



CHRISTMAS OPENING DAYS AND TIMES

Over the Christmas and New Year period the PATAS hearing centre will be open for postal adjudication only and for telephone enquiries from 8:00am – 5:00pm on Thursday 27th, Friday 28th and Monday 31st December.

The Hearing Centre will be open for personal hearings from 2 January 2007.

PATAS STAFF

A number of changes have been made to the PATAS staff since our last update two years ago. The PATAS staff now comprises:

Charlotte Axelson, Head of the Parking and Traffic Appeals Service
Garry Hoy, Clerk to the Road User Charging Adjudicators
Richard Reeve, Clerk to the Parking Adjudicators
Mark Smith, Case Manager and Service coordinator
Margaret Brown, Tribunal Secretary
Gemma Benjamin, Tribunal Assistant
Sarah Baker, Tribunal Assistant
Hazel Kings, Tribunal Assistant
Ada Amuta, Tribunal Assistant
Peter Hollamby, Tribunal Assistant

Although these staff have different responsibilities, any member of the team will be pleased to assist with any enquiry.

NEW ADDRESSES

With effect from 15 October 2007, the PATAS address for correspondence and the submission of evidence changed and is now as follows:

For Parking, Bus lane, Moving traffic or Lorry ban related correspondence:

The Head of the Parking and Traffic Appeals Service
PO Box 279
Chertsey
Surrey
KT16 6BU

For Congestion Charging related correspondence:

The Head of the Parking and Traffic Appeals service
PO Box 280
Chertsey
Surrey
KT16 6BW

ADJUDICATORS' ANNUAL REPORTS

The Parking Adjudicators', Road User Charging Adjudicators' and the Parking and Traffic Appeals Service's annual reports for 2006-07 are now available on the PATAS web site, www.patas.gov.uk .

Previous years reports are also available, as are copies of the PATAS newsletter.

SENDING PHOTOGRAPHS/IMAGES BY FAX

Please note that if you are intending to fax photographs or images to either tribunal the quality on receipt is likely to be poor.

Please send clear copies to us by post.

LOCAL AUTHORITY ATTENDANCE AT PERSONAL HEARINGS

Local authorities are requested to inform PATAS in advance when they will be attending personal hearings. This is in their own interests and will allow PATAS staff to contact them if necessary should a late rescheduling occur.

CONTACTING PATAS

When contacting the Parking and Traffic Appeals Service by telephone, please use the service's main number 020 7747 4700 unless you are provided with an alternative by one of our staff for a specific reason.

Parking appeal statistics July - September 2007

	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	106	0	81	21	43	0	124	65%	17%
Barnet	261	11	126	73	80	0	206	61%	35%
Bexley	210	11	93	54	60	0	153	61%	35%
Brent	182	37	55	6	90	1	145	38%	4%
Bromley	205	26	172	66	135	0	307	56%	21%
Camden	566	188	241	108	203	3	444	54%	24%
City of London	241	0	177	66	59	0	236	75%	28%
Croydon	247	16	99	21	125	3	224	44%	9%
Ealing	553	29	418	245	158	2	576	73%	43%
Enfield	76	15	24	7	41	0	65	37%	11%
Greenwich	96	1	28	3	81	0	109	26%	3%
Hackney	483	0	407	315	70	0	477	85%	66%
Hammersmith & Fulham	274	0	155	68	150	1	305	51%	22%
Haringey	217	0	103	43	74	1	177	58%	24%
Harrow	114	36	28	6	111	1	139	20%	4%
Havering	67	4	65	32	25	0	90	72%	36%
Hillingdon	59	6	32	20	26	0	58	55%	34%
Hounslow	256	22	94	69	36	0	130	72%	53%
Islington	430	0	443	241	188	4	631	70%	38%
Kensington and Chelsea	526	35	400	179	270	0	670	60%	27%
Kingston Upon Thames	84	8	28	8	39	0	67	42%	12%
Lambeth	890	0	623	315	195	5	818	76%	39%
Lewisham	212	10	57	12	78	1	135	42%	9%
Merton	130	9	63	21	43	0	106	59%	20%
Newham	242	50	160	82	125	0	285	56%	29%
Redbridge	193	18	91	35	106	1	197	46%	18%
Richmond Upon Thames	104	28	75	31	53	2	128	59%	24%
Southwark	674	0	564	224	67	2	631	89%	35%
Sutton	58	9	11	6	22	0	33	33%	18%
Tower Hamlets	222	18	133	73	45	0	178	75%	41%
Transport for London	1121	20	598	297	444	6	1042	57%	29%
Waltham Forest	270	16	173	45	91	0	264	66%	17%
Wandsworth	190	34	103	59	147	7	250	41%	24%
Westminster	4127	346	3626	2390	364	8	3990	91%	60%
TOTALS :	13686	1003	9546	5241	3844	48	13390	71%	39%

Bus Lane & Lorry ban appeal statistics July - September 2007

Parking and Traffic
Appeals Service

	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	16	0	5	1	6	0	11	45%	9%
Barnet	59	4	17	13	33	0	50	34%	26%
Bexley	0	0	0	0	1	0	1	0%	0%
Brent	10	1	4	1	10	0	14	29%	7%
Bromley	6	1	4	2	5	0	9	44%	22%
Camden	11	2	3	2	7	0	10	30%	20%
City of London	0	0	0	0	0	0	0	N/A	N/A
Croydon	1	0	0	0	0	0	0	N/A	N/A
Ealing	45	0	38	31	3	0	41	93%	76%
Enfield	0	0	0	0	0	0	0	N/A	N/A
Greenwich	0	0	0	0	0	0	0	N/A	N/A
Hackney	3	0	6	3	2	0	8	75%	38%
Hammersmith & Fulham	10	0	2	2	4	0	6	33%	33%
Haringey	3	0	0	0	2	0	2	0%	0%
Harrow	7	1	3	1	5	1	8	38%	13%
Havering	0	0	0	0	0	0	0	N/A	N/A
Hillingdon	1	0	0	0	0	0	0	N/A	N/A
Islington	10	0	8	2	8	0	16	50%	13%
Kingston Upon Thames	2	0	0	0	1	0	1	0%	0%
Lambeth	27	0	16	8	11	0	27	59%	30%
Lewisham	13	3	4	0	4	0	8	50%	0%
Merton	9	1	3	1	6	0	9	33%	11%
Newham	42	11	23	11	20	0	43	53%	26%
Richmond Upon Thames	9	6	2	0	11	0	13	15%	0%
Southwark	0	0	0	0	0	0	0	N/A	N/A
Tower Hamlets	9	0	3	1	2	1	5	60%	20%
Transport for London	82	1	32	15	50	1	82	39%	18%
Waltham Forest	5	2	2	1	2	0	4	50%	25%
Wandsworth	2	1	0	0	3	0	3	0%	0%
Westminster	1	0	1	0	0	0	1	100%	0%
TOTALS :	383	34	176	95	196	3	372	47%	26%

LORRY BAN

	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
London Councils TEC	12	0	11	2	10	0	21	55%	10%

Moving traffic & congestion charging statistics

July - September 2007

MOVING TRAFFIC	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	0	0	0	0	0	0	0	0	0
Brent	0	0	0	0	0	0	0	0	0
Camden	118	31	53	36	59	1	112	47%	32%
City of London	11	0	4	0	6	0	10	40%	0%
Croydon	22	4	8	2	22	0	30	27%	7%
Ealing	126	0	65	27	23	1	88	74%	31%
Hackney	98	0	28	10	66	1	94	30%	11%
Hammersmith & Fulham	48	0	9	7	15	1	24	38%	29%
Haringey	32	0	16	4	24	0	40	40%	10%
Harrow	29	0	9	3	11	0	20	45%	15%
Hillingdon	9	0	5	5	0	0	5	100%	100%
Islington	31	0	33	9	16	0	49	67%	18%
Lambeth	193	0	97	31	23	0	120	81%	26%
Newham	26	6	5	1	24	0	29	17%	3%
Southwark	63	0	60	21	11	0	71	85%	30%
Tower Hamlets	6	0	3	1	4	0	7	43%	14%
Transport for London	339	7	140	66	116	1	256	55%	26%
Waltham Forest	34	1	18	2	18	0	36	50%	6%
Wandsworth	19	0	2	0	0	0	2	100%	0%
Westminster	43	0	22	9	0	0	22	100%	41%
TOTALS :	1248	49	577	234	438	5	1015	57%	23%

CONGESTION CHARGING	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Transport for London	3290	453	1452	1258	1590	34	3042	48%	41%

CONGESTION CLAMP & REMOVE	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Transport for London	3	0	0	0	1	0	1	0%	0%

All appeals (excl. congestion charging) statistics July - September 2007

	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	122	0	86	22	49	0	135	64%	16%
Barnet	320	15	143	86	113	0	256	56%	34%
Bexley	210	11	93	54	61	0	154	60%	35%
Brent	192	38	59	7	100	1	159	37%	4%
Bromley	211	27	176	68	140	0	316	56%	22%
Camden	695	221	297	146	269	4	566	52%	26%
City of London	252	0	181	66	65	0	246	74%	27%
Croydon	270	20	107	23	147	3	254	42%	9%
Ealing	724	29	521	303	184	3	705	74%	43%
Enfield	76	15	24	7	41	0	65	37%	11%
Greenwich	96	1	28	3	81	0	109	26%	3%
Hackney	584	0	441	328	138	1	579	76%	57%
Hammersmith & Fulham	332	0	166	77	169	2	335	50%	23%
Haringey	252	0	119	47	100	1	219	54%	21%
Harrow	150	37	40	10	127	2	167	24%	6%
Havering	67	4	65	32	25	0	90	72%	36%
Hillingdon	69	6	37	25	26	0	63	59%	40%
Hounslow	257	22	94	69	36	0	130	72%	53%
Islington	471	0	484	252	212	4	696	70%	36%
Kensington and Chelsea	526	35	400	179	270	0	670	60%	27%
Kingston Upon Thames	86	8	28	8	40	0	68	41%	12%
Lambeth	1110	0	736	354	229	5	965	76%	37%
Lewisham	225	13	61	12	82	1	143	43%	8%
Merton	139	10	66	22	49	0	115	57%	19%
Newham	310	67	188	94	169	0	357	53%	26%
Redbridge	193	18	91	35	106	1	197	46%	18%
Richmond Upon Thames	113	34	77	31	64	2	141	55%	22%
Southwark	737	0	624	245	78	2	702	89%	35%
Sutton	58	9	11	6	22	0	33	33%	18%
Tower Hamlets	237	18	139	75	51	1	190	73%	39%
Transport for London	1542	28	770	378	610	8	1380	56%	27%
Waltham Forest	309	19	193	48	111	0	304	63%	16%
Wandsworth	211	35	105	59	150	7	255	41%	23%
Westminster	4171	346	3649	2399	364	8	4013	91%	60%
London Councils TEC	12	0	11	2	10	0	21	55%	10%
TOTALS :	15320	1086	10310	5572	4487	56	14797	70%	38%

PATAS Admin performance July - September 2007

Parking and Traffic
Appeals Service

	July	August	September	Quarter 2
Parking Adjudicators				
Average weeks delay postal	11	12	10	11
Average weeks delay personal	11	12	11	11
Total	11	11	11	11
Processing errors				
	0.18%	0.19%	0.33%	0.23%
CC Adjudicators				
Average weeks delay postal	9	9	9	9
Average weeks delay personal	5	7	6	6
Total	8	8	8	8
Processing errors				
	0.03%	0.38%	0.26%	0.23%

FOOTWAY PARKING; GREATER LONDON COUNCIL (GENERAL POWERS) ACT 1974 S.15; MOTORCYCLE ON STAND; WHETHER 'PARKED WITH ONE OR MORE WHEELS ON' THE FOOTWAY

Wolman v Islington [2007] EWCA Civ 823 CA

This case concerned footway parking of a motorcycle. The motorcycle was parked on its stand, without either wheel touching the surface of the footway.

Section 15 of the Greater London Council (General Powers) Act 1974 as amended by section 15(2) of the London Local Authorities Act 2000 provides, so far as material, as follows:

“ any person who causes or permits any vehicle to be parked in Greater London with one or more wheels on any part of an urban road other than a carriageway, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale. ”

At home Mr Wolman parked his motorcycle on its stand which rested on the pavement outside his house. The front wheel of the bike rested on his own property; the rear wheel was suspended slightly above the surface of the pavement. When at work he occasionally parked his motorcycle on the pavement resting on its stand with both wheels suspended slightly above the surface of the ground.

The Court of Appeal said that the expression “parked ... with one or more wheels on” the footway must be construed as a whole with regard to the mischief to section 15 is directed in order to determine its meaning.

The Court agreed with Mr. Wolman that a motorcycle laid on the pavement (whether or not any part of either wheel was in contact with its surface) would not ordinarily be described as “parked”. The Court went on to say that it was obviously difficult, if not impossible, to say that a vehicle parked with all its wheels on the road but with part of its body extending over the pavement was parked “on” the pavement. It would be difficult to hold, therefore, that a person who parked a motorcycle with its stand resting on the road committed an offence even if one of the wheels projected to any significant extent over the pavement.

A person caused or permitted a vehicle “to be parked with one or more wheels on” [the pavement]” if he parked a vehicle partly on the road but with one or more wheels resting on the pavement, or, (which is likely to apply only in the case of a motorcycle) if he parked it entirely on the pavement with the result that the whole of the vehicle, including its wheels and every other part of it, was resting on the pavement. That would be so even if none of its wheels was in direct contact with the pavement because the expression “wheels on any part of an urban road other than a carriageway” was apt in this context to cover the case. Where part of the vehicle was resting elsewhere than on the pavement it was a matter of fact whether the vehicle was parked on the pavement or not. In the case of a motorcycle parked on its centre stand the likelihood was that if the stand itself was on the pavement, the motorcycle as a whole would be parked on the pavement, including at least one of its wheels. This might involve giving an extended meaning to the word “on”, but once the mischief at which the legislation was aimed had been identified the section was not ambiguous.

Declaration that by parking his motorcycle on its stand on the pavement with its body and one or both of its wheels on or over the pavement the claimant was in contravention of section 15 of the Greater London Council (General Powers) Act 1974 as amended by section 15(2) of the London Local Authorities Act 2000.

Key cases (continued)

STATEMENT OF CONTRAVENTION AND OF GROUNDS OF REPRESENTATION ON PENALTY CHARGE NOTICE; FORM OF

Portch –v- London Borough of Camden

Case No. 2070385620

Penalty Charge Notice number: CU07097716

Failing to drive in the direction shown by the arrow on a blue sign

The Appellant admitted the substance of the alleged contravention, but contended that the Penalty Charge Notice (PCN) did not comply with the requirements of the London Local Authorities and Transport for London Act 2003 ('the Act'), in two respects.

The Appellant's first contention was that the PCN did not correctly describe the alleged contravention.

Section 4 of the Act stated, so far as relevant, as follows.

"(5) ... a penalty charge is payable with respect to a motor vehicle by the owner of the vehicle if the person driving or propelling the vehicle-

- (a) acts in contravention of a prescribed order; or*
- (b) fails to comply with an indication given by a scheduled section 36 traffic sign...."*

"(17) ...

"scheduled section 36 traffic sign" means-

(a) a scheduled traffic sign of a type to which section 36 (Drivers to comply with traffic signs) of the Road Traffic Act 1988 (c. 52) applies by virtue of regulations made under section 64(5) of the Act of 1984; but

(b) does not include a traffic sign which indicates any prohibition or restriction imposed by the lorry ban order;

"scheduled traffic sign" means a traffic sign of a type described in Schedule 3 to this Act;

"traffic sign" has the meaning given by section 64(1) of the Act of 1984."

The sign in this case was a scheduled section 36 sign as so defined.

The Appellant admitted that they failed to comply with a scheduled section 36 traffic sign. They said, however, that they did not commit the contravention alleged on the PCN, which was expressed as follows.

"... failing to drive in the direction shown by the arrow on a blue sign."

The Appellant said that the PCN did not refer to a scheduled section 36 sign but to a blue sign, which, they said, was not defined in any of the relevant legislation.

Section 4(8) of the Act states, so far as relevant, as follows.

"(8) A penalty charge notice under this section must-

(a) state-

(i) the grounds on which the council or, as the case may be, Transport for London believe that the penalty charge is payable with respect to the vehicle ..."

The legislation therefore did not require the PCN to refer to a scheduled 36 sign. The question for the Adjudicator was whether the PCN complied with what the legislation in fact required: that it stated the grounds on which the council believed the penalty was payable.

This did not require any particular form of words to be used. What it required in substance was that the PCN should convey to the motorist in comprehensible terms what it was they were alleged to have done wrong. The question was whether the words used on this PCN did so and in the Adjudicator's view they did.

Cont'd...

Key cases (continued)

STATEMENT OF CONTRAVENTION AND OF GROUNDS OF REPRESENTATION ON PENALTY CHARGE NOTICE; FORM OF

Portch –v- London Borough of Camden

Case No. 2070385620

PCN no.: CU07097716

...Cont'd.

The sign in question was blue, it had on it an arrow pointing in a particular direction and the allegation was that the motorist failed to drive in the direction indicated by the arrow. To the Adjudicator's mind the wording used made the allegation perfectly clear and did so in simple terms. The PCN therefore complied with the statutory requirement.

The Appellant also took issue with another element of the PCN. Section 4 of the Act also required the PCN to state "*that the person on whom the notice is served may be entitled to make representations under paragraph 1 of Schedule 1 to this Act.*"

Paragraph 1(4) of the Schedule sets out the grounds on which representations may be made, including:

"(b) that there was no-
(i) contravention of a prescribed order; or
(ii) failure to comply with an indication...
under subsection (5) ... of ... section 4 ..."

The PCN, so far as relevant, said this.

"You can make representations to the Council on the following grounds...

B. The contravention did not take place ..."

Again, there was no requirement to follow the precise wording of the Act; that was, to comply literally with the Act. It was sufficient for the PCN to comply substantially with the requirements of the Act.

In the Adjudicator's view the wording used did convey the substance of the Act. Its natural meaning was apt to cover an allegation either that there was a contravention of an order or a failure to comply with an indication given by a sign.

The PCN was therefore compliant and the appeal was refused.

Key cases (continued)

POSTAL PENALTY CHARGE NOTICE. COMPLIANCE WITH THE LONDON LOCAL AUTHORITIES ACT 2000

Adamou –v- London Borough of Hackney

Case No. 207024021A

Penalty Charge Notice no: HY72697947

Validity of a Penalty Charge Notice (PCN) served by post

The PCN stated:

"The Penalty Charge of £80 must be paid within 28 days beginning with the date of the notice."

and:

"If the Penalty Charge is paid within 14 days beginning with the date of service of this notice (the date it was delivered) a reduced amount of £40 is payable."

and:

"If the penalty charge is not paid before the end of the 28 day period, a notice (the 'Notice to Owner') may be served..."

The Appellant contended that the PCN was not compliant with the statutory requirements as to form.

The Adjudicator said that section 66(3) of the Road Traffic Act 1991 provided that a PCN must state:

"(c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice."

and *"(d) if the penalty charge was paid before the end of the period of 14 days beginning with the date of the notice, the amount of the penalty charge would be reduced by the specified proportion."*

and *"(e) that, if the penalty charge is not paid before the end of the 28 day period, a notice to owner may be served by the London authority on the person appearing to them to be the owner of the vehicle"*

Section 4(5) (c) of the LLAA Act 2000 provided that:

"for the purpose of section 66(3)(d), the date of the notice shall be the date on which the penalty charge notice was served."

The Adjudicator found that the wording was clear. The 2000 Act enabled the recipient of a PCN issued by post to have 14 days in which to pay at the reduced rate after receipt of the PCN thus putting him or her in the same position as the recipient of a PCN on the street on the day of the contravention.

The 2000 Act made no provision in respect of section 66(3) (c) or (e).

The PCN was compliant.

The appeal was refused.

Key cases (continued)

PENALTY CHARGE NOTICE; STATEMENT OF GROUNDS; ADEQUACY; RELEVANCE OF PUBLISHED CONTRAVENTION CODES

Metrick –v- London Borough of Camden

Case No. 207034396A

Penalty Charge Notice no.: CD24306687

Failing to comply with a sign indicating a prohibition on certain types of vehicle

The sign in question in this appeal was a "motor vehicles prohibited" sign (appearing as such in both the 2002 Regulation/Directions and the Highway Code).

The Adjudicator noted that, not only did the Penalty Charge Notice ('PCN') refer to "Failing to comply with a sign indicating a prohibition *on certain types of vehicle*", but it also failed to include a picture of the sign allegedly contravened.

As such, the Adjudicator found that the PCN failed to comply with the requirements of section 4(8)(a)(i) of the 2003 London Local Authorities and Transport for London Act, which provided that:

"A penalty charge notice ...must- (a) state- (i) *the grounds* on which the council or, as the case may be, Transport for London believe that the penalty charge was payable with respect to the vehicle".

This was because the description of the alleged contravention in the PCN and the lack of a photograph of the sign allegedly contravened in the PCN (in the format described above) made the PCN insufficiently clear and failed to inform the motorist/recipient that the prohibition applied to "motor vehicles" rather than (for example) a particular class of vehicle, i.e. commercial or passenger.

The Adjudicator also noted that a sign indicating a 7' 0" width restriction on vehicles appeared a short way before the "motor vehicles prohibited" signs in the local authority's photographic evidence, which was another reason why the description of the alleged contravention in the PCN should have been sign-specific and should have included a picture of the sign allegedly contravened.

Whilst it might well have been the case, as the local authority pointed out, that the "wording of the alleged contravention was of a standardised format for use by local authorities throughout the country", this was purely for administrative reasons alone and did not lend any statutory or other legal authority whatsoever to the 'wording': the question for the adjudicator remained whether the PCN complied with the legal requirements of section 4(8)(i) of the 2003 Act.

The Adjudicator found the answer to that question in this case was 'no', for the reasons given above and the appeal was allowed.

Key cases (continued)

NON-COMPLIANT SIGN; FOOTWAY PARKING; DEFECTIVE SIGN OR END OF PERMITTED PARKING; RELEVANCE OF INFLUENCE OF DEFECTIVE SIGN ON MOTORIST

Davies –v- London Borough of Enfield

Case No. 2070153498

Penalty Charge Notice no.: EN13479817

Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking)

The Appellant had parked near, but not outside, an area where footway parking was permitted. The termination sign (fig. 667.2) relating to the footway parking area was defective in that the cross through line was white and not red. However, there was no suggestion that the Appellant had been influenced or misled by the defective sign, or indeed he had even seen it. If the Appellant had parked beyond the termination sign, passing beyond it, then he would have had a case for arguing that, as the sign was defective and it had misled him it had not in effect terminated the permissible footway parking area and his vehicle was still within it. However, here the Appellant parked before the commencement sign, outside the area and had mistakenly, albeit innocently, wrongly assumed that the area was before the sign rather than beyond it.

As the default position was that footway parking was prohibited save where expressly allowed with a sign (fig. 667), it would not have been open for the Appellant to argue that a defective sign per se meant that footway parking was allowed. This contrasted with the position where there was a defective sign of a restriction (e.g. yellow line) which would mean the restriction cannot be enforced regardless. In other words, the actual influence of the defective sign was relevant where it permitted something that was otherwise not permitted, so that whether or not he saw the sign or passed it or it misled would be relevant with regard to this defective sign.

For these reasons the reviewing Adjudicator refused the Appellant's application for a review.

Key cases (continued)

PARKING MORE THAN 50CM FROM EDGE OF CARRIAGEWAY; DEAD END

Carr -v- London Borough of Haringey

Case No. 207469651 PCN No.: HY24262670

Vehicle parked more than 50cm from the edge of the carriageway and not within a designated parking place

The Parking Attendant noted all the details of Miss Carr's vehicle and recorded that this Penalty Charge Notice (PCN) was fixed to the vehicle five minutes after it was first seen. The PCN alleged that the car was parked "more than 50cm from the kerb and not within a designated parking place". The Attendant drew a sketch in the pocketbook showing the position of the car.

Miss Carr challenged the PCN on the basis that her car had been parked in a dead-end street.

The Council rejected her representations, stating that her vehicle was "double-parked outside 5A Fairfield Gardens".

The Adjudicator said that whilst this contravention is commonly referred to as "double-parking", that expression did not appear in Section 5 of the *London Local Authorities Act 1995*, as substituted by Section 6 of the *London Local Authorities Act 2000*. Nor, crucially, did the word "kerb". Section 5(2) of the 1995 Act prohibits the waiting of a vehicle where

- (a) the vehicle is on the carriageway of a road and wholly or partly within a special parking area; and
- (b) no part of the vehicle is within 50 centimetres of the edge of the carriageway; and
- (c) the vehicle is not wholly within a designated parking place or any other part of a road in respect of which the waiting of vehicles is specifically authorised

It was clear that the car was parked more than 50 centimetres from the "kerb", if that was taken to mean the edge of the footway on either side of the street. It was not possible to ascertain whether or not there was an actual kerb, i.e. made up of kerbstones, across the end of the road, but this did not matter, because what was clear was that the carriageway ended just in front of where Miss Carr's car was parked. That was to say that the carriageway in this road had *three* edges, rather than just two along the footways.

Both sketches and the photograph show Miss Carr's vehicle parked at the end of the road. In the absence of specific evidence from the Parking Attendant as to how far the front of her car was from the edge of the carriageway at the end of the road the Adjudicator could not be satisfied that no part of the vehicle was within 50 centimetres of the edge of the carriageway.

Accordingly he could not be satisfied that a contravention of Section 5 of the 1995 Act occurred.

It appeared that the Council had been misled by their own use of the expression "double-parking", and also by choosing to use the expression "parked more than 50cm from the *kerb*" in the PCN itself. The wording did not accord with the Standard PCN Codes agreed by London Councils, which correctly reproduced the words of the legislation: "Vehicle parked more than 50cm from the edge of the carriageway and not within a designated parking place".

Appeal allowed.

Key cases (continued)

PARKED OR LOADING/UNLOADING IN A RESTRICTED STREET WHERE WAITING AND LOADING/UNLOADING RESTRICTIONS ARE IN FORCE

Advance Chauffeur Services Ltd -v- London Borough of Camden

Case No. 2070045407 PCN No.: CD24236038

Enforcement in boundary streets

The facts were that on 22 September 2006 a City of Westminster parking attendant served a Penalty Charge Notice, number WM1637319, by fixing it to the vehicle. The Appellant paid the reduced penalty on 22 September. Unknown to the Appellant, the contravention had also been observed remotely by a Camden CCTV operator. Camden issued the Penalty Charge Notice, the subject of this appeal, by post on 5 October 2006.

The Adjudicator noted from the papers the following pertinent sequence of events.

1. The Notice of Rejection dated 13 January 2007 issued by Camden stated: 'The whole of the carriageway on Charing Cross Road at this section is under the jurisdiction of the London Borough of Camden. Whilst I accept that Westminster should not have issued a Penalty Charge Notice for a contravention on this site, this error should be taken up with that borough.'
2. The Appellant lodged its appeal to the Adjudicator on 29 January.
3. On 2 February Westminster wrote to the Appellant: 'In this case, I can confirm that Charing Cross Road is within the Westminster Parking Zone ... and I cannot cancel the PCN. You will need to get in touch with Camden Council regarding the PCN which you received from them and hopefully they will be able to sort things out for you.'
4. In its Case Summary, Camden continued to assert that the location was in Camden and that the Westminster PCN was not properly issued. It said that it contested the appeal but that it would waive the penalty if the appeal were refused.
5. On 13 September Westminster wrote to the Parking Adjudicator accepting that the Penalty Charge Notice was issued in error because at this location only the footway was in Westminster. It stated that the penalty paid had been refunded to the Appellant.

The Adjudicator was satisfied that the position was as now accepted by Westminster: that only the footway at this location was in Westminster. The Westminster parking attendant therefore had no power to issue a Penalty Charge Notice to the vehicle and in doing so acted unlawfully.

This case revealed a thoroughly unsatisfactory state of affairs. It was clearly unacceptable for a motorist to be the subject of enforcement action by two different local authorities for the same contravention.

There was clearly a risk that around the boundary between neighbouring authorities there may be a lack of clarity about precisely where the boundary lay. There was a responsibility on local authorities to be aware of the boundaries of their jurisdiction, to ensure that their parking attendants were instructed in them and to co-operate with each other to ensure members of the public did not find themselves in this position. There was an obvious need for local authorities to liaise with each other to clarify any areas of doubt so that the extents of their respective jurisdictions were clear.

And where double enforcement did occur, as here, local authorities should act in a co-ordinated fashion to resolve the problem, not adopt an isolationist attitude. Parking control was in substance a single activity divided amongst numerous local authorities. Where difficulties of the kind in this case occurred, local authorities were under a duty to be proactive in resolving the issue between them.

The issues in this case should have been capable of resolution between the authorities rapidly, had they taken a proactive approach. As it was it had taken almost a year for the matter to be resolved.