the control environment in order to ensure key risks can be managed well.
No Assurance	There is an absence of controls to mitigate against the risks identified in the terms of reference. The majority of recommendations made are high priority, and key risks are not being properly managed. Urgent attention is required by management to improve the control environment. This area may be considered for inclusion in the organisation’s Annual Governance Statement. It may also be appropriate for this area to be included in the sections/directorate Risk Register, and for the action plan to address these fundamental weaknesses to become part of the Service Delivery Plan.

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Appendix C – Audit Opinion and Priority Rating for Individual Actions

Priority Rating for Individual Findings

Every audit finding and supporting recommendation will be rated in line with the criteria shown below. Timescales for necessary actions will be discussed with service managers, but the broad expectations for consideration and implementation are outlined below.

Priority	Explanation		
	Risk	Controls and Testing	Timescale
High	<p>Action is required to mitigate against a risk which is assessed as likely to arise, and having a high impact should it do so.</p> <p>A fundamental risk may involve failure to:</p> <ul style="list-style-type: none"> • Meet key business objectives • Meet statutory objectives • Adhere to Cheshire East policies • Prevent fraud or material error 	<p>Controls to mitigate risks identified in the terms of reference are either absent or poorly designed.</p> <p>Testing has shown that controls are significantly failing to work as intended.</p>	<p>This action needs immediate consideration by management.</p> <p>Implementation of necessary actions may take longer, but an action plan to address the issues should be developed immediately.</p>
Medium	<p>Action is required to mitigate against a risk which is assessed as being likely to arise OR having a significant impact if it should arise.</p>	<p>Controls to mitigate risks identified in the terms of reference are in place.</p> <p>Testing has shown that controls are working as intended, with some minor inconsistency.</p>	<p>This action needs to be considered by management within 3 months.</p> <p>Implementation of necessary actions may take longer, but an action plan to address the issues should be developed within 3 months.</p>
Low	<p>Action is required to mitigate against a risk which is assessed as having a low impact or being unlikely to arise.</p> <p>Implementation of these actions will further strengthen internal control and improve potential for achieving best practice.</p>	<p>Controls to mitigate risks identified in the terms of reference are in place.</p> <p>Testing has shown that the controls are being applied consistently and effectively.</p>	<p>This action needs to be considered by management within 6 months.</p> <p>Implementation of necessary actions may take longer, but an action plan to address the issues should be developed within 6 months.</p>

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**PATROL ADJUDICATION & BUS LANE ADJUDICATION SERVICE
JOINT COMMITTEE**

FINANCIAL REGULATIONS

2018/19

1. General

- 1.1 These Regulations should be read in conjunction with the Joint Committee's Financial Standing Orders and Rules of Financial Management contained within the Joint Committee's Agreement, the Scheme of Delegation to the Director and the Scheme of Financial Delegation to officers.
- 1.2 Where the Joint Committee has established a sub committee whose terms of reference include delegated financial functions, or where there is a specific delegation to such a sub committee, the reference to Joint Committee within the Regulations will include the sub committee.
- 1.3 These Regulations lay down for the guidance of members and officers, principles to be followed in securing the proper administration of the Joint Committee's financial affairs and shall be reviewed by the Joint Committee on an annual basis.
- 1.4 The Director, as the officer responsible for the administration of the Joint Committee's affairs, shall report to the Joint Committee any significant failure to comply with these regulations which comes to his/her attention.
- 1.5 The Director shall be responsible for the accountability and control of all resources managed by him/her on behalf of the Joint Committee and will maintain a written record where decision making has been delegated to others.
- 1.6 The Director will ensure the organisational structure provides an appropriate segregation of duties to provide adequate internal controls to minimise fraud or malpractice.
- 1.7 The Director can allow exceptions to these Regulations if it is believed that the best interests of the Joint Committee would be served if the Regulations were not applied. A written record of these decisions must be kept and reported to the Joint Committee at the earliest opportunity.
- 1.8 Whenever any matter arises which may involve financial irregularity, the Director shall be notified immediately, and if an irregularity is disclosed the

matter shall, at the discretion of the Director and after consultation with the Joint Committee's Treasurer (the Lead Authority's S151 Officer), be referred by them to the Joint Committee. The Director and the Joint Committee Treasurer will determine whether the matter should be referred to Internal Audit. Further in a case where the Director advises that there is prima facie evidence of a criminal offence having been committed, the matter shall be reported to the Police forthwith.

2. Accounting Arrangements

- 2.1 The Statement of Responsibilities for the Statement of Accounts sets out the role of the Director and the Treasurer.
- 2.2 The Treasurer to the Joint Committee is the responsible Financial Officer for the purposes of the Annual Return.
- 2.3 The Director shall ensure that appropriate financial arrangements and procedures are in place on behalf of the Joint Committee in order that the Treasurer can be provided with the necessary accounting records.
- 2.4 The Director will make arrangements for the preparation and audit of annual accounts.
- 2.5 The Director will publish and make available a final accounts/audit timetable to member authorities following the annual meeting of the Joint Committee.
- 2.6 The Director, where applicable, shall be responsible for the submission of all claims for grant to Government Departments, or to the EU.

3. Banking Arrangements, Cheques and Purchase Cards

- 3.1 All arrangements with the Joint Committee's bankers, including the procedures for the ordering and safe custody of cheques and purchase cards, shall be made under arrangements approved by the Director.
- 3.2 All cheques drawn on behalf of the Joint Committee shall be signed by two named signatories on the bank mandate. Electronic payments require approval from two individuals, who must have been granted access to the online banking system by the online bank administrator (Finance & Central Services Manager or Operations Manager).
- 3.3 There is to be a clear segregation of responsibility between the preparation of payments and the authorisation of payments.
- 3.4 Purchase card limits will be as set out within the Scheme of Financial Delegation.

- 3.5 All Card Holders will sign a Credit Card Undertaking form. The Credit Card Undertaking form sets out agreed procedures including storage, authorised users and record keeping requirements.
- 3.6 Only the Finance & Central Services Manager will be permitted to withdraw cash against their card and this will be authorised in advance by the Director.
- 3.7 Bank reconciliation will be undertaken on a monthly basis (within 30 days) and signed by two members of staff in accordance with the Bank Reconciliation Procedure with one signature being that of the Finance & Central Services Manager.
- 3.8 The Director will sign a summary sheet to ensure that bank reconciliations are completed in accordance with the financial regulations.

4. Revenue and Capital Budgets

- 4.1 The Director, in consultation with appropriate Officers, shall prepare annual estimates of expenditure and income, including the proposals for the basis for defraying that expenditure through member authorities. The budget and the basis for defraying expenditure through member authorities must be approved by the Joint Committee by the end of January each year.
- 4.2 The Director will provide a copy of the Joint Committee's approved budget to the Treasurer.
- 4.3 The Director will monitor income and expenditure against the budget and will report to meetings of the Joint Committee showing budgeted, actual and where appropriate, projected expenditure. Monitoring will take place and be evidenced monthly.
- 4.4 The Director shall be authorised to approve transfers between expenditure heads up to a maximum of £25,000. These transfers will be reported to the Joint Committee at the next available meeting as part of the budget monitoring arrangements.
- 4.5 Where it is anticipated that total expenditure will exceed the approved budgeted expenditure by 2.5%, the Chair and Vice Chair of the Joint Committee should be notified by the Director at the earliest opportunity following consultation with the Chair of the Advisory Board.

5. Income

- 5.1 The collection of all money due to the Joint Committee shall be under the supervision of the Director.
- 5.2 All money received shall be without delay passed for payment to the Joint Committee's bank account.
- 5.3 The Director shall be furnished with information to ensure the prompt rendering of accounts for the collection of income.
- 5.4 Following year-end, where invoicing is based on estimates, the Director shall request a self-certification of penalty charge notices issued by authorities.
- 5.5 Any Debt unpaid after 90 days of issue will be provided for in the accounts as soon as it becomes 90 days old.
- 5.6 The Director shall report all bad debts to the Joint Committee for these to be written off in accordance with the approved Bad Debt Policy. This report will include the cause of the bad debt and the recovering measures taken in accordance with the Debt Recovery Procedure.
- 5.7 Through regular budget monitoring reports, the Director will apprise the Joint Committee of variations in achieved income in order that the Joint Committee can take appropriate actions in a timely manner.

6. Borrowing and Investments

- 6.1 The Joint Committee approves on an annual basis an Annual Investment Strategy prepared in consultation with the Treasurer. Where applicable, this will take into account any Joint Committee policies in relation to reserves.

7. Orders and Contracts

- 7.1 The Scheme of Delegation to the Director and the Scheme of Financial Delegation include the required procedures, record keeping and procurement thresholds.
- 7.2 In evaluating quotations or tenders, the aim will be to achieve the most economically advantageous outcome, taking into account quality, cost and delivery experience. Such decisions will be documented. Where the lowest price option is not chosen, the Director must approve prior to goods/services being commissioned.

- 7.3 Only budget holders and staff who have received training in accordance with the Scheme of Financial Delegation may order goods or services.
- 7.4 The Director will ensure that staff involved in procurement are aware of financial thresholds and the need for aggregation with single suppliers in respect of purchasing thresholds. Market testing on rolling contracts over £2,000 will be undertaken on a three-year cycle.
- 7.5 The Director is required to obtain approval from the Joint Committee in respect of the supply of goods, services, materials, equipment, building and civil engineering works in excess of £250,000 per contract.
- 7.6 The Director has the authority to waive these rules (excluding those falling within the EU threshold) where the interests of the Joint Committee would be best served. Such circumstances would include where there is only one contractor that is able to provide goods and services or where the need for such goods and services was urgent and the above procedure would be detrimental to the Joint Committee. Forward planning and market testing will be deployed to ensure that cases of waiver are minimised. The Director shall maintain a record of such decisions and report to the Joint Committee at the earliest opportunity.

8. VAT

- 8.1 The Director will make arrangements for VAT to be reclaimed from the Joint Committee's Lead Authority on a quarterly basis.

9. Reserves

- 9.1 Where applicable, the Joint Committee will approve a Reserves Policy Statement on an annual basis. The Joint Committee will be asked to approve arrangements for placing elements of the reserve on deposit, with regard to ensuring sufficient cash flow and minimising risk. This is documented in the Annual Investment Strategy.

10. Equipment

- 10.1 The Director will ensure that all staff are aware of their responsibility for the security and proper recording of equipment under their control including their personal responsibility with regard to the protection and confidentiality of information whether held in manual or computerised records in accordance with the Information Security Policy.
- 10.2 All equipment over £1,000 in value must be recorded in the Equipment Inventory in accordance with the Asset Management Policy.

10.3 All IT equipment and communications devices will be recorded in an IT register where the purchase value is greater than £100.

10.4 This will be physically verified annually by the Finance and Central Services Manager.

11. Insurance

11.1 The Director shall arrange such insurances as he/she considers necessary.

11.2 Officers shall give prompt notification to the Director of all new risk or any alterations which may affect existing insurances.

11.3 Officers shall inform the Director promptly in writing of any events which may involve the Joint Committee in a claim.

12. Risk

12.1 The Director will present a Risk Register for review by the Joint Committee at each meeting in accordance with the Joint Committee's Risk Management Strategy. In addition, the Director will ensure that effective Business Continuity Planning arrangements are in place in accordance with the Joint Committee's Business Continuity Management Policy.

13. Internal Audit

13.1 The Joint Committee shall review the internal audit strategy.

13.2 The Director will arrange for the internal audit of accounts and internal assurance framework of the Joint Committee. Internal audit is currently undertaken by the Lead Authority's Internal Audit Department.

13.3 The Director will ensure that Internal Auditors have right of access to such records and explanations as they require to complete the work undertaken.

13.4 Audit Reports will be presented to the Joint Committee.

14. External Audit

14.1 The Joint Committee will be asked to approve the appointment of auditors.

14.2 The Director will make such arrangements as are necessary to facilitate this audit.

14.3 The Director will ensure that External Auditors have right of access to such records and explanation as they require to complete the work undertaken.

14.4 Audit Reports will be presented to the Joint Committee.

15. Petty Cash

15.1 The Director shall make such arrangements as he/she considers necessary for defraying petty cash and other expenses by means of an imprest system in accordance with a procedure to be agreed with the Treasurer, should a petty cash imprest system be introduced.

16. Expenses

16.1 The Director shall ensure that expense claims are underpinned by guidelines approved by the Joint Committee's Advisory Board.

17. Gifts and Hospitality Register

17.1 The Director will ensure that a register is held for the purposes of recording gifts and hospitality and that staff are made aware of its existence.

18. Declaration of Interest

18.1 All staff with financial responsibilities will be advised of their obligation to declare any interest on an annual basis. Members and Officers at each meeting will be provided with the opportunity to declare a pecuniary or non-pecuniary interest, where interests arise, individuals will be asked to complete the Declaration of Interest Form in addition to the interest being minuted.

19. Anti-fraud, anti-corruption and whistleblowing

19.1 Compliance with these financial regulations is supported by policies and procedures in respect of anti-fraud, anti-corruption and whistleblowing. Where staff has concerns in this respect, they should approach their Line Manager, the Director or if they wish to speak to someone external to the organisation, they can contact Public Concern at Work which operates a confidential helpline 02074046609. Further advice and guidance can also be found on their website www.pcaw.co.uk. The Director will ensure that staff are aware of the relevant internal and external contact points in these circumstances.

20. Document Retention

20.1 All financial documents will be retained for a period of six years in addition to the current year.

21. Review and approvals

21.1 These Financial Regulations will be reviewed by the Joint Committee on an annual basis.

21 September 2010

28 September 2011

26 June 2012

25 June 2013

25 June 2014

23 June 2015

11 July 2017



PATROL and Bus Lane Adjudication Service Scheme of Financial Delegation

Contact Details: Louise Hutchinson
Version / Date: July 2018

Scheme of Financial Delegation
Service Name: PATROL and BLASJC

Contact Details: Louise Hutchinson
Version and date: V1 July 2018

Introduction

This Scheme of Delegation should be read in conjunction with the current PATROL and Bus Lane Adjudication Service Joint Committee’s Financial Regulations and the Scheme of Delegation to the Director

1 Budget Management

i) In year budget management

The table below sets out which managers have been delegated the task of managing capital and revenue budgets.

Manager	Budget area	Name
Deputy Chief Adjudicator	Adjudicator fees and expenses	Stephen Knapp
Central Services Manager	Central Services functions including departmental staffing, premises, staff recruitment, training and Human Resources	Erica Maslen
Stakeholder Engagement Manager	Stakeholder departmental staffing and associated engagement expenditure IT departmental staffing, technology provision and development (software, hardware and infrastructure)	Iain Worrall
Director	Senior salaries, Case Management staffing budget Joint Committee initiatives, expenditure from approved reserves, consultancy and legal advice. PR, Communications and other	Louise Hutchinson

	expenditure not falling within the above delegations.
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ii) Changing the Service budget in year

Manager	Budget Area	Approval Limit
Director	All	£25,000

iii) Planning future years budgets

Responsibility:	Director and Central Services Manager in conjunction with budget managers set out above
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2 Authorisations

i) Procurement – Purchasing Goods and Services, Contracts & Tenders, Requisitions and Orders

The following limits apply to the approval of submission of tenders; acceptance of tenders; post contract negotiations; agreeing variations and lease, hire or rental agreements.

Up to £2,000	a written quotation submitted by the requisitioner and authorised by the Budget Manager
Between £2,000 and £30,000	three written quotations submitted against an outline specification by the Budget Manager
£30,000 to £172,514 (EU threshold)	formal tender process to at least three candidates authorised by the Director

EU threshold to £250,000	follow EU tender rules initiated by the Director
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The primary budget holders may have authorised approvers within their teams who can approve up to £500 expenditure without budget holder approval on agreed budget areas.

Role / Position of approver	Department
Business Manager	Central Services
Technology Manager	Stakeholder Engagement Manager
Appeals Manager	Director
Communications Officer	Communications and Public Affairs

ii) Purchase Cards

Card Holder (Role)	Transaction & Monthly Limit	Approver (Role)
Central Services Manager	£10,000	Director
Office and Facilities Manager	£10,000	Central Services Manager or Director
Technology Manager	£5,000	Stakeholder Engagement Manager or Cent Serv Mgr
Projects Officer	£10,000	Stakeholder Engagement Manager or Cent Serv Mgr

Appeals Manager	£5,000	Director or Cent Serv Mgr
Executive Assistant	£10,000	Central Services Manager or Director
Stakeholder Engagement Manager	£5,000	Director or Central Services Manager

iii) Imprest Accounts

The Joint Committee does not currently operate an imprest account. Where cash is required, only the Central Services Manager is authorised to draw cash from the Joint Committee's current account in accordance with the Joint Committee's approved Cash Policy.

3 Human Resources

Area of Delegation	Limit (Grade / £)	Designated Authorising Officers	Notes
Authorising that a post within the establishment is to be filled	Grade 10	Senior Manager for their department	The Business Manager will be notified to update the HR system.
Authorising: <ul style="list-style-type: none"> • Staff appointments* • Promotions 	Grade 10 *Up to two increments depending upon qualifications and experience	Senior Manager for their department	As above
Authorise Changes to Employment Contracts	Grade 10	Senior Manager for their department	As above
Approval for overtime to be worked	Where allowed within contract	Senior Manager for their department	As above

Area of Delegation	Limit (Grade / £)	Designated Authorising Officers	Notes
Authorise Redundancies/Early Retirements	Applies across all grades	Director in conjunction with Joint Committee and CEC	As above
Authorise Payments: <ul style="list-style-type: none"> • Staff Overtime Claims • Staff Expense Claims 	Where allowed within contract	Senior Manager for their department Senior Manager/Business Manager	As above
Authorise contractor/agency worker timesheets (or equivalent claims)	Grade 7	Senior Manager/Business Manager	As above

4 Management of Assets

Area of Delegation	Limit (£)	Designated Authorising Officers
Maintenance of Asset Inventory		Central Services Manager and Operations Manager (technology)
Authorising disposal of equipment or materials	≤ £5,000	Director
	> £5,000	Chair of Joint Committee
Authorising write off and / or disposal of IT hardware & software	≤ £5,000	Director

5 Banking and Income

No bank accounts may be opened or arrangements made with any other bank except by agreement with the Director.
 New investment deposits with current banking institutions will be authorised by the director.

Area of Delegation	Designated Accounting Officers	Notes
Authority to raise an external/internal invoice	Finance Officer	
Authority to cancel debt (e.g. credit notes).	Central Services Manager	
Authority to write off debt	Director	.

i) On-line banking authorisations

PATROL manages all banking transactions through the HSBC online banking facility. This includes: authorising payments and raising transfers between accounts.

All the above transactions and amendments to online banking user profiles require 2 approvers (neither of which can be the user requesting the change).

Designated User	Raise Payments and Changes	Authorise with one other
Director	Yes	Yes
Central Services Manager	Yes	Yes
Finance Officer	Yes	No

Office and Facilities Manager	Yes	Yes
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6 General Ledger

Area of Delegation	Limit (£)	Designated Authorising Officers	Notes
Journals	£350,000 in respect of income adjustments	Finance Officer	
Additions, Changes and Deletions to Accounting Codes	£ 5,000 £25,000	Finance Officer Central Services Manager	
Amendments to budgeted amounts	All	Central Services Manager Director	

7 Performance Management

Responsibility for maintaining Performance Management System:	Director & Central Services Manager
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8 Risk Management

Responsibility for maintaining Risk Management System:	Director & Central Services Manager
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9 Insurance

Area of Delegation	Designated Authorising Officers
Obtain and maintain appropriate insurance cover	Central Services Manager
Dealing with claims (e.g. Statement of Disclosure, Defence etc.)	Central Services Manager

10 Information Management

Area of Delegation	Designated Authorising Officers
Responsibility for Document Retention/Information Management arrangements	Central Services Manager
Responsibility for Freedom of Information/Data Protection Act requests	Central Services Manager

11 Building/Security

Area of Delegation	Officer/Building
Building Specific Responsible Officers as required by Health and Safety Policy	Central Services Manager/Office and Facilities Manager
Key holders/Secure Access	Central Services Manager/Office and Facilities Manager

12 Other

Scheme of Financial Delegation
Service Name: PATROL and BLASJC

Contact Details: Louise Hutchinson
Version and date: V1 July 2018

Business/Service owner of relevant policies/procedures (e.g. regular maintenance/update)	Central Services Manager
Service/Area specific Instructions/Regulations	Adjudicators/Operations Manager
Contracts Register	Central Services Manager

13 Approval

Scheme of Delegation – Approved by	
Date of approval	
Evidence of approval held by	

14. Review

This scheme will be reviewed on an annual basis.

**PATROL ADJUDICATION AND BUS LANE ADJUDICATION SERVICE
JOINT COMMITTEES**

CODE OF CORPORATE GOVERNANCE

1. Background

PATROL been established to enable councils undertaking civil parking enforcement in England and Wales and civil bus lane and moving traffic enforcement in Wales to exercise their functions under:

a) section 81 of the Traffic Management Act 2004 (TMA) and Regulations 17 and 18 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the English General Regulations);

b) section 81 of the TMA and Regulations 16 and 17 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) Wales Regulations 2013 (the Welsh General Provisions Regulations);

c) Regulations 12 and 13 of The Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (the Road User Charging Regulations). These functions are exercised through PATROL in accordance with Regulation 16 of the English General Regulations.

d) Regulation 16 of The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018. These functions are exercised through PATROL in accordance with Regulation 16 of the English General Regulations.

The Bus Lane Adjudication Service (BLAS) Joint Committee enables councils undertaking civil bus lane enforcement to exercise their functions under Regulation 12 of the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005

2. Primary objectives

The agreed primary objectives of the joint committee are the provision of:

(i) a fair adjudication service for appellants including visible independence of adjudicators from the Local Authorities in whose areas they are working;

(ii) consistency of adjudication across the service;

(iii) a cost effective and equitable adjudication service for all Local Authorities party to the arrangements established pursuant to this deed;

(iv) flexibility to deal with a wide range of Local Authorities with varying levels of demand for adjudication; and

(v) such other functions as may be conferred on the joint committee by statute from time to time (which include, at the date of this deed, the arrangements made under the Memorandum of Understanding regarding the Provision of Adjudication Services between the PATROL Joint Committee and the Secretary of State.

3. Functions of the PATROLAJC

The functions of the PATROLAJC are:

1. to appoint (re-appoint and dismiss) subject to the Lord Chancellor's consent (and that of the Lord Chief Justice as required) Adjudicators for the purposes of Part 6 of the 2004 Act;
2. to appoint a proper officer and deputy of PATROLAJC;
3. pursuant to the terms of this deed to appoint (and terminate and accept the resignation Of a Lead Authority for the purpose of the arrangements established by this deed;
4. to provide or make arrangements for the provision of accommodation and administrative staff and facilities for the Adjudicators;
5. to determine after consultation with the relevant Participating Authority where the Adjudicators are to sit;
6. to commission and receive an annual report upon the Adjudication Service from the Adjudicators;
7. to make and publish an annual report to the Appropriate National Authority as appropriate on the discharge by the Adjudicators of their functions;
8. to defray all the expenses of the adjudication process and in particular expenses in relation to the remuneration of Adjudicators;
9. to establish and approve annual budgets and receive annual accounts and regular monitoring reports on associated expenditure;
10. to undertake such other functions as are reasonably incidental to the efficient operation of the adjudication process;
11. such other associated functions as Participating Authorities may lawfully arrange for the PATROLAJC to perform as they from time to time consider appropriate, provided that the PATROLAJC agrees to such associated functions .

In summary, the functions exercised by the PATROL Adjudication and Bus Lane Adjudication Service Joint Committees on behalf of their constituent councils are appointing independent adjudicators to the Traffic Penalty Tribunal, providing these adjudicators with administrative staff and accommodation. Its remit in relation to the Traffic Penalty Tribunal as an independent tribunal is limited to these matters. The relationship between the Adjudicators and the Joint Committees is underpinned by a Memorandum of Understanding to this effect.

The Joint Committees also undertake such other associated functions as the participating Authorities may lawfully arrange the Joint Committees to perform as they from time to time consider appropriate.

4. Corporate Governance

The PATROL Adjudication Joint Committee (PATROLAJC) is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. In discharging this overall responsibility, the PATROLAJC is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, which includes arrangements for the management of risk.

Members and officers are given the opportunity at each meeting to declare pecuniary and non-pecuniary interests

5. Principles of good governance

The Joint Committees are classed as small bodies for audit purposes without the requirement to produce a comprehensive annual governance statement however the Joint Committee is committed to proportionate governance and has taken steps to promote transparency through the publishing of externally audited accounts.

The PATROLAJC approach to governance, in so far as it is applicable, is consistent with the principles of the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government 2016* in developing its Code of Corporate Governance. The CIPFA/SOLACE governance framework 'Delivering Good Governance in Local Government' brings together an underlying set of legislative requirements, governance principles and management processes.

- A) Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
- B) Ensuring openness and comprehensive stakeholder engagement
- C) Developing the entity's capacity, including the capability of its leadership and the individuals within it.
- D) Managing risks and performance through robust internal control and strong public financial management
- E) Implementing good practices in transparency, reporting, and audit to deliver effective accountability.

The Joint Committees have put in place the following measures to support its governance:

- Joint Committee Agreement
- Membership through Memorandum of Participation
- Service Level Agreement with Host Authority reviewed annually over five-year term.
- Memorandum of Understanding between adjudicators and the Joint Committees
- Standing Orders
- Executive Sub Committees and Working Groups underpinned by Terms of Reference
- Resources Working Group undertakes audit scrutiny role.
- Officer Advisory Board.
- Formal framework of delegation
- Financial Regulations

- Registers of interest and hospitality
- Risk Management Strategy
- Reserve Policy Statement
- Investment Strategy
- Voluntary external audit and publication of accounts
- Publication of agendas, papers and newsletter
- Freedom of Information publication scheme

By adopting the spirit of these principles, the PATROL Adjudication Joint Committee will undertake to:

- i) Keep its governance arrangements under review.
- ii) Annually monitor effectiveness

The Code of Conduct will be reviewed on an annual basis.

PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Date of Meeting: 10th July 2018

Report of: The Director in consultation with the Resources Working Group and Sub Committee

Subject/Title: Risk Management Framework

1. Report Summary

The report presents the current assessment of risk.

2. Recommendation

To note the current assessment of risk. (Appendix 1)

3. Reasons for Recommendations

To report on arrangements for identifying, managing and reporting risk

4. Financial Implications

None at this time

5. Legal Implications

None

6. Risk Management

Provides a framework for risk management.

7. Background and Options

The Risk Register is set out at Appendix 1

8. Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson
Designation: Director
Tel No: 01625 445566
Email: lhutchinson@patrol-uk.info

Appendix 1

Risk Management Framework

1. Introduction

This report provides a summary of the most significant threats facing the Joint Committees which may prevent or assist with the achievement of its objectives. We are grateful to input from Cheshire East Council in reviewing our approach to managing and reporting risks and feedback from officers and members.

It is the role of the Joint Committee's Resources Working Group and Sub Committee to review the report prior to consideration by the Joint Committees or their Executive Sub Committees. This review aims to provide assurance on the adequacy of the risk management framework and internal control environment. Risk management is not about being risk averse, it is about effectively managing risks that could affect the achievement of objectives and ensuring that an appropriate risk culture is in place.

A risk is concerned with a threat, or a possible future event, which will adversely or beneficially affect the council's ability to achieve its objectives. Risk management is central to good governance and is all about people making the best decision at all levels within the organisation.

A strong risk framework:

- Strengthens governance effectiveness
- Provides a focusing mechanism
- Balances the scale of risk and reward
- Enables better decision making

2. Corporate Risks

The Joint Committee summarises its risk appetite as follow:

"We will avoid risks that threaten our ability to undertake our principal objectives in a way that provides quality and value. We will maintain a sufficient level of reserves to support liquidity and absorb short-term fluctuations in income and expenditure beyond our control."

There are presently five threats on the Corporate Risk Register. These are currently measured as being "low" or "medium" scale risks. The classification of risk is set out below.

Risk Matrix

		Consequence				
		5	4	3	2	1
Likelihood	5	25	20	15	10	5
	4	20	16	12	8	4
	3	15	12	9	6	3
	2	10	8	6	4	2
	1	5	4	3	2	1

3. Background to Corporate Risks:

Local authorities who undertake civil parking and bus lane enforcement are required by statute to make provision for independent adjudication. The relationship between the adjudicators and the Joint Committee is derived from and governed by the Traffic Management Act 2004 and, in the case of the Bus Lane Adjudication Service Joint Committee, the Transport Act 2000.

The main function of the Joint Committee is to provide resources to support independent adjudicators and their staff who together comprise the Traffic Penalty Tribunal. The tribunal's appeal streams include:

- Parking
- Bus Lanes
- Moving Traffic (Wales only)
- Road User Charging

The objectives of PATROL include:

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

The relationship between the adjudicators and the PATROL and Bus Lane Adjudication Service Joint Committees is underpinned by a Memorandum of Understanding. The overriding principle of this memorandum is that the adjudicators are independent judicial office holders exercising a judicial function.

The adjudicators and joint committees are committed to a fair adjudication service for appellants including visible independence of adjudicators from the authorities in whose area they are working.

A core principle for the tribunal has been providing an accessible tribunal which is proportionate to the jurisdiction. It is recognised that for most appellants, appealing to the

tribunal will be the only time they come into contact with the judiciary. For this reason, the tribunal seeks to provide access to adjudication which is simple to use and timely for appellants in England and Wales.

The focus for the delivery of adjudication is:

***“a tribunal service that is user-focused,
efficient, timely, helpful and readily accessible”***

The Traffic Penalty Tribunal is committed to the principles of Digital by Design and the provision of Assisted Digital Support to support people who are unable to or need assistance to appeal online. The tribunal’s online appeal system has received national and regional awards and its levels of customer service has also been commended. The FOAM (Fast Online Appeal Management) initiative and the collaboration between more than 300 local authorities has been cited as a digital exemplar.

4. Review

The Director is responsible for coordinating the review of the Risk Management Framework and reporting to the Joint Committee’s Officer Advisory Board and the Resources Working Group and Sub Committee whose terms of reference include the review of risk. Following this scrutiny, the Risk Management Framework is report to the PATROL and Bus Lane Adjudication Service Joint Committees or their Executive Sub Committees.

Additional assurance is provided by Internal and External Audit. PATROL and the Bus Lane Adjudication Service is not required to prepare and publish audited accounts but does so to promote transparency.

5. Corporate Risks

Ref & Type	Risk Description (Including Cause, threat and impact upon outcomes)	Risk Owners	Rating and Direction	Comments
CR1	<p>Inability to meet demand for service (Cause) The tribunal provides a statutory function which is available to all vehicle owners who receive a Notice of Rejection of Representations in respect of specified penalties. (Threat) the tribunal is unable to meet its statutory obligations (impact) appellants are unable to appeal penalties</p>	Chief Adjudicator and Stakeholder Manager.	4 ↔	The net risk rating is 4 low. The tribunal has a fully scalable online system and a flexible adjudicator and staffing model. This is complimented by assisted digital support for appellants who are unable to make their appeal on line. The tribunal continues to refine and develop the online system in response to user feedback.
CR2 Threat	<p>Financial Resilience (Cause)The basis for defraying Joint Committee expenses is based on variable rather than fixed charges. This means that the Joint Committee must manage unforeseen significant fluctuations in either Income or Costs such that (threat) Reserves are significantly eroded and (impact) financial obligations cannot be met.</p>	Director and Central Services Manager	12 ↑	This rating has increased marginally but remains in the medium category. This has been raised due to the introduction of new appeal streams. Continued budgeting and forecasting and cash flow analysis combined with Internal and External audit, Financial Delegations and Reserves Policy act to mitigate the impact of this risk.
CR3 Threat	<p>Information Security and data management (Cause) The Tribunal operates an on-line appeal system to improve the quality and flexibility for tribunal users. Support systems are also underpinned by a range of technologies. With this deployment of technologies, the risk of security breaches increases. This could result in the inability of IT to support the needs of the</p>	Director and Stakeholder Manager	9 ↔	This rating remains unchanged - medium. A range of security monitoring features, data management procedures and training are being reviewed/deployed in the light of the General Data Protection Regulations 2018.

	<p>organisation and users such that (threat) the statutory service is not accessible to all and (impact) appeals cannot be adjudicated online. Potential breach of General Data Protection Regulations 2018.</p>			
CR4 Threat	<p>Resource Planning (Cause) Insufficient adjudicator or staff resources to support the needs of the organisation such that (threat) the organisation is unable to meet its statutory obligations and (impact) the quality or timeliness of the adjudication process, administrative standards or the achievement of development objectives compromised</p>	Chief Adjudicator & Director	6 ↔	<p>This rating remains unchanged - medium. Continued monitoring of workload and capacity, training and appraisals combined with documentation of processes and procedures and the delegations to the Resources Sub Committee act to mitigate this risk.</p>
CR5 Threat	<p>Business Continuity (Cause) that an internal or external incident occurs which renders the organisation unable to utilise part or all of its infrastructure such that (impact) the organisation is unable to deliver some or all of its services resulting in (impact) reduced accessibility to our service.</p>	Central Services Manager & Stakeholder Engagement Manager	6 ↔	<p>This rating is medium A detailed DR plan is held and reviewed each quarter. This is accessible to all managers and has clearly defined responsibilities. This plan acts to mitigate this risk. This plan is due to be reviewed and as such is on the 'watch' list</p>

PATROL ADJUDICATION JOINT COMMITTEE

Date of Meeting: 10th July 2018
Report of: The Director on behalf of the Resources Working Group and Sub Committee
Subject/Title: Review of Governance Documentation

1.0 Report Summary

1.1 This report presents governance documentation and arrangements for review.

2.0 Recommendations

2.1 That the Joint Committee:

- i) Note the update in relation to the review of the Main Agreement.
- ii) Note the completion of the second term Service Level Agreement with the Host Authority, Cheshire East Council.
- iii) Note the Schemes of Delegation to the Chief Adjudicator and Director (Appendix 1 and 2) which remain unchanged.
- iv) Approve the updated Memorandum of Understanding between the Adjudicators and the Joint Committee (Appendix 3).

Appoints persons to fulfil the function of the proper officer under the relevant regulations.
- v) Notes the proposed cycle of meetings for 2018/19

30th October 2018

28th January 2019

14th July 2019

3.0 Reasons for Recommendations

3.1 To fulfil the governance requirements of the Joint Committee.

4.0 Financial Implications

4.1 Provision is made within the budget for the services provided by the Host/Lead Authority. The Scheme of Delegation to the Director reflects the Joint Committee's Financial Regulations

5.0 Legal Implications

5.1 Set out in the report.

6.0 Risk Management

6.1 The recommendations in this report clarify the governance arrangements for the Joint Committee, the Adjudicators and the Host Authority.

7.0 Background and Options

7.1 In June 2013, the Bus Lane Adjudication Service Joint Committee approved changes to the Joint Committee's agreement including Schedule 6 (Terms of Appointment of the Lead Authority) dated 1 May 2008 which had been reviewed in the light of the appointment of a new Host/Lead Authority from 1 April 2013. The Joint Committee obtained approval from the required 75% of participating councils and the new agreement took effect on 3 December 2014.

7.2 An annual review has been undertaken since to establish whether the agreement requires any factual updates. At the July 2018, a decision was taken to undertake a more fundamental review to provide greater flexibility in relation to the Joint Committee including providing services to the private sector, entering into commercial arrangements and enabling new appeal streams. Progress has been made in relation to potential for commercial arrangements which need to be identified prior to completing the draft agreement. Once this has been finalised the new proposed agreement will be circulated amongst member authorities with an explanatory briefing note.

7.3 Schedule 6 of the agreement makes reference to the development of a non-binding service level agreement (SLA) between the Joint Committee and the Lead Authority. An SLA to cover the second term (2018 to 2023) has been entered into with Cheshire East Council (CEC). This has enabled CEC to enter into a new lease for the premises at Springfield House.

7.4 The Joint Committee is asked to note the Scheme of Delegation to the Chief Adjudicator (Appendix 1) and to the Director (Appendix 2) which remain unchanged.

7.5 The Memorandum of Understanding (Appendix 3) between the Adjudicators and the Joint Committees is presented. This document has been updated (at section 4.2) to provide for Littering from Vehicles appeals.

8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566 Email: lhutchinson@patrol-uk.info

PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Delegation to Chief Adjudicator

1. With the consent of the Lord Chancellor, the making of the Part-time Adjudicator appointments, for a period not exceeding 5 years. Such appointments to be sufficient to meet the needs of the service, as appropriate. With the consent of the Lord Chancellor, to extend these appointments to enable those Adjudicators to act within the areas of any Council which in future becomes party to the Joint Committee arrangements, as appropriate.
2. The determination of the terms and conditions applying to adjudicators, having regard to principles established for such judicial appointments and conduct by the Lord Chief Justice and Lord Chancellor.
3. The determination of where Adjudicators shall sit.
4. To obtain such legal advice and representation necessarily required for the adjudicators to perform their functions and to arrange for defence of any legal proceedings arising from the exercise of those functions, including the instruction of Counsel.
5. To conduct and approve press and media relations relating to the Traffic Penalty Tribunal, including press conferences, publicity and public relations and Tribunal information and publications.
6. Promotion of the Traffic Penalty Tribunal.

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PATROL and BUS LANE ADJUDICATION SERVICE JOINT COMMITTEE

Delegations to the Director

Introduction

In this document the Director means the person appointed by PATROLAJC as their Director and the BLASJC as their Director, being Louise Hutchinson for the time being, and her successors

In this scheme of delegation the phrase “Joint Committees” means the Parking and Traffic Regulation Outside London Adjudication Joint Committee and Bus Lane Adjudication Service Joint Committee.

“Lead Authority” means Cheshire East Council.

Pursuant to Clause 5.1 of the Service Level Agreement dated 3 December 2014 between the Joint Committees and the Lead Authority, the Lead Authority and Joint Committees shall delegate certain functions to the Director. This Scheme of Delegation delegates those functions.

The Joint Committees and Lead Authority approve the following functions (the Approved Functions) being exercised by the Director subject to:

- a) Administrative procedures being in place to record and monitor decisions taken.
- b) There being an appropriate audit trail to evidence such decision
- c) Ensuring that decisions taken are within the limits of the budgets and policies approved by the Joint Committees unless there is a matter of urgency which has been consulted upon with the Chair, or in his or her absence the Vice Chair, of the Joint Committees which will be the subject of a report to the next meeting of the Joint Committee, Executive or Resources Sub Committee whichever takes place soonest. No such urgent action may incur any financial liability for the Lead Authority without the express agreement of that Authority.
- d) The preparation of Joint Committee reports being subject to consideration by the Joint Committees’ Officer Advisory Board unless urgent

Save to the extent that any of the Approved Functions are expressly reserved by the Lead Authority in this Scheme of Delegation, the Lead Authority is no longer obliged to carry out the Approved Functions.

1. General

- 1.1 To expedite all necessary arrangements for the support of the Adjudicators for the performance of their functions under Part 6 of the Traffic Management Act 2004 and the Transport Act 2000 and in accordance with the Memorandum of Understanding between the Adjudicators and the Joint Committees.
- 1.2 To carry out or arrange for the carrying out of any functions conferred on the Lead Officer by virtue of the Joint Committees' Standing Orders and Financial Regulations.
- 1.3 To make necessary arrangements for the administration of the Joint Committee and its Advisory Board including:
 - receiving notifications from Participating Authorities that the appointment of their representative has terminated and the identity of their replacement representative,
 - receiving notifications generally sent to the Lead Officer under the deeds under which the Joint Committees operate, namely the Parking and Traffic Regulation Outside London Adjudication Joint Committee deed and the Bus Lane Adjudication Service Joint Committee deed, both dated 3 December 2014 between the participating authorities to the Parking and Traffic Regulation Outside London Adjudication Joint Committee and Bus Lane Adjudication Service Joint Committee

2. Financial

Subject to compliance with the Joint Committee's Financial Regulations (Appendix 2)

- 2.1 To negotiate for the supply of goods, services, materials and equipment, subject to a limit of £250,000 per contract. Acceptance of other than the lowest tender, with the consent of the Joint Committee within than limit. Contracts above £250,000 may only be negotiated with formal consent from the Joint Committee.
- 2.2 To prepare reports to enable the Joint Committees to:
 - approve an annual budget by 31 January each,
 - to defray the expenses of the Joint Committee,
 - To monitor the budget

- Approve final accounts and
- Review internal and external audit recommendations.

- 2.3 Subject to the consent of the Joint Committees's Treasurer:
- a) To write off debts which are irrecoverable or losses due to burglaries, break-ins etc.
 - b) To write off or make adjustments in respect of deficiencies or surpluses of stock, equipment etc.
- 2.4 In consultation with the Chairman or Vice Chairman of the Joint Committees to authorize the withdrawal of funds from reserves to meet budgetary deficits or other requirements as approved by the Joint Committee.
- 2.5 To prepare, in consultation with the Joint Committees Treasurer a Reserves Policy and Treasury Management Policy for approval by the Joint Committees .
- 2.6 To review annually, in consultation with the Joint Committees Treasurer the Joint Committee's Financial Regulations.
- 2.7 To be responsible for Capital Investment bids for the refurbishment of property, changes in office layout, replacement of lifts, hearing, information technology and other equipment and plant.
- 2.8 Determination of ex-gratia claims for damage to, or loss of, personal property subject to the consent of the Joint Committees for claims in excess of £1,000.
- 2.9 Disposal of surplus or obsolete equipment, scrap etc (except vehicles) to the highest tenderer.

3. Land and Property

- 3.1 To identify property requirements to meet the needs of the Adjudicators and the staff of the Joint Committees.
- 3.2 To liaise with Property Services of the Lead Authority to negotiate Heads of Terms and the Lease for such property.
- 3.3 To arrange for the routine repair, maintenance and alteration of the offices. The Lead Authority as the Lease Holder will be consulted concerning any structural changes to the offices during the period of the lease and their prior agreement obtained unless the Joint Committees

provides an indemnity in a form approved by the Lead Authority's Head at Legal Services against any liability incurred as a result of the works.

- 3.4 To take all necessary measures to prevent vandalism of buildings belonging to or under the control of the Joint Committees.
- 3.5 To grant permission to elected members or officers of Participating Authorities or representatives of the Joint Committees to enter any land or buildings occupied by the Joint Committees to which the public do not have access or to which such members, officers and representatives do not regularly have access subject to such conditions, if any, as she or he considers appropriate

4. Miscellaneous

- 4.1 To control and coordinate press and media relations subject to the agreement of the Chair and Vice Chair of the Joint Committee and with the agreement of the Lead Authority Communications Manager when such press and media relations relates to the Lead Authority.

5. Human Resources

Insofar as the following delegations derive from the Lead Authority they may only be exercised to the extent that they have no adverse budgetary implications for that Authority. Also these delegations are subject to paragraph 5.19 below.

- 5.1 To take necessary steps (including advertising, job evaluation etc) to fill posts and where this departs from Cheshire East Council's standard policies and procedures, to raise this matter with the council and the Joint Committee or its Executive or Resources Sub Committee to identify an agreed way forward.
- 5.2 To fill vacant posts within approved establishments except Adjudicator posts.
- 5.3 To determine applications for paid and unpaid maternity/paternity leave
- 5.4 To determine casual or essential car users allowance to officers
- 5.5 To determine the payment of removal expenses, lodging allowances or travelling allowances but in consultation with the Chairman of Vice Chairman of the Joint Committees where such payments fall outside the Joint Committees agreed policy.

- 5.6 To determine proposals to attend training courses except where absence is required for more than 10 days or where Joint Committees expenditure involved is in excess of £6,000, in which cases subject to consultation with the Chairman or Vice Chairman of the Joint Committees.
- 5.7 To assign temporary posts which are for a period of not exceeding 12 months.
- 5.8 To grant acceleration of increments for any staff within their substantive grade for merit and ability.
- 5.9 To determine paid and unpaid special leave.
- 5.10 Subject to the agreement of the Joint Committees to assign additional posts at grades up to and including Grade PO 6 or equivalent in categories of posts where there is already an agreed job description and a grade fixed for the post.
- 5.11 To determine requests or recommendations for honoraria (subject to reporting every honoraria payment made to the Joint Committees), gratuities and responsibilities allowances, except those relating to the Director.
- 5.12 To determine applications for paid and unpaid leave – to include the following:
 - a) For trade union training
 - b) For health and safety training
 - c) For paid leave for an employee to discharge his/her duties of office of President of a Trade Union
 - d) For personal or domestic reasons
 - e) For maternity or paternity leave
 - f) For the use of part or frozen leave entitlement where there are urgent personal or domestic reasons for needing additional paid leave.
- 5.13 Where appropriate, the determination of extensions of payments to employees in relation to sickness.
- 5.14 Determination of extensions of service except that of first and second tier officers.
- 5.15 Determination of planned overtime for officers
- 5.16 Determination of applications for early retirement in consultation with the Lead Authority's Head of Personnel and the Joint Committees and with

the prior agreement of the Lead Authority unless the Joint Committees provides an indemnity in a form approved by the Lead Authority's Head at Legal Services against any liability incurred by the Lead Authority as a result of the decision.

- 5.17 To discipline, suspend and/or dismiss staff
- 5.18 Authority to assimilate staff on appointment, promotion or regarding where s/he thinks appropriate within the approved grade having regard to all circumstances.
- 5.19 The Director may not exercise any of the powers in this paragraph 5 if to do so would confer a benefit on the Director.

6. Support to the Joint Committee and Advisory Board

- 6.1 To convene meetings of the Advisory Board and keep the attendance record of such meetings in accordance with the Terms of Reference agreed by the Joint Committees.
- 6.2 To convene meetings and arrange for the preparation of agendas and reports, sending out of the same and giving notice of the meeting of the Joint Committees and any Executive Sub Committees, Sub Groups or Working Groups including:
 - Receiving requisitions for meetings
 - Receiving notices of items for agendas from Participating Authorities
 - Receiving notifications from deputations
 - Cancelling or postponing any meeting in consultation with the chairman prior to the issue of the agenda or subsequently if there is no business to be transacted or in other exceptional circumstances
 - Receiving notification of a Participating Authority's substitute for a meeting
 - Arranging for the minutes of the meeting to be taken

[Note: for the avoidance of any doubt the Lead Officer will also be able to convene meetings of the Joint Committees]
- 6.3 To deal with urgent business of Joint Committees after consulting the Chairman or Vice Chairman.
- 6.4 Record declarations and matters of interest of Joint Committees Members and Officers.
- 6.5 (a) To arrange for the giving of advice and support to the Joint Committees in legal matters. Where external advice is sought which will also affect the Lead Authority written instructions will be provided to the

lawyers and those instructions will be agreed with the Head of Legal Services of the Lead Authority.

(b) Where there is a potential conflict of interests or it is otherwise appropriate the Joint Committees and the Lead Authority may wish to seek their own legal advice in which case the Director will arrange for the giving of advice and support to the Joint Committees and the Head of Legal Services of the Lead Authority will arrange for the giving of advice and support to the Lead Authority.

- 6.6 In agreement with the Head of Legal Services, where it will affect the Lead Authority, to defend all claims made against the Joint Committees and take preliminary steps to protect the rights and interests of the Joint Committees.
- 6.7 To hold documents and provide or refuse access to Joint Committees documents and information in accordance with the provisions of law including carrying out the function of the proper officer under section 100F(2) Local Government Act 1972. For the avoidance of doubt, this does not include documents held by the Traffic Penalty Tribunal in pursuance of the Adjudicators' procedural regulations.
- 6.8 To instruct the Lead Authority to prepare Memorandums of Participation to enable councils undertaking civil parking or bus lane enforcement to join the respective Joint Committees.
- 6.9 Receiving notifications from Participating Authorities that they wish to withdraw from participation in the arrangements of the Joint Committees

7. **Legal**

- 7.1 To prepare and arrange for the entering into of contracts and the execution of documents on behalf of the Joint Committees where the total value of the goods and services does not exceed the amount of the EU threshold and where there is no requirement for the contract to be sealed.
- 7.2 In consultation with the Head of Legal Services, where appropriate, to arrange for the assignment of a contract or the approval of the appointment of a sub-contractor.

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MEMORANDUM OF UNDERSTANDING

between

Adjudicators of the Traffic Penalty Tribunal

and

**The PATROL Adjudication Joint Committee and
The Bus Lane Adjudication Service Joint Committee**

November 2012

Reviewed and approved at Joint Committee June 2014

Reviewed and approved at Joint Committee June 2015

Reviewed and approved at Joint Committee July 2016

Reviewed and approved at Joint Committee July 2017

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MEMORANDUM OF UNDERSTANDING

1. Introduction

This Memorandum of Understanding (MOU) is between:

- a) The Adjudicators
- b) The Parking and Traffic Regulations Outside London Joint Committee (PATROL) and the Bus Lane Adjudication Service Joint Committee (BLASJC)

The jurisdiction is England (outside London) and Wales. Legislation is devolved to Wales.

The purpose of this MOU is to clarify the relationship between the Adjudicators and the joint committees and promote mutual understanding of the duties and obligations to preserve judicial independence.

The MOU seeks to provide an instrument to support our understanding of how the Parking and Traffic Regulations Outside London Joint Committee and Bus Lane Adjudication Service Joint Committee Agreements will be delivered.

Not only must each party to the MOU perform their functions with a view to protecting the independence of the tribunal but must recognise that the public perception of independence is as important as de facto independence.

2. Shared Aims

The Adjudicators and joint committees are committed to a fair adjudication service for appellants including visible independence of Adjudicators from the authorities in whose area they are working.

3. Overriding Principles

- 3.1 The overriding principle of this memorandum is that the Adjudicators are independent judicial office holders exercising a judicial function.
- 3.2 The Adjudicators are not employees of the Joint Committees. Together they constitute the independent and impartial tribunal for the determination of appeals made to them, as required by Article 6 of the European Convention on Human Rights. The Adjudicators and their administrative staff are, for convenience, described collectively as the Traffic Penalty Tribunal.
- 3.3 Neither the Chief Adjudicator (see paragraph 5 below) nor any other Adjudicator is answerable to the Joint Committees in any way as regards the performance of their judicial functions.
- 3.4 The Joint Committees has no remit to consider or influence decisions of Adjudicators and the function of the adjudication service as an independent tribunal.

4. The Statutory Framework

4.1 The relationship between the Adjudicators and the joint committees is derived from and governed by the Traffic Management Act 2004 (TMA) and Transport Act 2000 (TA) and the regulations made under those two Acts which:

- a) establish the office of Adjudicator for parking, bus lane, moving traffic and road user charging appeals.
- b) prescribes the roles and responsibilities of the Adjudicators and the Joint Committees

4.2 PATROL has been established to enable councils undertaking civil parking enforcement in England and Wales and civil bus lane and moving traffic enforcement in Wales to exercise their functions under:

- a) section 81 of the Traffic Management Act 2004 (TMA) and Regulations 17 and 18 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the English General Regulations);
- b) section 81 of the TMA and Regulations 16 and 17 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) Wales Regulations 2013 (the Welsh General Provisions Regulations);
- c) Regulations 12 and 13 of The Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (the Road User Charging Regulations).

These functions are exercised through PATROL in accordance with Regulation 16 of the English General Regulations and Regulation 15 of the Welsh General Provisions Regulations.

Regulation 12 of the Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 provides that Adjudicators appointed by virtue of Regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 by the Joint Committee are the adjudicators for determining road user charge appeals. For schemes outside Greater London the adjudicators are the ones appointed by the PATROL joint committee. The 2013 Adjudication regulations currently apply the Dartford/Thurrock crossing charging scheme and the Mersey Gateway charging scheme when it comes into force in 2017. Regulation 13 requires the charging authorities to meet the expenses incurred in supporting the adjudicators in performing their functions, including providing a 'proper officer'.

Regulation 18 of The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 provides that Adjudicators appointed by virtue of regulation 17 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 by the Joint Committee are the adjudicators for littering from vehicles appeals.

4.3 Where charging authorities are not members of the Joint Committee, the arrangements set out in 4.2 will be underpinned by a Memorandum of Understanding.

4.4 BLASJC has been established to enable councils in England undertaking civil enforcement of bus lanes to exercise their function under Regulation 11 of The Bus Lane Contraventions

(Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (the Bus Lane Regulations).”

These functions are exercised through BLASJC in accordance with Regulation 12 of the Bus Lane Regulations.

4.5. The functions of PATROL and BLASJC are:

So far as the Adjudicators are concerned, the functions of the Joint Committees are as follows:

- a) With consent of the Lord Chancellor, appoint and reappoint Adjudicators
- b) Remove Adjudicators from office with the agreement of the Lord Chancellor and Lord Chief Justice
- c) Determine the place at which Adjudicators are to sit

The Joint Committees have formally delegated the above functions to the Chief Adjudicator (see Section 5 below).

The Joint Committees’ functions also include:

- Providing or making arrangements for accommodation, administrative staff (and facilities) for the Adjudicators
- Defraying expenses incurred in the Adjudicators performing their function.
- Appointing persons to fulfill the function of the proper officer under the relevant regulations.

4.3 The Regulations also provide that:

- In accordance with such requirements as may be imposed by the Joint Committee, each Adjudicator shall make an annual report to the Joint Committees on the discharge of his/her function. The Joint Committees have agreed that this requirement will be fulfilled by the Chief Adjudicator.
- The Joint Committees shall make and publish annual reports in writing to the Secretary of State or Welsh Ministers as appropriate on the discharge of the Adjudicators and their functions.

5. Chief Adjudicator

5.1 There is no statutory provision for a Chief Adjudicator and Deputy Chief Adjudicator. Nevertheless, the Joint Committees and the Adjudicators have agreed:

- a) There is a need for a de-facto Chief Adjudicator and Deputy Chief Adjudicator
- b) The Joint Committees shall designate two of the Adjudicators to be the Chief Adjudicator and Deputy Chief Adjudicator.

- c) The role and responsibilities of the Chief Adjudicator and Deputy Chief Adjudicator are set out at Appendix 1 and 2 and shall include all aspects of judicial leadership and management including the following functions that the Joint Committee have delegated to the Chief Adjudicator:
- i) With the consent of the Lord Chancellor, the making of and reappointment of the part-time Adjudicator appointments, for a period not exceeding 5 years. Such appointments to be sufficient to meet the needs of the service, as appropriate.
 - ii) The determination of the terms and conditions applying to Adjudicators having regard to principles established for such judicial appointments and conduct by the Lord Chief Justice and Lord Chancellor.
 - iii) The determination of where Adjudicators shall sit.

It is also for the Chief Adjudicator:

- i) To obtain such legal advice and representation necessarily required for the Adjudicators to perform their functions and to arrange for defense of any legal proceedings arising from the exercise of those functions, including the instruction of Counsel.
- ii) To conduct and approve press and media relations relating to the Traffic Penalty Tribunal, including press conferences, publicity and public relations and tribunal information and publications.
- iii) To oversee promotion of the Traffic Penalty Tribunal.

5.2 Like all Adjudicators, both the Chief Adjudicator and Deputy Chief Adjudicator enjoy judicial independence.

5.3 The Chief Adjudicator and Deputy Chief Adjudicator will form the judicial management team which has responsibility for judicial and jurisdictional leadership of the tribunal. The judicial management team will form a Joint Senior Management Team with the support services management team headed by the Director to drive tribunal improvement and ensure the successful achievement of objectives.

6. Salaried Adjudicators

6.1 The Chief Adjudicator and Deputy Chief Adjudicator **have** a contract of employment with the Lead Authority for employment rights such as salary and pensions however they are not accountable to the Chief Executive of the Lead Authority for the performance of their functions.

7. Judicial Leadership, Management and Discipline Functions

7.1 Neither the Joint Committees nor the Lead Authority are liable for Judicial Leadership, Management and Discipline functions.

8. Removal of Adjudicators

8.1 An Adjudicator may only be removed from office for misconduct or if unable or unfit to discharge his or her functions (s 81 (2) (d) Traffic Management Act 2004).

- 8.2 The procedure for removal is specified in the Adjudicators' terms of appointment and has been delegated by the Joint Committees to the Chief Adjudicator.

9. Appeals and Judicial Matters

- 9.1 Appeals are made to the Adjudicators and are their responsibility. They have a duty to ensure that appeals are dealt with in accordance with the requirements of Article 6 of the European Convention on Human Rights for a fair and public hearing within a reasonable time.
- 9.2 Judicial matters are entirely the responsibility of the Chief Adjudicator and Deputy Chief Adjudicator to determine. These include:
- a) Monitoring and appraisal of Adjudicators' competencies
 - b) Adjudicator training
 - c) Dealing with judicial complaints and discipline
 - d) Allocation of cases
- 9.3 The following are also matters for the Chief Adjudicator and Deputy Chief Adjudicator to determine:
- a) Administrative procedures
 - b) Training requirements for Adjudicators
 - c) Communications strategy
- 9.4 The Joint Committees would expect to be consulted to the extent that 9.2 have budgetary implications.
- 9.5 The Chief Adjudicator and Deputy Chief Adjudicator may delegate functions for the expeditious operation of the tribunal.

10. Lead Officer

- 10.1 The PATROLAJC and BLASJC Agreements make provision for the appointment of a Lead Officer to whom functions are delegated pursuant to that Deed of Arrangement and the Standing Orders of the Joint Committees
- 10.2 In view of the nature of the relationship between the Adjudicators, Joint Committees and the Lead Authority, the expectation is that the Joint Committees will request the Chief Executive of the Lead Authority to nominate the Head of Service (Director) as Lead Officer who amongst the functions delegated to the role will be expected to:
- a) Be responsible for the administration of the Joint Committees and the Traffic Penalty Tribunal and provide for the Adjudicators on behalf of the Joint Committees, the accommodation, administrative staff and facilities. The Lead Officer has no remit to influence the decisions of the Adjudicators.
 - b) Be responsible for ensuring that the Adjudicators requirements as set out in the Memorandum of Understanding with the Joint Committees are met within the Financial Regulations of the Joint Committee.
 - c) Work in partnership with the Chief Adjudicator, Deputy Chief Adjudicator and other senior managers as part of the Joint Senior Management Team to ensure the vision, aims and objectives of the tribunal are achieved

- d) Provide strong and strategic leadership to manage the support function for the Adjudicators to deliver an efficient service that ensures all appeals are held within legal requirements and performance criteria.
- e) Manage the Service Level Agreement with the Lead Authority on behalf of the Joint Committees.

11. Accommodation, administrative staff and facilities

- 11.1 The Joint Committees have a statutory duty to provide accommodation, administrative staff and facilities for the Adjudicators sufficient to enable them to perform their functions in accordance with their duty as set out in Section 4 above.
- 11.2 The nature of administrative support (including staff, facilities and accommodation) are for agreement between the Adjudicators and the Joint Committees, having regard to the Joint Committees' duty to the Adjudicators set out in Section 4 above
- 11.3 The accommodation and administrative staff provided for the Adjudicators by the Joint Committees in accordance with their statutory duties are, for convenience, along with the body of the Adjudicators whom they support, described collectively as the Traffic Penalty Tribunal. The Traffic Penalty Tribunal is not a legal entity.
- 11.4 The Joint Committees are responsible for the management of the accommodation and facilities including health and safety procedures for all users of the accommodation.
- 11.5 In accordance with the regulations made under the TMA and the TA, the Joint Committees are each required to appoint one member of staff to fulfill the duties of the "Proper Officer" for the purposes of those regulations. It is anticipated that the Joint Committees will consult with the Chief Adjudicator on the appointment of the Proper Officer.
- 11.6 The function of the staff, including the Proper Officer, is to support the Adjudicators in the performance of their function and to carry out such administrative tasks as the Adjudicators require in that connection. They act under the direction of the Adjudicators.
- 11.7 The Lead Authority will provide contracts of employment for the staff provided by the Joint Committees to ensure their employment rights and obligations.
- 11.8 For the purposes of employment rights and obligations, whilst employment policies may stem from the Lead Authority, it must be recognised that when staff are performing duties stemming from the procedural regulations that govern the Tribunal or under the delegation of Adjudicators, the latter takes precedence.
- 11.9 The independence of the Tribunal requires that staff are engaged solely on the work of the Tribunal.
- 11.10 The Joint Committees will ensure that staff provided for the Adjudicators carry out their functions effectively and efficiently and are responsible for their:
 - a) Recruitment
 - b) Training
 - c) Line Management
 - d) Appraisal

e) Disciplinary procedures, including considering complaints, grievances etc.

The staff will be selected by open recruitment (except where specifically agreed by the Chief Adjudicator) for skills, experience and aptitude to administer the tribunal in accordance with the regulation governing the tribunal procedure. The Chief Adjudicator will be consulted on the appointment of senior posts and staffing structures.

When the tribunal staff are performing these functions, management instructions will support and underpin the directions of the Adjudicator.

These functions are delegated to the Joint Committees' Lead Officer in consultation with the Chief Adjudicator.

11.11 There is an expectation that tribunal HR policies should be formulated in consultation with the Lead Authority but there is not an expectation that the policies of the Lead Authority will automatically be adopted. Policies need to be fit for purpose for a national tribunal, with particular regard to Wales, and its procedural regulation.

12. Defraying the expenses of the Tribunal

- 12.1 The Joint Committees are responsible for defraying the expenses incurred in the Adjudicators performing their functions.
- 12.2 Consequent upon the duty specified in paragraph 12.1, the Joint Committees are responsible for:
 - a) approving the budget for the tribunal and determining the contribution for member authorities
 - b) financial control, management and monitoring

The Joint Committees will consult the Adjudicators in approving the budget and will otherwise consult with them as may be appropriate for the proper discharge of these functions.

13. Advisory Board

- 13.1 The Joint Committees' Standing Orders provide for the Joint Committees to establish and appoint an Advisory Board comprising such officers and persons appointed by the Joint Committees to advise them on their functions .
- 13.2 The purpose of the Advisory Board is to assist and advise the Joint Committees on the overall policies and strategies for administering the adjudication service and on their responsibilities under the TMA, the English General Regulations, the Welsh General Provisions Regulations, the Bus Lane Regulations and the Road User Charging Regulations.
- 13.3 The Advisory Board has no remit to consider or influence decisions of Adjudicators and the function of the adjudication service as an Independent Tribunal.
- 13.4 The diversity of membership of the Advisory Board including judicial expertise and consumer representation strengthens the scrutiny function it performs which is of mutual benefit to the Adjudicators, the Joint Committees and Lead Authority.

14. Lead/Host Authority

- 14.1 The Joint Committees are not made body corporate by statute however the Joint Committees are entities recognized in law as ones distinct from their members. The Joint Committees themselves may enter into contracts and also commissions services as required from time to time from one of its member councils referred to as the Host or Lead Authority.
- 14.2 The expectation is that the relationship between the Lead Authority and both the Joint Committees and the tribunal will replicate that of an arm's length body, with the Lead Authority providing services and advice as required.
- 14.3 The services provided by the Lead Authority, enabling the Joint Committees to provide the resources to the Adjudicators as identified in this Memorandum of Understanding, will be supported by a Service Level Agreement with the Joint Committees.
- 14.4 The period of tenure for the Lead Authority is five years.

15. Review Mechanism

Memorandum of Understanding between the Adjudicators of the Traffic Penalty Tribunal and the PATROL Adjudication Joint Committee and the Bus Lane Adjudication Service Joint Committee

- 15.1 The MOU will be reviewed by the Adjudicators and the Joint Committees on an annual basis. This review will inform the annual review of the service level agreement between the Joint Committees and the Lead Authority.
- 15.2 Should the Chief Adjudicator have any concerns about matters impacting upon the independence of the Adjudicators, this will be brought to the immediate attention of the Chairs of the Joint Committees and/or their Advisory Board.

Appendix 1

CHIEF ADJUDICATOR ROLE

Introduction

The Chief Adjudicator's role is to recruit, lead and manage the Adjudicators with the aim of delivering a fair, timely and efficient adjudication service. In so doing, the responsibility of the Chief Adjudicator shall include the following:

1. Arrange the recruitment of an appropriate number of Adjudicators
2. Advise the Joint Committees on the removal of Adjudicators where necessary
3. Advise the Joint Committees on the reappointment of Adjudicators
4. Arrange appropriate induction and continuing training for Adjudicators, supplemented by appropriate guidance materials
5. Ensure the independence of Adjudicators
6. Monitoring, mentoring and appraisal of Adjudicators
7. Represent the Adjudicators in dealing with others, including:
 - i) The Joint Committees
 - ii) Government
 - iii) The press
8. Ensure proper rules of procedure and practices and promote consistency in their application.
9. Establish appropriate delegation in respect of the Chief Adjudicator and Adjudicator functions for the expeditious operation of the tribunal.
10. Ensure that administrative provision for Adjudicators is adequate and appropriate.
11. Deal with complaints against Adjudicators in accordance with the Adjudicators' Judicial Complaints Protocol, and other disciplinary matters
12. Provide guidance and support to individual Adjudicators
13. Deal with representation of Adjudicators in the event of a judicial review of their decision or other legal proceedings arising from the performance of their function.
14. Allocation of cases
15. On behalf of the Adjudicators, and in fulfillment of their obligation to the Joint Committees to report annually, author and present an annual report to the Joint Committees on the discharge by the Adjudicators of their functions with a view to its subsequent publication to the Secretary of State.
16. Keep the Joint Committees informed of all legal matters affective implementation and maintenance of the adjudication system.

Appendix 2

DEPUTY CHIEF ADJUDICATOR ROLE

1. To determine appeals in all areas of the TPT Adjudicators' jurisdiction, ensuring compliance with the Adjudicators' Procedural Regulations
2. To deputise for the Chief Adjudicator at Joint Committee meetings, other external events and to liaise with the media, where required.
3. To be a key member of the team driving the TPT transformation project, including the information and communications strategy, contributing to the strategic direction and development objectives of the tribunal.
4. To oversee the arrangements for the recruitment, induction, welfare, regular training and appraisal of Adjudicators in order to enhance their judicial performance.
5. To maintain a close working relationship with the Head of Operations and the appeals staff to ensure high standards of case management including providing appropriate guidance, advice and support.
6. To formulate policies, delegations, procedures, guidance and prepare reports including coordinating of the Annual Reports to the Joint Committees, the Adjudicators Bulletin and key cases for the website.
7. To oversee the handling and monitoring of Review and Costs Applications and to develop and implement a robust process for handling complaints against Adjudicators.

Appendix 3

Figurative Representation of the roles referred to in the Memorandum of Understanding



Fig 1. Provision of Services to Adjudicators

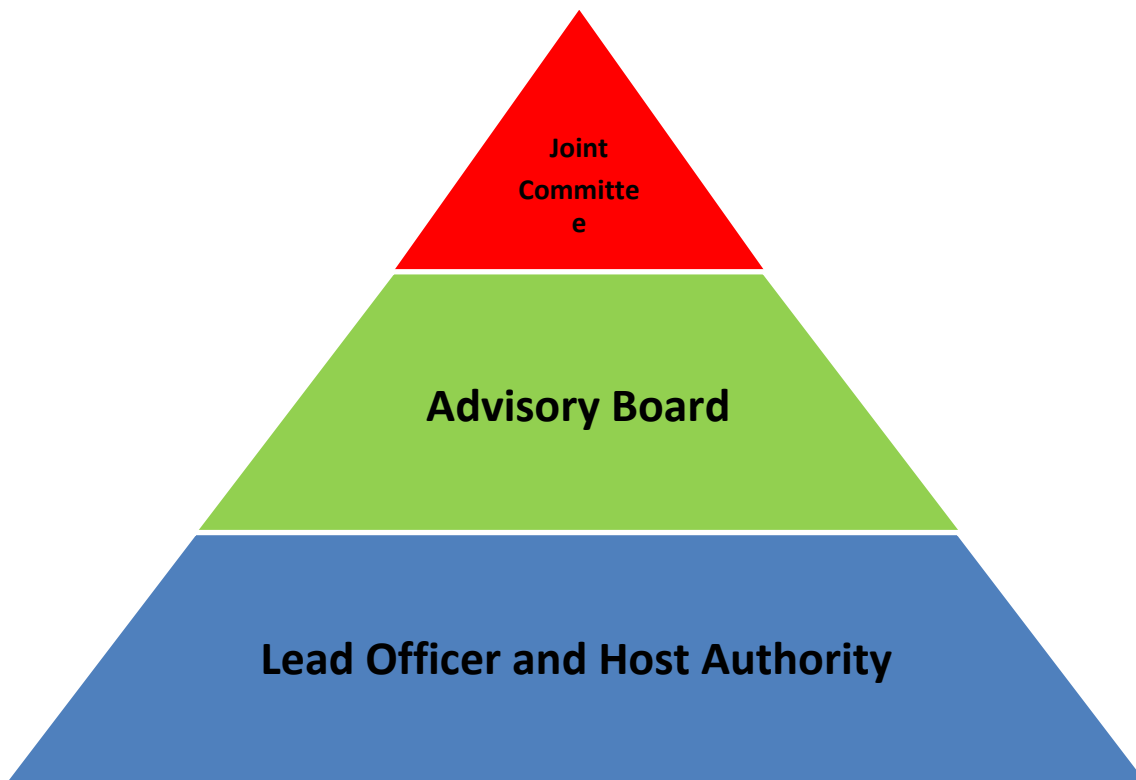


Fig 2. Governance Structure

Memorandum of Understanding between the Adjudicators of the Traffic Penalty Tribunal and the PATROL Adjudication Joint Committee and the Bus Lane Adjudication Service Joint Committee

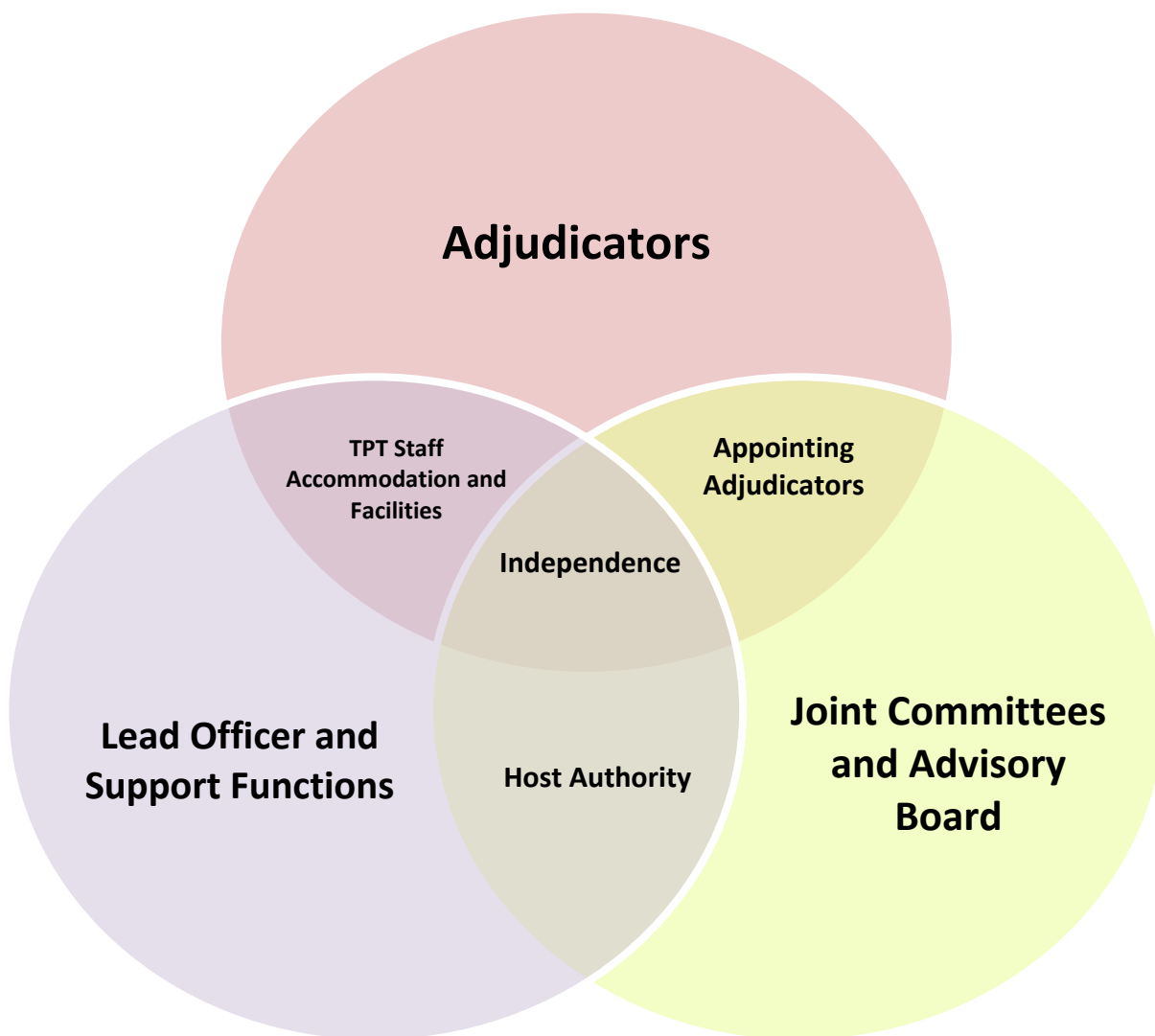


Fig 3. Overview of Joint Committee Relationships

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PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Date of Meeting:	10 th July 2018
Report of:	The Director on behalf of the Resources Working Group and Sub Committee
Subject/Title:	Establishment of Executive Sub-Committee

1.0 Report Summary

- 1.1 This report sets out arrangements for each Joint Committee to establish an Executive Sub-Committee and its Terms of Reference for the coming year.

2.0 Recommendation

- 2.1 That each Joint Committees establishes an Executive Sub-Committee to act on behalf of the Committee until the annual meeting in July 2019, in accordance with paragraph 2 and the Appendix to this report, and that it appoints members of the Executive Sub-Committee for the forthcoming year.
- 2.2 Notes the date of the first meeting of the Executive Sub Committees will be on 30th October 2018 in London.

3.0 Reasons for Recommendations

- 3.1 To enable the Joint Committees to conduct their business effectively.

4.0 Financial Implications

- 4.1 The recommendations reduce expenditure for both the Joint Committees and the participating authorities.

5.0 Legal Implications

- 5.1 The PATROL and Bus Lane Adjudication Service Joint Committee agreements make provision for the establishment of sub committees.

6.0 Risk Management

- 6.1 The recommendations enable the Joint Committees to conduct their business effectively.

7.0 Background and Options

- 7.1 Members are aware that as each Council becomes a party to the PATROL and/or Bus Lane Adjudication Service Joint Committee Agreement it is required to appoint a Member to represent their Council on the Joint Committee.
- 7.2 As the number of Councils joining the Joint Committees increases, one way of avoiding the need for large numbers of members attending all the committee meetings is to establish an Executive Sub-Committee. Both the PATROL and Bus Lane Adjudication Service Joint Committee Standing Orders enable the Joint Committees to appoint such Sub-Committees as they see fit.
- 7.3 Any Terms of Reference for such Sub-Committees need to be agreed by the Joint Committees as and when each Sub-Committee is established.
- 7.4 Many of the day to day functions of the Joint Committees have already been delegated to officers. Some of the functions that have not been delegated have been examined and it is considered that if the Joint Committee so decides, an Executive Sub-Committee could deal with most of these non-delegated functions without the need for the full Committee to meet.
- 7.5 In particular there is a requirement in both the PATROL and Bus Lane Adjudication Service Joint Committee Agreements for the Joint Committees by 31st January each year to set a budget of estimated expenditure for the following year and to determine the amount of contribution of member Councils.
- 7.6 The functions recommended by officers for delegation to the Executive Sub-Committees are detailed in the Appendix to this report.
- 7.7 The size of the Executive Sub-Committees is recommended by officers to comprise a minimum of twelve in number for PATROL, including the Chair of the Joint-Committee and at least one each representing District, County, Unitary, Metropolitan councils and at least one from an English authority and one from a Welsh authority. The recommended minimum number for the Bus Lane Adjudication Service Joint Committee Executive Sub Committee is three.

8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

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APPENDIX 1

PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES Executive Sub Committees' Terms of Reference

Delegation of the following functions to the PATROLAJC Executive Sub-Committee: -

1. Financial Matters

- (a) Deciding on the level and proportion PATROLAJC and BLASJC member Councils shall contribute to the costs and expenses of the adjudication service.
- (b) Establishing and adopting not later than 31st January in each year a budget of estimated expenditure for the ensuing year commencing 1st April and approving accounts for the previous financial year by 30th June each year.
- (c) Accepting tenders for the supply of goods, services, materials, equipment, building and civil engineering works in excess of £250,000 per contract.
- (e) All financial matters not delegated to officers under the Joint Committee's Financial Regulations.
- (f) Reviewing the Joint Committee's Reserves Policy Statement and Risk Register.

2. Human Resources

- (a) Approving changes above grade PO6 (SCP49) to the staff assignment, except for Adjudicator appointments.
- (b) Subject to the approval of the Lead Authority to consider applications for early retirement where there would be a financial cost to the PATROLAJC.

3. Advisory Board

Making additional appointments to or amending existing appointments to the Advisory Board.

4. New Council members to the PATROLAJC and BLASJC Agreements

Noting new council members.

5. Ad hoc delegations

The Joint Committee may from time to time make specific delegations to the Executive Sub Committees to progress business. The results of such

delegations will be reported to the Joint Committee at its next meeting. The Executive Sub Committee may from time to time delegate actions to the PATROLAJC and BLASJC Resources Working Group and Sub Committee.

6. Chairs of the Executive Sub Committees

The chairs elected for the Joint Committee will assume the same positions on the Executive Sub Committees

PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES**Resources Working Group and Sub Committee****DRAFT Terms of Reference 2018/19****Membership:**

Chairs, Vice Chairs, Assistant Chairs of PATROLAJC and BLASJC supported by a Resources Working Group to include: Chair and Vice Chair of Advisory Board, Director, Chief Adjudicator and such additional representatives that may assist the Working Group and Sub Committee.

Meetings:

As and when required.

Delegation

Delegation of the following functions from the PATROL Joint Committee or Executive Sub Committee to the PATROLAJC Resources Working Group and Sub Committee.

- (a) Any financial, governance or other matter that the Joint Committee or its Executive Sub Committee determines to delegate to the Resources Working Group to take forward between meetings in so far as this does not contravene existing standing orders and governance arrangements and falls within the approved budget.
- (b) Progressing any urgent financial or governance matter including risk items relating to audit recommendations which fall between Joint Committee or its Executive Meetings as raised by the Chairman or Director on the basis that this falls within the approved budget.
- (c) Accepting tenders for the supply of goods, services, materials, equipment, building and civil engineering works in excess of £250,000 per contract on the basis that they fall within the approved budget or relate to earmarked reserves.
- (d) Noting the recommendations from low level internal audit reports and monitoring any follow up actions
- (e) Noting reports from the Director on expenditure falling outside the Joint Committee's Financial Regulations.
- (f) Approving human resource proposals which fall outside the delegation from the Joint Committee and Lead Authority to the Director save for those relating to Adjudicators which are delegated to the Chief Adjudicator on the basis that they fall within the approved budget.

Review

These terms of reference will be presented to the Joint Committee on an annual basis.

Approved June 2015

Approved July 2016

Approved July 2017

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PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Date of Meeting:	10 th July 2018
Report of:	The Director on behalf of the Advisory Board
Subject/Title:	Appointments to the Advisory Board

1.0 Report Summary

- 1.1 This report sets out the terms of reference for the Advisory Board and recommendations for appointments for 2018/19

2.0 Recommendation

- 2.1 That the Joint Committees adopts the terms of reference and composition of the Advisory Board set out in the Appendix to this report.
- 2.2 Approve the re-nomination of Marc Samways, Hampshire County Council for a period of four years to July 2022.

3.0 Reasons for Recommendations

- 3.1 Appointments to the Advisory Board are reviewed on an annual basis.

4.0 Financial Implications

- 4.1 The budget makes provision for the Advisory Board

5.0 Legal Implications

- 5.1 The Joint Committee's governance arrangements make provision for the appointment of an Advisory Board

6.0 Risk Management

- 6.1 The Advisory Board scrutinises the Joint Committee's Risk Management Strategy and associated documentation.

7.0 Background and Options

- 7.1 The Standing Orders provide for the Joint Committee to establish and appoint an Advisory Board comprising the Lead Officer and other such officers and persons appointed by the Joint Committee to advise it on its functions.

- 7.2 The attached Terms of Reference enable an effective and efficient arrangement for matters relating to the PATROLAJC and the Bus Lane Adjudication Service Joint Committee BLASJC
- 7.3 At the meetings held in July 2017 the Joint Committee made appointments for the period ending at the next annual meeting, these are detailed in the attached document.
- 7.4 At the meeting held in October 2013, the Joint Committee determined to appoint a representative from the Department for Transport in respect of road user charging enforcement.
- 7.5 The Joint Committee is invited to adopt the terms of reference and make the appointments recommended in the appendix to this report.

8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson
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Appendix 1

**PATROL ADJUDICATION SERVICE
& BUS LANE ADJUDICATION SERVICE
ADVISORY BOARD**

Terms of Reference

1. To assist and advise the Joint Committees on the overall policies and strategies for administering the adjudication service and on their responsibilities under
 - section 81 of the Traffic Management Act 2004 (TMA) and Regulations 17 and 18 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the English General Regulations);
 - section 81 of the TMA and Regulations 16 and 17 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) Wales Regulations 2013 (the Welsh General Provisions Regulations);
 - Regulations 12 and 13 of The Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013 (the Road User Charging Regulations).
 - Regulation 18 of The Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018

These functions are exercised through PATROL in accordance with Regulation 16 of the English General Regulations and Regulation 15 of the Welsh General Provisions Regulations.

2. The Advisory Board has no remit to consider or influence decisions of adjudicators and the function of the adjudication service as an Independent Tribunal.
3. To receive and monitor progress against the Performance Management Strategy produced by the Director and to review the service structure, organisation and administration and to scrutinise recommendations for changes before they are put before the Joint Committees.
4. To monitor and review the service revenue budgets and to scrutinise recommendations for changes before they are put before the Joint Committees.
5. To assist and advise the Director on the preparation of an annual service plan
6. The Board shall consist of always the Lead Officer plus up to eleven people:
 - Seven representatives of local authorities as follows:

- At least one representing an English Authority
 - At least one representing a Welsh Authority
 - At least one representing a District Council
 - At least one representing a County Council
 - At least one representing a Unitary or Metropolitan Council
 - At least one representing a Civil Bus Lane Enforcement Council.
- A representative from the Department for Transport (road user charging).
- A representative from a motoring association.
- An independent person with knowledge of judicial or tribunal systems.
- An independent consumer representative

The DfT, WG, Motoring Association and Independent members would act as ex-officio members.

Department for Transport and Welsh Government representatives will be welcomed to attend meetings or provide updates.

The Joint Committees shall make appointments to the Advisory Board based on recommendations received from the Advisory Board. Such appointments are to be for four years but may be subject to reappointment. Except for the Lead Officer, members shall retire on a four-year rotation cycle.

The Advisory Board shall recommend to the Joint Committees representatives of an appropriate motoring organisation and appropriate independent persons who should sit on the Board.

The DfT shall nominate a specific representative for road user charging.

Advisory Board members should not be day-to-day managers of parking services and should where possible include representatives from legal and financial backgrounds as well as those responsible for parking.

The Board shall elect a Chairman, a Vice-Chairman and a Secretary from within the membership of the Board.

Where a representative has been unable to attend three consecutive meetings, the Chair will draw this to the attention of the Board to determine whether an alternative representative be sought.

Appointments and four-year cycle

Local Authority Members

The following local authority members were appointed by the Joint Committees and retire as set out below.

July 2018

Hampshire	Marc Samways	English Shire
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July 2019

Cheshire East Council	George Broughton	Lead Authority
South Lakeland Council	Pat Knowles	English District
Calderdale Council	Ian Hughes	Metropolitan Authority

July 2020

Carmarthenshire Council	Stephen Piliner	Welsh Authority
Brighton & Hove City Council	Paul Nicholls	Unitary Authority

July 2021

City of Stoke on Trent	Michael Clarke	Bus Lane Authority
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Welsh Government Member

This is a matter for the Welsh Government Transport Directorate to decide from time to time. Currently Owen Jones Williams is their representative.

Department for Transport Member

This is a matter for the DfT to decide from time to time. Dana Fletcher is currently their representative in respect of road user charging.

Independent Member

The Joint Committee has appointed Graham Addicott OBE, as the independent member for a four-year period ending July 2021.

Motoring Organisation Member

The Advisory Board considers it appropriate that from time to time. This appointment should be rotated between the RAC Foundation and the AA Motoring Trust.

Bus Lane Member

The Bus Lane Joint Committee has appointed Michael Clarke of City of Stoke on Trent.

Recommendations

The below named are re-appointed for a four-year period to July 2022

Marc Samways, Hampshire County Council, English Shire

PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES

Date of Meeting: 10th July 2018
Report of: The Director
Subject/Title: General Progress Report

1.0 Report Summary

1.1 To provide a General Progress Report for 2017/18.

2.0 Recommendations

2.1 To note the matters reported.

3.0 Reasons for Recommendations

3.1 To update the Joint Committees

4.0 Financial Implications

4.1 This information will be reviewed in preparing budgets for 2019/20 in January 2019.

5.0 Legal Implications

5.1 None

6.0 Risk Management

6.1 Appeals activity is reflected in the Risk Management Framework reported separately.

7.0 Background and Options

7.1 A report is presented at Appendix 1

8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Appendix 1

General Progress Report 1 April 2017 –31 March 2018

Introduction

The Traffic Penalty Tribunal was established in 1999. It comprises the Chief Adjudicator, Caroline Sheppard OBE and Deputy Chief Adjudicator Stephen Knapp and 27 part-time adjudicators working remotely in England and Wales. The adjudicators are supported by fourteen administrative staff. Adjudication is provided to 311 member authorities, Highways England and Halton Borough Council

The adjudicators of the Traffic Penalty Tribunal decide appeals against penalties issued by local authorities in England (outside London) and Wales who undertake civil enforcement of parking, bus lanes and, in Wales, moving traffic contraventions. The tribunal also decides appeals arising from road user charging enforcement at the Dartford-Thurrock River and Mersey Bridge Crossings. In the case of the former, the Charging Authority is Highways England and for the latter it is Halton Borough Council. Road User Charging enforcement is also undertaken by Durham County Council. The tribunal also decides appeals against penalties issued by local authorities in England (outside London) for littering from vehicles.

FOAM (Fast Online Appeals Management)

The Traffic Penalty Tribunal has always harnessed technology to provide an accessible and efficient tribunal. In 2013/14, supported by investment from the PATROL Joint Committee, the tribunal committed to introducing a new system which would be “digital by design”; and be developed with a user-focused approach. The tribunal also committed to retaining the “human touch” with the staff adopting new customer service role to provide “Assisted Digital” support to people who require help in appealing online. The intention was also to introduce efficiencies in delivery costs both for the tribunal and the member authorities.

The new approach was not simply the development of a new system but a complete overhaul of existing tribunal processes and a root and branch review of communications to ensure that the system was intuitive for all users.

The principles behind what came to be known as FOAM (Fast Online Appeals Management) are accessibility (for online and offline), transparency (all parties can see the appeal, the evidence and the decision), proportionality (to the nature of the penalty), velocity (the system and the review of business processes has streamlined the appeal journey) and finality (the visibility of the appeal process and decision can help to draw the matter to a close)

The starting point for the appeal process sits in the authority’s Notice of Rejection of Representations. Appellants are provided with a URL link to the FOAM system. A helpline number is also provided for people who do not wish to or cannot appeal online.

There are four actors in FOAM: the appellant, the respondent authority, the adjudicator and the tribunal staff. Part of the intuitive design of FOAM lies in the colour coding which means that each actor knows when it is their turn to act.

The tribunal appointed a Local Authority Engagement Manager and the system was rolled out through 38 local authority workshops in a 12-month period 2016/17. Local authority workshops continue on a regular basis and include a range of tribunal and PATROL topics.

The features of FOAM include:

- Appeals are submitted online
- Both parties can comment on each other's evidence including photographs and videos
- There is a bespoke and configurable authority dashboard for case management
- The system allows hierarchies of users within authorities.
- Authorities can download reports from their dashboards and can configure access to their dashboard when working in partnerships with other local authorities
- There is integral messaging which promotes a more inquisitorial approach
- Hearing requests are only made after parties have viewed the evidence
- Email prompts and messaging
- The decision can be viewed online or downloaded
- Accessible on all technology platforms including smartphones, tablets and PCs.
- FOAM is scalable and easily adapted for new appeals streams.

The impact of FOAM

The impact of FOAM has been significant. Requests for hearings have reduced and now hearings take place bringing the parties together on the telephone and, more recently, video hearings can be arranged. Some cases are closed on the same day as they are submitted by the appellant when the authority decides not to contest the case.

Feedback from local authorities has been positive:

“The speed and ease of communication has enabled all parties to clarify and comment on all aspects of the case”

Cornwall County Council

“Reviewing of case is all in one place from start to finish; makes all the difference – instant messaging saves time in calls”

Bristol City Council

“We now save 85% on postage and we no longer hold the record for most printing”.

Manchester City Council

Local authorities have pointed to an average saving per case of £150 when staff time, postage and printing is taken into account.

Feedback is also positive from appellants. The results of a recent survey of appellants will be presented to the meeting.

Recognition of the Traffic Penalty Tribunal's digital transformation

The tribunal received a number of awards for its online appeal system including:

- The North of England Transport Awards - Winner (Excellence in Technology) 2016
- The British Parking Awards Winner Intelligent Parking Awards 2017

- The Society of IT Managers in the Public Sector (SOCITM) 2017 Shortlisted for the Collaboration Award in recognition of the scale of the deployment of the system across over 300 local authorities.
- The National Transport Awards (Shortlisted) (Excellence in Technology) 2017

The tribunal has also been recognised as being at the forefront of judicial digital transformation and has been referenced as a judicial digital case study in JUSTICE reports: “What is a court?” (2016) and “Preventing Digital Exclusion from Online Justice” (2018).

In June 2018 the Chief Adjudicator and Director were listed as nominations for the Female Government Tech Leaders competition.

FOAM in Scotland

Traffic Penalty Tribunal has always retained good communications with other similar jurisdictions and the Chief Adjudicator has in recent years convened seminars for those involved in Scotland, London and Northern Ireland. This has been an opportunity to demonstrate the impact of FOAM on the appeal process.

The tribunal agreed to provide a copy of FOAM to the Parking and Bus Lane Tribunal for Scotland and earlier this year the Authority Engagement Manager coordinated training for adjudicators, staff and local authorities for their version of FOAM adapted to the local regulations. PATROL will be reimbursed for costs incurred in providing assistance.

The following report provides details of:

1. Appeals summary 2017/18
2. Hearings
3. Case closure
4. Assisted digital support
5. Local authority workshops conducted during the year.

1 Appeals summary 2017/18

Overview

The graph below provides an overview of penalty charge notices (PCNs) appealed to the tribunal across all appeal streams between April 2014 and March 2018. The peak in 2016/17 relates predominantly to Dart Charge penalties.

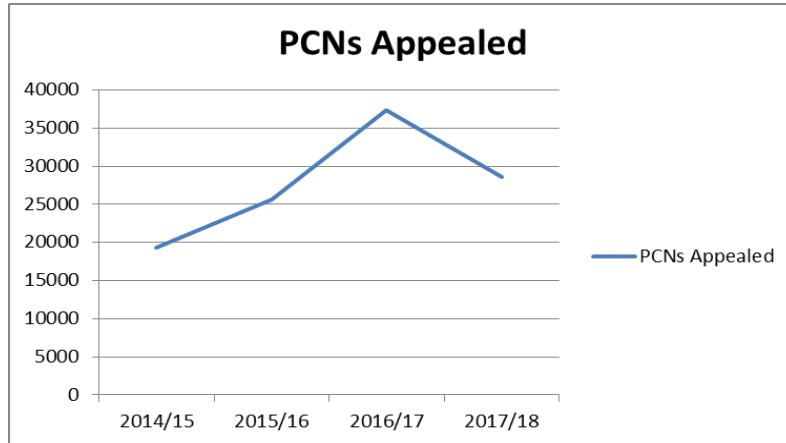


Figure 1: PCNs appealed to the tribunal across all appeal streams 2014/15 to 2017/18

The table below provides a breakdown of tribunal cases (cases may include multiple penalties) over the past four years separated by appeal stream type.

	Parking England	Bus Lanes England	Parking Wales	Bus Lanes Wales	Moving Traffic Wales	Dart Charge	Mersey Gateway	Durham	Total
2014/15	13,494	3,795	617	37	0	295	0	0	18,238
2015/16	12,152	3,142	608	183	0	4,693	0	11	20,789
2016/17	10,903	3,873	418	152	19	9,873	0	1	25,239
2017/18	9,896	3,590	469	208	115	5,559	1,827	0	21,664

Table 1: Tribunal cases across all appeal streams 2014/15 to 2017/18

The following provides a breakdown of trends in case volumes by appeal stream comparing 2016/17 and 2017/18.

ENGLAND

Parking: The volume of parking appeals has reduced by 9.2%

Bus Lane: The volume of bus lane appeals has reduced by 7.3%

Total England: There has been an overall decrease in appeals of 6.3%

WALES

Parking: The volume of parking appeals has increased by 12.2%

Bus Lanes: The volume of bus lanes appeals has increased by 36.8%

Moving Traffic: Moving traffic appeals have increased fivefold

Total Wales: There has been an overall increase of 34.4%

Dart Charge (Highways England): Road user charging began at the Dartford-Thurrock crossing in November 2014. There has been a decrease of 43.71% (9,873 to 5,559) in appeals when comparing 1st April 2017 – 31st March 2018 with the same period last year.

Merseyflow (Halton Borough Council): Road user charging was newly introduced at the Mersey Gateway Bridge Crossing in October 2017. The first appeal was received at the tribunal on 7th November 2017. A total of 1,827 appeals have been received at 31st March 2018.

All appeal streams: Comparing 1st April 2017 – 31st March 2018 against the same period for 2016/17, there has been a decrease of 14% in appeals across all streams (25,239 to 21,664). The highest proportion of this decrease relates to Road User Charging at the Dartford River Crossing which is 43.71% (9,873 to 5,559).

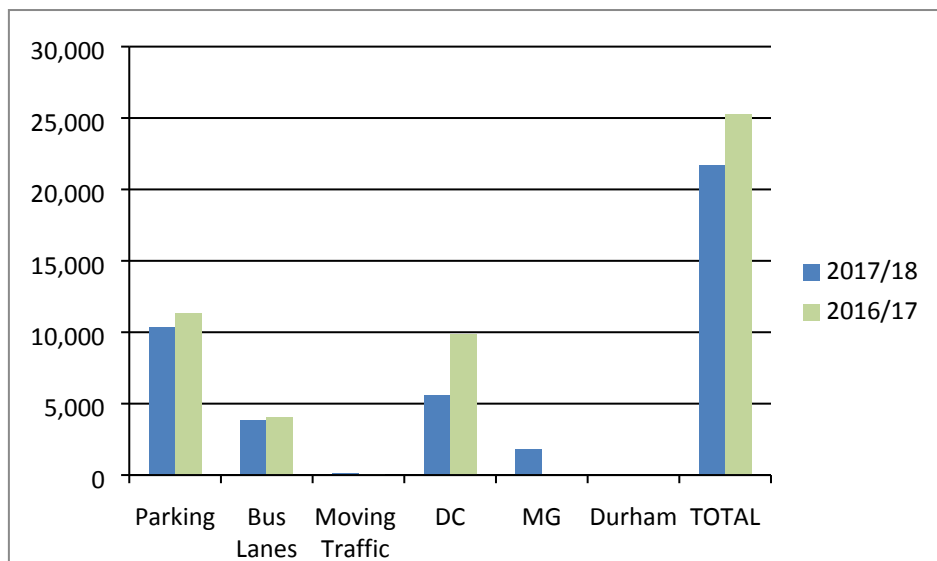


Figure 2: Distribution of tribunal cases across appeal streams comparing 2016/17 and 2017/18.

Comparing appeal and penalty charge notice trends

The following graphs plot appeal and penalty trends by appeal stream. Please note this information relates to 2014/15 to 2016/17 pending validation of PCN figures for 2017/18. Appeal activity for 2017/18 has been reported in the previous section.

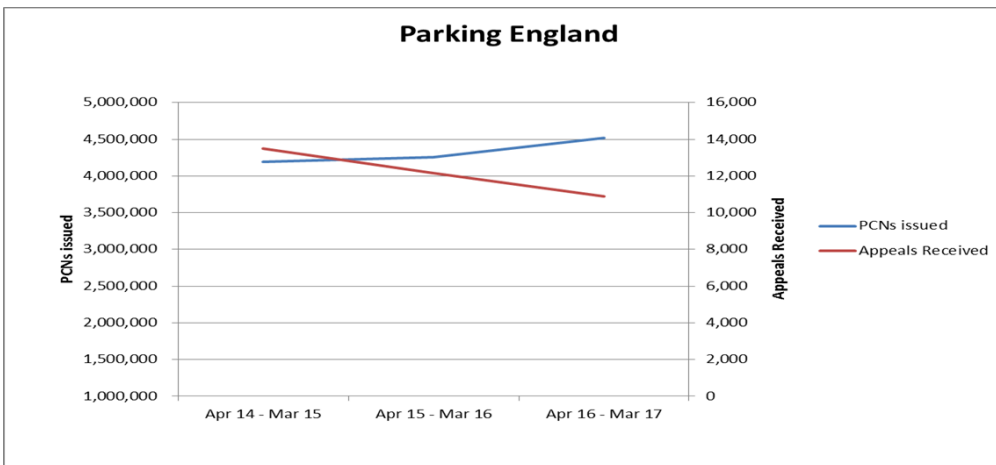


Figure 3 The volume of PCNs issued in England increased by 1% over the period 2014/2017

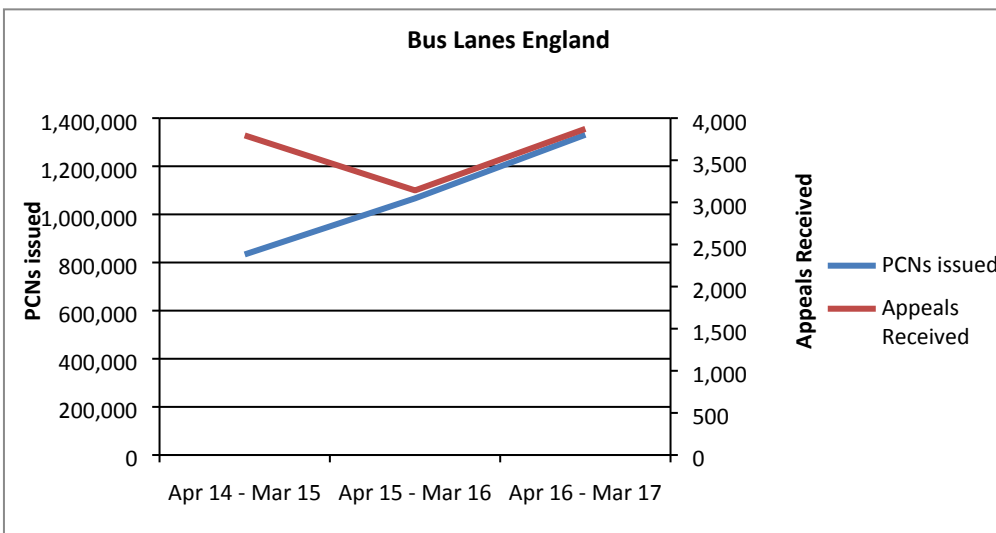


Figure 4 The volume of bus Lane PCNs issued in England increased by 22% between 2014 and 2017. This period saw the introduction of new bus lanes which will contribute to that increase.

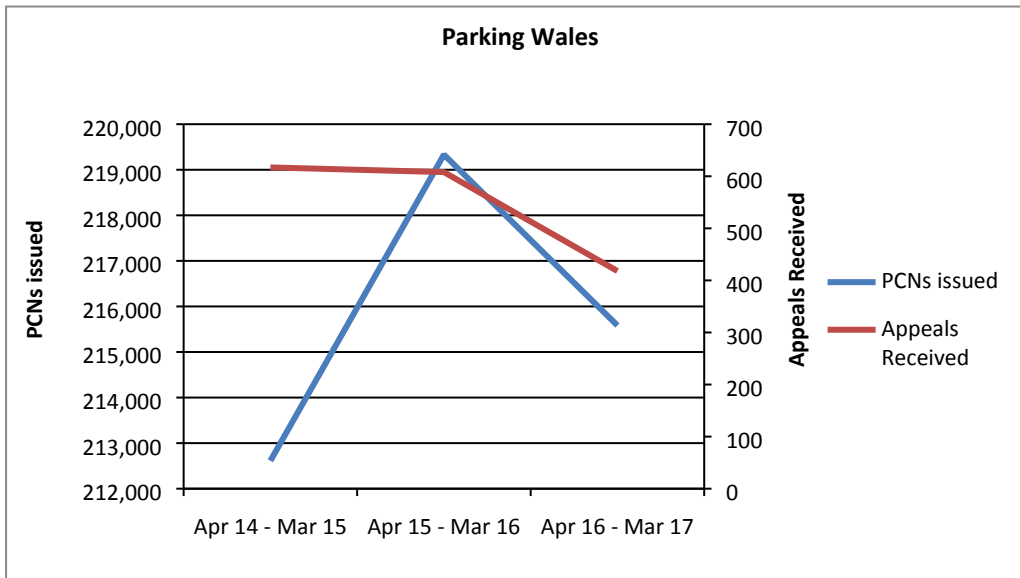


Figure 5: The volume of parking PCNs issued in Wales increased by 3% over the period 2014/17.

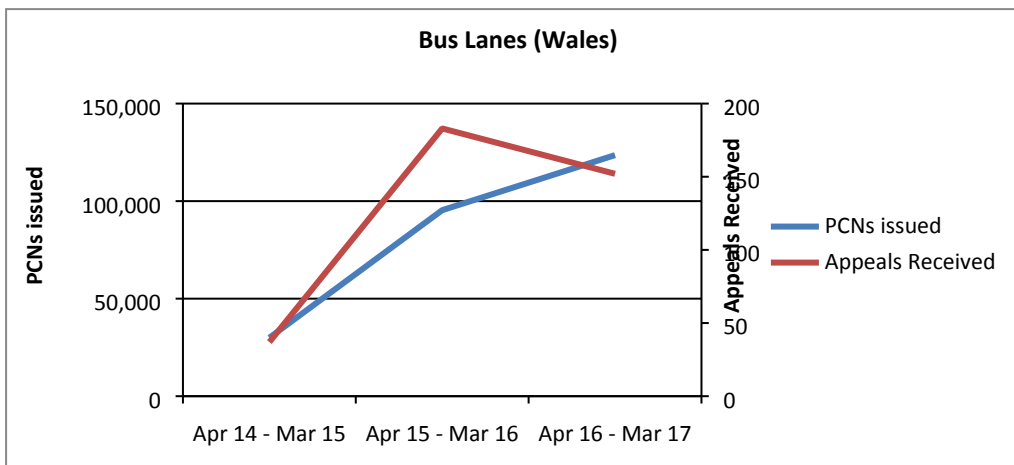


Figure 6: The volume of bus lane PCNs issued in Wales increased by 68% between 2014/17.

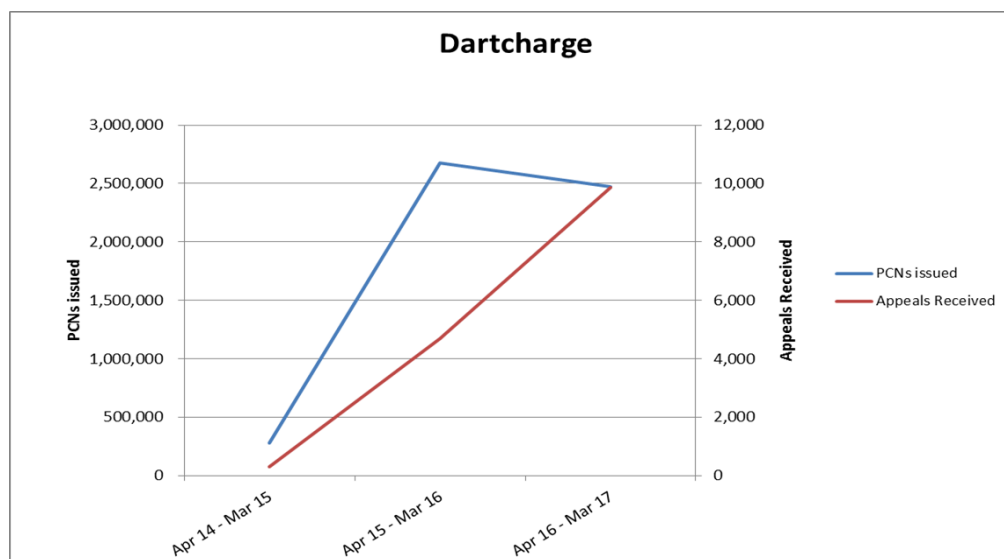


Figure 7: The volume of Dart Charge PCNs reached a peak in 2015/16

2 Hearings

The online appeals portal FOAM has transformed the way that the tribunal handles appeals and this is particularly evident in hearings. The ability to message, comment on evidence and request extra evidence be uploaded has meant that most cases can be resolved without a hearing. In addition, the appellant only requests a hearing once all the evidence is available to the parties and the Adjudicators are able to review cases in advance to see whether a hearing is actually required. The demand for face to face hearings reduced significantly during this period. E-decisions and telephone hearings have become the most prevalent and the tribunal has also begun to trial video hearings in 2018.

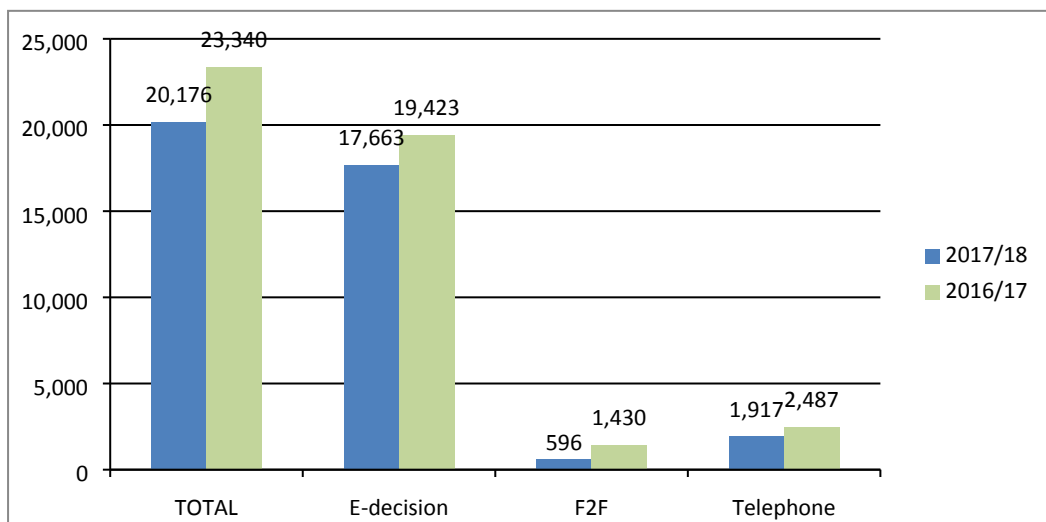


Figure 8: Distribution of hearing types in 2016/17

3 Case Closure

The online system has resulted in a new way of handling appeals with the facility for messaging and all parties having access to the same information and evidence in the same place. This allows the adjudicator to adopt a more inquisitorial approach to ascertain details of the case.

Appealing to the Traffic Penalty Tribunal is a judicial process and whilst it is not appropriate to set rigid timescales, the tribunal’s objective is to provide:

“a tribunal service that is user-focused, efficient, timely, helpful and readily accessible”

Figure 9 provides a breakdown of case closure times across all authority appeal streams.

In summary,

- Approximately 10% of cases are closed within a day of them being submitted
- Almost a quarter (22%) of case are closed in a week or less
- Almost a half (42%) of cases are closed within 2 weeks
- Over 2 thirds (69%) of cases are closed within 4 weeks

Number of Days Cases are Open

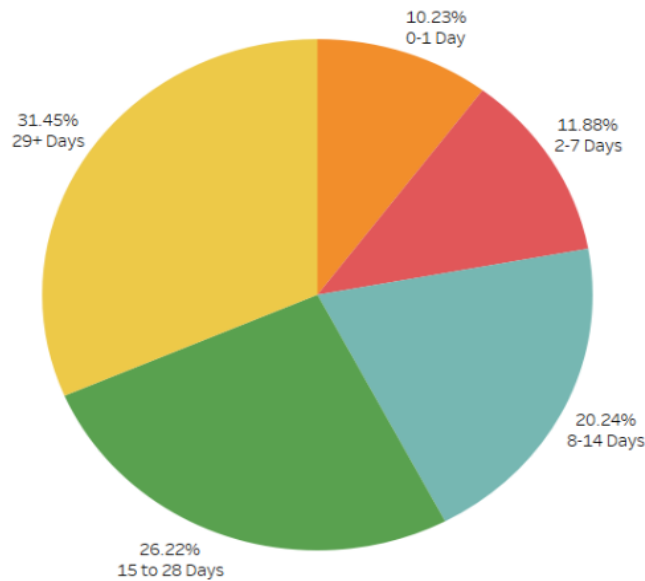


Figure 9: Case closure 2017/18 across all appeal types.

4 Assisted Digital & Helping Offline Appellants

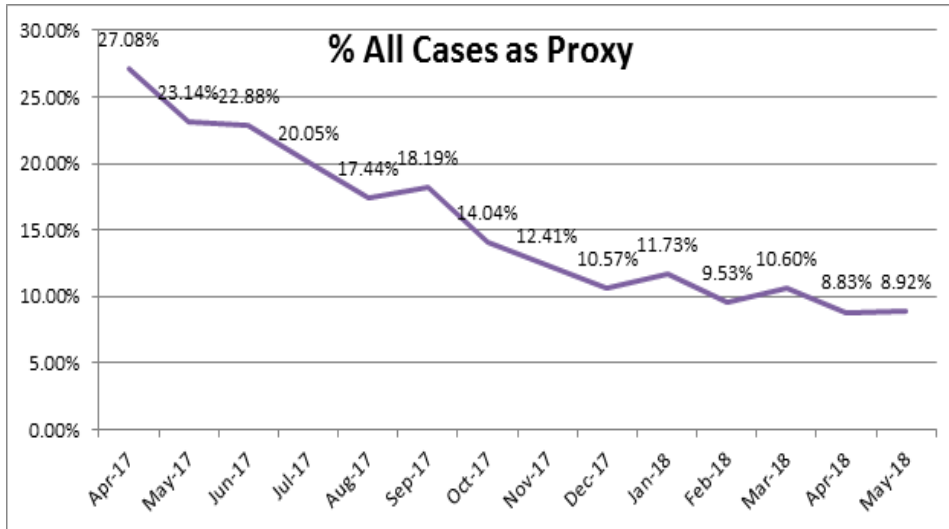
The Tribunal has long recognised the importance of complementing the online system with an experienced customer service team to provide support to appellants in making an appeal. For most appellants it will be their first and perhaps their only experience of engaging with a judicial process.

For the small percentage of people who do find it initially difficult to go online, TPT provides Assisted Digital Support. Contact with the customer service team is also available for all appellants throughout the process should they need it. Plans are in place to introduce a 'live chat' facility later this year to further complement the online support that is available.

The tribunal's customer service team proactively engages with appellants to promote, explain and support the online appeal process, both with appellants who wish to go online but need assistance and those who require an alternative way of appealing.

However, the tribunal recognises that there will be appellants who, because of their ability, confidence or preference, choose to request a form be posted to them

Off line appellants during the period 2017/18 made up on average approximately 17% of the total appeals. However, the graph below indicates that this has reduced from 27% in April 2017 in twelve months to just under 9%.



There are variations in the rate of offline appeals by appeal stream. To take the sample of February 2018, the percentage of appeals that were proxy (offline) cases by type of appeal is shown below:

Parking England	12%
Parking Wales	7%
Bus Lanes England	8%
Bus Lanes Wales	0%
Moving Traffic Wales	14%
Dart Charge	9%
Merseyflow	8%

(Percentages have been rounded)

The tribunal continues to review feedback from all users in respect of its online system, processes and information to provide an optimal user experience.

5 Local Authority Workshops

Following the positive feedback from local authorities from the 38 workshops coordinated by the Local Authority Engagement Officer to roll out FOAM to member authorities during 2016/17, a programme of workshops have had high levels of attendance during 2017/18 covering a range of topics in relation to the tribunal, the representations and appeals process and FOAM developments as well as the provision of public information through parking annual reports supported by the PATROL PARC (Parking Annual Report Award) Scheme.

Eleven regional local authority workshops listed below were held during 2017/18 with 190 officers attending in total.

- Bath - 2 workshops
- Birmingham
- Burton on Trent
- London – 2 workshops
- Manchester – 2 workshops
- Llandrindod Wells
- Newcastle upon Tyne
- Nottingham

PATROL ADJUDICATION JOINT COMMITTEE

Date of Meeting: 10th July 2018
Report of: The Director
Subject/Title: PARC (PATROL Annual Reports by Councils) Awards

1.0 Report Summary

- 1.1 To update the Joint Committee on the PARC (PATROL Annual Reports by Councils) Awards 2016/17 and to confirm the arrangements for submissions for the 2017/18 award.

2.0 Recommendation

- 2.1 To note the shortlisted reports and arrangements for announcing winning councils for 2016/17.
- 2.2 To note the arrangements for 2017/18 submissions

3.0 Reasons for Recommendations

- 3.1 To update the Joint Committee and raise awareness of the importance of annual reports to enable local authorities to promote understanding of local civil enforcement.

4.0 Financial Implications

- 4.1 Within agreed budget

5.0 Legal Implications

- 5.1 The Local Government Transparency Code 2015 requires certain information relating to parking provision and enforcement to be published. Extensions to reporting requirements have been the subject of a recent Department for Communities and Local Government consultation and the response to this is awaited. The Secretary of State's Statutory Guidance expects local authorities to produce annual reports.

6.0 Risk Management

- 6.1 None

7.0 Background and Options

- 7.1 PATROL introduced the PATROL Annual Report Award to coincide with the implementation of the Traffic Management in 2008. The aim was to raise public awareness and understanding of the objectives of civil parking enforcement in the context of local traffic management and parking services.
- 7.2 The importance of transparency through the production of annual reports and accounts was a central recommendation of the Transport Select Committee enquiry into Local Authority Parking Enforcement in 2013, to which the Chief Adjudicator and Director gave evidence.
- 7.3 PATROL surveyed a sample of local authority officers and members and a key finding was that a toolkit or template would assist them in producing their report and would also lead to a more consistent approach in the reporting of service and enforcement statistics together with financial information.
- 7.4 In 2016, PATROL introduced the collection of key statistics on civil enforcement and appeals from member authorities to enable the development of a comprehensive aggregate view of civil enforcement in England (outside London) and Wales. This process will be streamlined through development on the PATROL website reported elsewhere.
- 7.5 In 2017, as part of the Authority Engagement Workshops, we explored the possibility of engaging stakeholders through a digital representation of the Parking Annual Report. We briefly looked at the current online offering and made suggestions on how this content might be included in an interactive web based version of the usual PDF format of reports. PATROL is grateful to Members and Officers from Knowsley Council who decided offered to be a pathfinder for this new style of reporting and are endeavouring to produce an online version for submission next year.
- 7.6 Councils shortlisted for the PARC (Parking Annual Reports by Councils) Awards for 2016/17 include:
- Brighton & Hove City Council
 - Broxbourne (Borough of)
 - Cumbria County Council
 - Derby City Council
 - Devon County Council
 - Durham County Council
 - Sunderland City Council
 - Worcester City Council

Links to their reports are shown at Appendix 1

7.7 The 2016/17 awards will also recognise councils that have demonstrated best practice reporting on:

- Innovation and new services
- Customer service
- Presentation of finance and statistics

7.8 All Parking Annual Reports will be published on the PATROL website.

7.9 Huw Merriman MP for Bexhill and Battle has kindly agreed to host a reception at the House of Commons on 10th July 2018 to recognise the shortlisted councils for 2016/17 and announce the winners. Gyles Brandreth will also assist in the proceedings.

7.10 The PARC toolkit for local authorities will be updated and annual reports will be discussed at local authority user groups hosted by the Stakeholder Engagement Manager in 2018.

7.11 The deadline for submissions to the PARC (Parking Annual Report by Councils) Award 2017/18 is **31st January 2019** with the shortlist being announced in **May 2019**

8.0 Recommendation

8.1 To note the shortlist for 2016/17 awards

8.2 To note the arrangements for 2017/18 submissions

9.0 Access to Information

9.1 The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566

Email: lhutchinson@patrol-uk.info

APPENDIX 1

Links to individual shortlisted annual reports for 2016/17.

Borough of Broxbourne

<https://www.broxbourne.gov.uk/sites/default/files/Documents/Parking/1710123%20Annual%20Parking%20Report%20-%202016%20to%202017.pdf>

Brighton & Hove City Council

<https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/Parking%20Annual%20Report%20%202016%2017.pdf>

Cumbria County Council

<https://www.cumbria.gov.uk/eLibrary/Content/Internet/544/3887/4292011827.pdf>

Derby City Council

https://www.derby.gov.uk/media/derbycitycouncil/contentassets/images/transport/Parking_Annual_Report_201617.pdf

Devon County Council

<https://new.devon.gov.uk/roadsandtransport/parking/how-parking-is-regulated/>

Durham County Council

<https://www.durham.gov.uk/media/24017/Civil-Parking-Enforcement-Annual-Report-2016-17/pdf/CivilParkingEnforcementAnnualReport2016-17.pdf>

Sunderland City Council

https://www.sunderland.gov.uk/media/19629/Parking-Services-Annual-Report-2016-2017/pdf/Parking_Services_Annual_Report_2016-2017.pdf

Worcester City Council

<https://www.worcester.gov.uk/annual-reports>