

**THE JOINT REPORT OF THE
PARKING ADJUDICATORS
FOR
ENGLAND AND WALES
2009/10**

Chief Adjudicator's Foreword

The week when the Adjudicators are presenting their annual report to the PATROL Joint Committee coincides with two significant 50th anniversaries the arrival on the streets of the first traffic wardens and the start of Coronation Street.

Traffic Wardens were introduced because it was recognised that parking enforcement was taking up too much police officer time and so the police forces (as they then were) could more usefully and economically employ trained wardens to patrol the streets to enforce parking offences by issuing fixed penalty notices. For many years the fine was £2.

The Road Traffic Act 1991 (RTA) came about in recognition that it had become a burden on police resources even to provide traffic wardens and that the local councils should enforce parking contraventions in a decriminalised regime using their own 'parking attendants' to patrol the roads and car parks in their area and issue penalty charge notices (PCNs). Parking Adjudicators were invented by the RTA because disputes about liability for parking contravention had become a civil matter that should be determined in a tribunal and not the criminal magistrates' courts.

The Traffic Management Act 2004 (TMA) took matters further, rebranding the traffic warden turned parking attendant as a 'Civil Enforcement Officer' (CEO) and allowing for enforcement by camera in addition to CEOs on street, and for PCNs to be sent by post in cases where the CEO had been unable to complete the task of issuing PCN by fixing it, in the customary manner, to the windscreen of the vehicle, or handing it to the driver. So not only have traffic wardens been renamed, like so many other members of the workforce, aspects of their functions have been augmented with technology.

The parking provisions of the TMA were brought into force on 31 March 2008 and last year in the Traffic Penalty Tribunal Adjudicators' Annual Report we

examined the early days of the new Traffic Management Act (TMA) initiatives. We concluded that there were several reasons to be cheerful, for example because the number PCNs in most authorities had dropped and the Adjudicators found solid evidence that Councils were paying more considered attention to the exercise of discretion.

We decided not to publish a glossy edition of last year's Annual Report, because by the time the details would have been ready the TMA developments were further under way and the report read very much as 'Chapter 1'. For example, last year we reported that there were few cases involved in camera enforcement whereas it became clear halfway through last year that there were one or two authorities who were using those powers relatively vigorously.

We therefore decided that it would be more helpful if we treated this report for 2009/2010 as 'Chapter 2' of the earlier report, in order to give a fuller account of the impact of the new Traffic Management Act powers. These comprise the main body of this report.

Therefore this Annual Report focuses on some of the new powers, in particular camera enforcement and dropped kerb and double parking contraventions dealt with in Sections 85 and 86 of the TMA. Having said that, there are still relatively few Councils that have embarked on using these powers and they form the vanguard of authorities whose experience provides a useful opportunity to compare and contrast the need for and outcome of this type of enforcement. They will also be useful examples of best practice for those authorities who are still considering whether to implement the new powers or not. Adjudicators therefore hope that the two detailed sections on the appeals decided this year concerning both camera enforcement and the dropped kerbs and double parking contraventions will provide helpful reading.

Last year we provided a detailed section headed 'Ringling the Changes' that analysed the main new provisions introduced by the TMA. Much of that

concentrated on the use of discretion and we have followed up that report with more examples of cases involving discretion, including the cases that were referred to local authority Chief Executives.

A significant number of cases where discretion is in issue involve the appellants producing proof that they paid to park but despairing that the council only appears to concern itself with whether the ticket from the machine was visible to the CEO.

Reflecting on the former days of traffic wardens and parking attendants, draws attention to another curious change that has come about in the approach to parking enforcement. Where parking was provided either on-street or in a car park there developed various methods for the driver to pay. Parking meters were introduced at about the time of traffic wardens and then came the pay and display regime.

As everyone knows, this enabled a driver to pay for parking by inserting coins into the machine which would issue a ticket as evidence of the amount paid and helpfully show when the "paid for" time ran out. If no ticket was displayed in the car providing this evidence of payment it was presumed that the driver had not paid and the traffic warden could issue a 'parking ticket' for failing to pay. However, the presumption that the driver had not paid was rebuttable if the driver subsequently produced the ticket as evidence that payment had in fact been made for time when the vehicle was parked.

It is not clear at what point in the requirement to 'pay and display' the focus turned from paying to displaying. Of course councils have a lot of experience in providing paid for parking both in car parks and on-street and it maybe not surprising that the dishonest actions of a few people require ever stricter measures to be taken against the majority. Adjudicators understand that it is hard to tell from a written representation that includes a valid ticket whether the motorist is being honest or not, but honest individuals who have paid good money to park and have made a simple mistake become very upset if they

are not believed. Particularly in car parks, where they are customers effectively paying for a service, they consider that there should be greater respect for themselves as hitherto loyal customers.

A recent appeal was from a council that has followed the London lead and introduced payment by telephone in a car park. There is no doubt that this is a splendid service that makes using the car park easy and convenient.

However, in **BM 07586G** the appellant's partner was a consultant doctor who parked regularly in the car park to attend his clinics. On this occasion he had used his partner's car and had not appreciated the part of the dialogue with the automated telephone service that asked if he was using his usual car.

Therefore when the CEO came round there was no record of the payment against the appellant's car. The doctor had received a text confirmation of his £3.30 payment (the 30p being the charge for the telephone service) which he advised the council about. They agreed that he had paid to park but refused to cancel the PCN. The appeal was allowed because the car park regulations had not properly provided for this situation, but this case shows that in some authorities payment seems virtually irrelevant. It might have been more helpful to explain the telephone procedure for the future.

In fact that case was from Birmingham, who must generally be commended for taking the lead in new initiatives. Another area where Birmingham and Manchester have taken strong measures is in prosecuting people who are found to be abusing the use of Blue Badges. We have had at least three cases recently where the determination of the civil appeal in our tribunal had been postponed pending the outcome of the criminal trial. This is another area of parking where the traffic wardens of fifty years ago would be deeply shocked – regrettably abuse of Blue Badges is now a national problem and it is detrimental for those who have a genuine need for a Badge and who would never dream of misusing it that strong measures now need to be taken against others.

Adjudicators recognise that it is increasingly difficult for an authority to strike the right balance between identifying the genuine, the opportunist and the downright dishonest. Different situations arise all the time, which is why adjudicators never tire of reminding both parties that each case turns on its own facts.

This approach applies as much to Adjudicators as to councils. Just as adjudicators criticise councils for adopting a formulaic approach in order to achieve consistency I continue to receive correspondence from either appellants or councils suggesting that two adjudicator's decisions are inconsistent. Always I have to explain that it is not appropriate for me to comment on the different adjudicator's decisions since it is not my function as Chief Adjudicator to approve or disapprove other adjudicators, my judicial status is identical to other adjudicators and I cannot act as a Court of Appeal. Having said that, it is always helpful to have examples of cases where the parties may not have clearly understood the adjudicator's reasoning so that I can consider whether a fruitful topic for a conference session has been identified.

The most common explanation, however, is that 'each case turns on its own facts.' Often there is a simple answer to the different outcomes; either party may have produced different or better evidence than in the other case, or the adjudicator may find the appellant credible in one case but not in the other.

If there is a conflict in the interpretation of a legal point then it is usual for the council (or an appellant who may have had a similar case decided differently) to apply for a review of one or both decisions with the objective of achieving a robust interpretation of the point in question. It must, however, be borne in mind that the usual explanation for differing outcomes is the finding of different material facts.

Telephone hearings provide a useful opportunity to establish the facts of a case. We are pleased that the number of cases determined at a telephone hearing continues to rise. Andrew Barfoot the Tribunal Manager has provided

a helpful report with statistics about telephone hearings in his Service Report. The Adjudicators also prepared a section on telephone appeal for the Welsh section of our report and we add it as an addendum for the benefit of our English appellant and Councils.

Finally, I mentioned that traffic wardens share their 50th anniversary with Coronation Street, now a national institution that has come to epitomise Manchester. The Traffic Penalty Tribunal is proud to have its headquarters in Manchester. The Adjudicators, who are based all round the county, including in Wales, are consistently impressed with the service they receive from the Tribunal staff, whose understanding of how things operate in other parts of the country is admirable. They manage to arrange lists of cases, reflecting the preferences of the parties at a vast range of locations around the country and they are always available to help the parties to the appeals in the area that they manage. They certainly exhibit the staying power and professionalism that has ensured Coronation Street's enduring appeal. The Adjudicators would like to take this opportunity of offering their thanks to the Tribunal Manager, the Appeals Manager and all the team for their support over the last year.

Particular mention should go to Louise Hutchinson, Head of Service to the PATROL Joint Committee. She and the Committee are continually finding ways that the overarching perspective of the Committee can enhance the services of the individual authorities. There are two current initiatives that adjudicators welcome:

First, to encourage each authority to produce an informative annual report the PATROL committee decided to give an award for the best and set up an independent group to judge the entries. Brighton and Hove were the winners of the first award, and entries are now expected for the second year.

Second, and with the Adjudicators' blessing, the Patrol Committee has set up a Committee tasked with producing suggested TRO clauses. Over the years

Adjudicators have criticised TROs and if the PATROL committee can come with clauses expressed in everyday language that properly express the everyday activities of parking it will be of great assistance to the public and council TRO teams alike.

Louise Hutchinson is very much the driving force behind these important developments of the Joint Committee's role and she is to be congratulated for her leadership and inspiration.

Caroline Sheppard

Chief Adjudicator for England and for Wales

Judicial Reviews

Last we reported on applications for Judicial Review of adjudicators' decisions. At that stage permission had been granted but the cases had not been heard.

Herron v The Parking Adjudicator and Sunderland CC and others [2010]

EWHC 1161(Admin)

In *Neil Herron v. the Parking Adjudicator* (and Sunderland City Council) the claimant applied for judicial review on two grounds:

That the Adjudicators do not appear to be independent and impartial because of the Joint Committee arrangements;

That concerning the definition of a controlled parking zone in Regulation 4 of the TSRGD.

Following an oral application for permission the Judge, Mr. Justice Keith, refused permission for Judicial Review of the challenge to the independence of the Adjudicators. I make no apology for quoting his judgement with regard to our independence in full:

"I am entirely satisfied that it is not arguable that a fair-minded and informed observer would conclude that there is a real possibility that the adjudicators are biased. My reasons mirror those which are set out in the defendant's summary grounds for resisting the claim, but it would be wrong to be too influenced by the technical position. It is important to attach due weight to what happens in practice.

The defendant's summary grounds, which Mr Oliver Mishcon for the claimants has not really engaged with at this hearing, show that parking adjudicators are appointed following open competition by a selection panel, and only then with the Lord Chancellor's consent. Indeed, their appointment is actually made by

the Chief Parking Adjudicator, pursuant to powers delegated to him by the committee which represents those local authorities outside London responsible for the enforcement of parking contraventions. It is he who determines the terms and conditions of parking adjudicators and where they are to sit. Moreover, it is wrong to say that they do not enjoy security of tenure. They can be removed from office in very limited circumstances only, and even then only with the consent of the Lord Chancellor and the Lord Chief Justice. Their appointment is automatically renewed for a further five years, save again in very limited circumstances, and again only with the consent of the Lord Chancellor and the Lord Chief Justice. Additional factors safeguarding their independence are that since they must be either barristers or solicitors of at least five years' standing, they are subject to professional codes of conduct, and their decisions are subject to judicial review.

Finally, statistics are said to show that almost two in three appeals are allowed. That is an impressive indicator of independence. Adjudicators, of course, have no financial incentive to uphold particular penalty charge notices, and it is important to note that the funding provided by each participating local authority is based on the number of penalty charge notices issued, not the number of penalty charge notices upheld.

For these reasons, I refuse the claimants permission to proceed with this claim on the basis that the parking adjudication system lacks independence"

Permission was granted for the application concerning the definition of a CPZ in Regulation 4 of the TSRGD, in regard to Sunderland where the PCNs were issued, to be subject to a full judicial review.

The Judicial Review of the CPZ point was heard in the High Court in London in May 2010 and the application was refused.

The case involved more than 39 PCNs, issued under the Road Traffic Act 1991 provisions, for being parked on a single yellow line within a controlled parking zone (CPZ). Regulation 4 of The Traffic Signs Regulations and General Directions 2002 (TSRGD) provides that roadside plates are not

required within a CPZ so long as every length of road within the CPZ is marked out either with yellow lines or parking bays.

There was no suggestion that the driver had been confused or misled about his entitlement to park; but he relied on a technical argument to the effect that the presence within the CPZ of other road markings such as zigzag lines at pedestrian crossings, bus clearway markings and taxi ranks, coupled with minor defects in the road markings, negated the council's right to dispense with roadside plates.

The adjudicator rejected this argument and the appellant's application for that decision to be reviewed was refused. The appellant applied to the High Court for judicial review.

Bean J refused the appellant's application. An appeal such as this, based entirely on technicality and utterly devoid of merit, should be dismissed. Although statutes, regulations or directions permitting the issue of PCNs are construed strictly in the sense that genuine ambiguity will be resolved in the motorist's favour, they need not be construed so literally as to produce an absurd result. On its proper construction, regulation 4 meant that every part of every road in a CPZ, other than a parking bay, had to be marked with yellow lines except where an alternative parking prohibition (such as zigzag lines) was marked out.

Further, any signs or lines elsewhere within the CPZ, but remote from where the vehicle was parked, that appeared not to comply with Traffic Signs Regulations and General Directions 2002 (SI 2002 No. 3113), were immaterial since they could not have misled the driver. Therefore Bean J's decision confirms that the basic test for the effectiveness of signage is whether a driver could reasonably have been misled.

Dickinson v. The Parking Adjudicator (and Hull City Council)

Permission for Judicial Review has been granted in the case of Dickinson v. The Parking Adjudicator (and Hull City Council). In that case the judge did not give reason as to why she was granting permission but, so far as we understand, the Claimant in person originally was seeking a re-hearing of his appeal. The Judge, indicated that she considered that the parties should agree that there would be a fresh hearing of the Dickinson appeal before an Adjudicator. This offer has been made to Mr. Dickinson, but he has not accepted this course of action so his application for Judicial Review now awaits a hearing date.

The TMA Initiatives – Chapter 2

Last year the Adjudicators examined the early impact of the TMA initiatives. However, because the first part of the year 2008/9 was involved deciding the remainder of the RTA appeals, there was in effect, only six months' experience to evaluate. Therefore we regard last year's annual report as TMA – Chapter 1.

Compelling Reasons and Referring Back

Last year we reported that there had been few incidences where the Adjudicator referred a case to the Chief Executive of the enforcement authority for reconsideration and that trend has continued this year. Where that has been necessary it is encouraging that in most, but with certain Councils not all cases, the Council has accepted the Adjudicator's recommendation and waived payment of the penalty charge. Regrettably in some cases the Chief Executive has failed to respond. This may be because the Council concerned is not geared up to the new procedures, or possibly that the parking office failed to ensure the case reached the right department.

These are the main cases from last year which were referred back:

WD 05030 D

Appellant produced ticket to the Council after receiving the PCN as the ticket had slipped down the windscreen so the CEO could not see it clearly.

The adjudicator suggested that the Council should cancel the Notice to Owner now that 'proof' is available. The Chief Executive agreed to waive the Penalty Charge Notice and Notice to Owner

LV 06072

The adjudicator set out compelling reasons - (1) first contravention, (2) paid correct fee and obtained ticket, (3) left windows partially open in order to ventilate vehicle for her and young children to return to, (4) Appellant had to take responsibility of two young children who would have been a potential

distraction thus preventing her from checking the correct display of ticket The Chief Executive agreed to exercise discretion and cancel penalty charge.

PL 05733 D

PCN issued for being parked beyond the bay markings. The Adjudicator agreed that the extent to which the vehicle was parked beyond the bay markings was trivial which was apparent from photos in the evidence bundle and would not have prevented another vehicle from parking in the adjacent bay. The Chief Executive agreed to take the Adjudicator's recommendation and cancel the Penalty Charge Notice.

TB 05740 LSD

Parked for longer than permitted. The Adjudicator found compelling reasons supported by evidence received from the GP explaining that a medical condition prevented the Appellant from moving vehicle The Chief Executive agreed to follow the Adjudicator's recommendation and cancel the Penalty Charge Notice.

PE 05358 J

Parked for longer than permitted. The adjudicator set out the mitigating circumstances that the appellant was out of the country when parking permit delivered and so was unable to fix onto vehicle. In a helpful response, the Chief Executive said that from the evidence reviewed he would have come to same conclusion as the Adjudicator, and agreed to waive Penalty Charge Notice and cancel Notice to Owner.

Adjudicators hope that the council will themselves recognise the sort of case where adjudicators are likely to ask them to exercise discretion. Having said that, as we highlighted in our comments about telephone hearings, there will always be evidence that emerges at a hearing, or otherwise in the course of an appeal, that will shed light on case showing it a genuine case of compelling reasons rather than general mitigation.

Consideration of Representations and Procedural Impropriety

Last year we emphasised that the express duty placed on authorities to consider compelling reasons had resulted in a more common sense approach. This remains the case, especially in hearings and in telephone hearings where both the council officer and the adjudicator can hear the full account of what happened and form a judgment as to whether it can be regarded as compelling. It is understandable that written reasons may not convey exactly what happened, and it is not always easy to discern the truth of what the motorist has said. However, hearings (both telephone and personal) provide the opportunity to assess the appellant's evidence and fit what they are saying into the context of how and why the PCN was issued.

Again we must emphasise that adjudicators seldom see cases from the many Councils that do adopt a reasonable and common sense approach to the consideration of representations; on the other hand other Councils still revert to the issue of a standard letter stating that the penalty charge is to be enforced because the contravention occurred without reference to the variety of circumstances which the Adjudicators know are put forward by Appellants.

Appellants often express the view that their representations have not been properly considered or that they are simply not being listened to in their dealings with the Council's staff. Doubtless there may well be pressure on those staff, particularly in view of the newly imposed time limits to deal with paperwork quickly and the perception may be that there is simply not enough time to consider each case individually.

The requirement to consider representations properly is reinforced in the Operational Guidance issued in March 2008 which in Chapter 11 recommends that representations are considered on their merits without slavish regard to policy considerations and by staff who are trained in the legal process. Further it is recommended that Councils should adopt and publish its policy with regard to the consideration of representations.

Whilst the Adjudicators acknowledge that many Councils have adopted the Operational Guidance and operate a system which would be regarded by all as fair and reasonable it remains a concern that there is an inconsistent approach to the consideration of representations which can, and in the Adjudicators experience often does, leave the Appellant with a sense of injustice.

There have nevertheless been a considerable number of cases this year where the appeal has been allowed because of procedural impropriety because it is totally apparent that the representations have not been considered appropriately. Most authorities have had an appeal allowed because of procedural impropriety; some have had many appeals allowed on that ground.

The duties placed on an enforcement authority when dealing with representations against the imposition of a penalty charge are contained in The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

Regulation 3(2)(b) requires information to be printed on a PCN to the effect:

“(b) that, if representations against the penalty charge are received at such address as may be specified for the purpose before a notice to owner is served—

those representations will be considered;”

With regard representations against the Notice to Owner (NtO) Regulation 4(2)(b)(ii) makes it clear that the recipient of a NtO may make representations,

“(ii) that, whether or not any of (the statutory) grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.”

Regulation 5(2)(a) requires the enforcement authority to consider any representation made in accordance with Regulation 4(2).

Regulation 4(5) defines “procedural impropriety”:

5) In these Regulations “procedural impropriety” means a failure by the enforcement authority to observe any requirement imposed on it by the 2004 Act, by the General Regulations or by these Regulations in relation to the imposition or recovery of a penalty charge or other sum and includes in particular—

(a) the taking of any step, whether or not involving the service of any document, otherwise than—

(i) in accordance with the conditions subject to which; or

(ii) at the time or during the period when,

it is authorised or required by the General Regulations or these Regulations to be taken;

In **TB 05657J** the appellant had taken her severely disabled son to buy some new shoes. It transpired that he had taken against the picture on his new Blue Badge and he had put his old Blue Badge on the dashboard because he preferred the photograph. On finding the PCN (which the adjudicator said was justifiably issued by the CEO) they both went to the council offices and showed them the new Blue Badge explaining what had happened. Although receiving a sympathetic reception and advice from the person they saw, the rejection letter that arrived simply said a contravention had occurred, which was repeated in the formal Notice of Rejection. The adjudicator said, “*I have no hesitation in finding that the Council entirely failed to consider the representation made under Regulation 4(2)(b)(ii). This followed and aggravated the Council’s failure to consider the informal representation in accordance with Regulation 3(2)(b)(i).*”

In **WG05182D** the Adjudicator allowed the appeal on the basis of procedural impropriety on the part of the Council because it had failed either to consider or to explain the reasons for rejecting the Appellant's mitigation. The Adjudicator noted that the language of the Council's NOR looked "*rather like they are standard or formulaic words applied in a pay and display ticket case. It is required that each case is considered on its individual merits and a standard approach without reference to the particular circumstances is not sufficient.*"

The Adjudicator went on to point out that the approach adopted by the Council was that discretion would not be exercised because the contravention had occurred. The Adjudicator stated "*discretion is irrelevant if there is no contravention. It is only relevant when a contravention has occurred. The approach should be that having identified that a contravention occurred the Council should then have considered the Appellant's explanation for it and decided with an explanation to him why if that were the case the penalty charge should nevertheless be paid.*"

In **WD 05036L** the council has stated on its website that each representation would be considered on its own merit so the appellant wrote in admitting the contravention of parking without buying a pay and display ticket but explaining what he regarded as compelling reasons because of what had happened to him that day. The Council rejected the informal representation as if he had denied the contravention so he realised his representation could not have been considered. The council said at the hearing that their policy was never to cancel a PCN if the CEO saw no ticket at all. The appellant argued that the policy was at odds with the website information and the duty to consider representation under the TMA regulations. He also said he would have paid the reduced penalty had he expressly been told that the council operated an inflexible policy. The adjudicator allowed the appeal on the ground of procedural impropriety because the council had demonstrably failed to comply with their duty to consider the representations. She suggested that if councils

have firm policies they should publish them instead of holding out that they will consider matters that in practice they will not.

Early resolution saves public resources

The last case showed that had the appellant received a considered and informative reply to his informal representations he would have paid the reduced penalty. Adjudicators are convinced that applying a degree more customer care when the first enquiry or challenge comes in will result in the desirable outcome of increasing the number of disputes that are resolved quickly and without incurring extra resources on the part of the council, and ultimately at the Traffic Penalty Tribunal. Hopefully one or two of the Council annual reports will examine this issue.

Variable Penalty Charges

From time to time anomalies arising from the variable charges guidelines emerge. In **SI05404H** the Adjudicator considered an appeal in relation to a PCN issued because a vehicle had been parked in a shared use bay without displaying a permit in circumstances where parking was restricted to a period of five minutes between 8am – 10pm Monday to Saturday except for resident permit holders.

The Adjudicator concluded that the provision relating to permit holders was described in the TRO as an exception to the limited parking time restriction so that the correct contravention was that the vehicle had been parked for longer than the permitted period which attracted a lower rate penalty charge.

The Adjudicator commented that the relevant TRO did not provide for any kind of pay and display restriction in the bay and that it was clear that the contravention alleged on the PCN was intended to relate to a combination of

resident's parking and pay and display and not a combination of resident's parking and limited waiting.

In the Adjudicator's view this confusion has the potential to undermine the general principles of variable charging, as well as failing to make clear to the recipient of the PCN what contravention is alleged.

Camera enforcement of Parking Contraventions and Parking Penalty Charge Notices sent by Post

Introduction

When The Traffic Management Act 2004 and its associated regulations¹ came into force on 31 March 2008, councils became empowered in certain circumstances to send Penalty Charge Notices (PCNs) by post. Regulation 10 of the *Civil Enforcement of Parking Contraventions (England) General Regulations 2007* and Regulation 6 of the *Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008* both provide that:

"An enforcement authority may serve a penalty charge notice by post

[where] –

1. on the basis of a record produced by an approved device, the authority has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area..."

Adjudicators have considered appeals from four English authorities (outside London) where the PCN has been sent by post on the basis of a record produced by an approved device, i.e. a film. Those authorities are Basildon,

¹ Principally The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the General Regulations) and The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (the Appeals Regulations).

Bolton, Medway and Wirral. Each of these authorities has a CCTV vehicle with a camera mounted like a periscope on the top of the vehicle.

There have been no appeals from authorities in Wales based on camera enforcement; we do not believe that camera enforcement has been adopted yet in Wales and so this section refers to 'Regulation 10' PCNs (being Regulation 10 the English regulations).

Appropriate enforcement and evidence

While there have been examples of PCNs being correctly issued and served under Regulation 10(1)(a) and the ensuing appeals dismissed, there are also examples of successful appeals where enforcement by camera was found to be wrong in principle, ill considered in the circumstances or the evidence inadequate. In some of these cases, adjudicators have criticised quite severely the approach of councils involved.

Of course it must be borne in mind that the point of the appeal process that adjudicators only see cases where there is a perceived or actual problem. Looking at the rate of appeal it can be seen that only a small proportion of PCNs are disputed.

Having said that, significantly more appeals against camera enforcement PCNs have succeeded than against those issued in the traditional way by fixing them to the vehicle or handing them to the driver. Furthermore, a high proportion of these appeals are not contested by the Council, and in Medway's case, this amounts to more than 70%.

While most cases turn on their particular facts, some general points emerge from the allowed appeals. Where camera enforcement is relied upon, the ideal evidence bundle will include certain key items and, if one or more of them is missing or defective, the council is likely to have difficulty establishing its case. For example:

Film footage needs to be clear enough and of sufficient duration to prove the alleged contravention.

There should be a statement from the named civil enforcement officer or supervisor who reviewed the film and decided to issue a PCN.

There should be evidence (if necessary in addition to the film footage) that the carriageway markings and roadside signs are present and in order.

Where the camera or vehicle is in question, the council should be in a position to prove that the camera is an approved device (although this is not necessary if type approval is not in dispute)

There should be evidence of signs warning the public that camera enforcement is taking place.

The council should have and publish on their website a code of practice for camera enforcement.

The council should be able to explain why it was appropriate to enforce by camera rather than by civil enforcement officer.

The PCN and subsequent documents in the enforcement process must be accurate and in accordance with the Regulations.

The councils in the following appeals proved their cases successfully using CCTV evidence. In **BB05448E** the appellant did not dispute having stopped in a restricted bus stop / stand as alleged; the council's evidence was in order and the appeal was dismissed. **BB05491D** and **BB05517F** are similar. The appellants in **BB05530D**, **EI05073K**, **EI05111G** and **BB05504D** raised mitigating circumstances which were properly matters for the discretion of the council only. All these appeals were dismissed.

CCTV vehicles

Most of the appeals decided so far relate to mobile CCTV cameras although fixed devices may also be permitted (**WL05300B** being an example of an appeal from a fixed site CCTV camera). Either way, the camera must be an “approved device” in accordance with the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007.

Bournemouth and Basildon have similar CCTV cars that recognise the relevant parking restriction by virtue of references to the TRO mapped provisions reflected on an OS base map with the grid references. Therefore the technology within the vehicle recognises the restriction and identifies vehicles parked in apparent contravention and films the VRM.

The workings of this type of CCTV car system were explained in **BB05476L**.

“...the PCN was issued by post as the alleged contravention was identified through use of an unattended mobile camera operated on the Council's Automatic Number Plate Recognition Vehicle known as RoadFLOW. ...

The Council has explained the operation of the mobile camera and has produced the Standard Operating Procedures for the RoadFLOW system together with a copy of the approval of the device by the Secretary of State dated 9 June 2009.

Unlike where a PCN is issued to a vehicle or driver by a Civil Enforcement Officer (CEO), the RoadFLOW camera automatically records vehicles while the camera vehicle is following a prescribed route with no consideration by a human mind whether a penalty charge is payable in relation to a stationary vehicle. It is not until the video evidence is reviewed by a “Civil Enforcement Officer Supervisor” that the Council can have reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area.”

However, the road markings or signs may not accurately or adequately reflect the terms of the TRO shown by reference to the grid. In **EI 05065M** the loading

restriction kerb markings had faded and were not apparent to the appellants who had parked displaying a Blue Badge. It transpired that the County Council repainted the defective kerb markings sometime after the event, and the adjudicator found that although the CCTV car had recognised that there should be a loading restriction at that point, it was not properly signed.

The Medway CCTV car operates a different way. The car is manned by an operator in addition to the driver and the occupants decide to film vehicles they spot parked in contravention. This has given rise to considerable criticism from the citizens of Medway as well from adjudicators in some cases.

One of the principle difficulties is that the driver of the CCTV vehicle parks is for anything up to five minutes while the operator points the camera at the offending vehicle. Appellants have questioned why the council CCTV car can park for five minutes on a double yellow line while they are having penalties imposed on them for the same practice. Adjudicators have noticed that in some of the correspondence the council has claimed that the TMA provides an exemption from parking restrictions for a CCTV vehicle. This is not the case - there are no provisions in the TMA or any of its regulations that create exemptions to parking restrictions in TROs for vehicles engaged in camera enforcement.

Cameras and enforcement policy

The Department for Transport's **Operational Guidance to Local Authorities: Parking Policy and Enforcement** recognises that camera enforcement is different from enforcement by civil enforcement officers on foot. Paragraph 8.78 states that:

*"Motorists may regard enforcement by cameras as over-zealous and authorities should use them sparingly. The Secretary of State recommends that authorities put up signs to tell drivers that they are using cameras to detect contraventions. Signs must comply with TSRGD or have special authorisation from DfT. **The Secretary of State recommends that approved***

devices are used only where enforcement is difficult or sensitive and CEO enforcement is not practical. Approved devices should not be used where permits or exemptions (such as resident permits or Blue Badges) not visible to the equipment may apply”.

Motorists may be unaware that their vehicles are being photographed and challenge the penalty because they do not understand or recall how it came to be incurred. The time delay between the alleged contravention and receipt of the regulation 10 PCN may mean that evidence supporting the motorist's right to park may no longer be at hand. Councils should be aware of these factors in deciding when and where to use camera evidence and should formulate proper policy, as the operational Guidance advises (paragraph 8.82).

“An essential and integral part of any system is a code of practice. This sets out the objectives of the system and the rules it will follow. Authorities should ensure that they produce (or adopt) and follow a code of practice. The code should make sure that staff deal properly with issues such as privacy, integrity and fairness. It should set minimum standards to help ensure public confidence in the scheme.”

In **MW06157C** the council produced its code of conduct but the chief adjudicator found it to be inadequate, not least because the PCN was issued for stopping for a mere 46 seconds so that the driver and passenger could change places. This was, she found, de minimis and did not amount to a contravention. She said:

“The Council has produced in its evidence a full copy of its own Code of Practice for CCTV enforcement. I can find nothing in that lengthy document dealing with integrity or fairness. Had those important principles been addressed then the Council might have stopped to consider whether it was fair to impose a penalty upon [the appellant]”.

Adjudicators have observed that a PCN should not be issued by post using video evidence if it could perfectly easily have been issued and served in the

usual way under Regulation 9. The appeal in **MW06166D** was allowed for other reasons (below), but the adjudicator commented that:

"I cannot understand why the Council considered it appropriate to use the CCTV car to detect this so-called contravention. There is no reason why the civil enforcement officer could not have got out of the CCTV car and walked over to [the] car and placed a PCN on the windscreen."

The adjudicator may require the council to explain why camera enforcement and the issue of a PCN by post were considered appropriate in the circumstances. In **MW06082F** the appellant parked a commercial vehicle, clearly marked as such, outside the company's own premises. He said he was entitled to park because he was loading at the time but was unable to produce independent evidence. The adjudicator criticised the council for using the CCTV car in these circumstances and said:

"It appears the Council's CCTV car was itself hovering around the ... car for five minutes and did not film any activity. It is not clear why the civil enforcement officer did not get out of the car and attach a penalty charge notice to the ... car in the usual manner. Had that happened [the appellant] would have been put on immediate notice of the alleged contravention and would have had evidence of the unloading to hand. However, because the Council chose to send the PCN by post eleven days later I am not surprised that [the appellant] no longer had any evidence to provide to the Council or with his appeal. ... Given that the [appellant] has been prejudiced by the Council taking the curious decision to issue a postal PCN for a breach of a restriction that carries the loading/unloading exemption I accept [the appellant's] evidence that the vehicle was engaged in that activity and therefore no contravention occurred."

In **MW06159J** the council failed to explain why the PCN could not have been issued by a civil enforcement officer. The adjudicator said:

"If it is intended to rely on CCTV evidence, then the rules really must be followed by this Council and evidence given in the form of a proper witness

statement in order to try and support the contention that a CEO could not be deployed in Best Street on one of the very limited grounds specified."

In **BB05476L** the film was very dark and unclear and there was no statement from the civil enforcement officer who reviewed the video. In **WL05219F** the evidence included a statement from the civil enforcement officer who reviewed the film and decided to issue the PCN but it did not give his name; further, the council officer who attended the hearing was unable to confirm the contents of the council's policy for camera enforcement.

Proving the contravention

As in any other case, the council has the burden of proving the facts of the contravention on the balance of probabilities. In some cases, camera evidence is perfectly adequate to prove the contravention. For example, in **BB05504** the Council produced a copy of a video recording that showed the vehicle parked in a marked bus stop with the passenger door open. In **BB05492G** video film and still photographs clearly established that a security vehicle had stopped in a marked bus stop to make a delivery.

There have been a number of cases, however, where the council has failed to prove the contravention. In **EI05062C** the PCN was issued for stopping on a red route clearway. The photographs showed the vehicle stationary in a bus stop in a lay-by to the side of the red route. It seemed that the CCTV vehicle was not programmed to recognise adjacent restrictions and the appeal was allowed because the authority was endeavouring to impose a penalty for the wrong contravention. In **EI05119J** the film showed the car parked outside the zig-zags of a pelican crossing even though the prohibition on stopping only applies within the restricted area bounded by the zig-zags.

In **EI05109E** the appellant denied that his car, in which he was a passenger, had parked; he said he took the opportunity to alight when the car stopped to allow another vehicle to come out of the service road where they were intending to park. The CCTV footage clearly showed the indicator flashing

and the driver present in the car, which was not positioned as close to the kerb as one would expect if it were parked. The adjudicator said: *"The evidence confirms [the appellant's] account and tends to show to me that the vehicle has just dropped off a passenger. Because it was filmed for less than one minute there is no means of knowing whether the car drove into the service road or not. The Council is wrong to assert that it unlawful to stop where there is a loading ban; the setting down and picking up of passengers is permitted."*

Similarly, in **MW06159J** analysis of the video supported the appellant's account of events. Approaching the entrance to his destination, he did not park but had to manoeuvre out of the way of another vehicle, wait for a pedestrian to move aside then reverse to allow another car to drive out before himself driving in. The photographs clearly showed that the reversing lights were on as well as confirming the presence of the other car and the pedestrian. The appeal was allowed. The adjudicator said: *"I have no hesitation in finding that the Appellant was not parked –it is quite obvious that he was engaged in reversing out of the way of the grey car seen in the photographs with reversing lights showing and a male pedestrian getting in his way."*

In **BB05496H** the council failed to establish from the video evidence that the car had actually stopped. The short video showed the car indicating to pull out and the adjudicator observed that it would have done so sooner had it not been blocked by the passing CCTV car. By contrast, the video evidence in **EI05118F** showed the vehicle stationary with its brake lights on and wheels straight, apparently waiting for another car to vacate a space. This tended to disprove the appellant's evidence that he had been pulling away from the kerb when the film was taken. The appeal was dismissed.

When reviewing the CCTV footage, councils should take into account the possibility that a vehicle has stopped legitimately for a purpose that is actually permitted. There have been examples of councils treating areas where a loading ban is in force as if they were subject to the "no stopping" restriction of a red route clearway. In particular, a brief stop to drop off a passenger, while

unlawful on a red route, is permitted where a loading ban is in force. In **EI05066D** the driver stopped briefly on a yellow line with kerb markings while his passenger got out. He then reversed into the adjacent car park. The video clip showed the reversing lights to be illuminated. The adjudicator found *"first, that the vehicle was stopped momentarily to set down [the passenger], which is permitted, and secondly, that thereafter it was reversing and consequently not waiting."* No contravention occurred. **EI05109E** (above) is similar.

Sometimes, the video footage is too short to establish the position one way or another. The adjudicator said in **MW06159J**: *"This is yet another case where this Council seek to establish a contravention on the basis of CCTV footage, providing photographs covering an incredibly short timescale –some 17 seconds-and providing no evidence at all to justify the use of CCTV evidence rather than that of a CEO."*

Signage

As in any other case, the restriction said to have been contravened must be properly signed. Evidence about signage has been an issue in a number of cases involving camera enforcement. Sometimes, when it comes to establishing the presence of the required signs, the images produced by a moving camera are not as clear or comprehensive as still photographs taken by a civil enforcement officer on foot.

In **BO05805B** the photographs showed a yellow line but did not establish the presence of the kerb markings which are necessary to signify a loading ban. The appeal was allowed. In **EI05113B** and **EI05119J**, the moving camera footage showed a single yellow line and kerb markings to indicate a loading ban at certain times but because of the camera angle, provided no evidence of the presence of roadside time plates. The council's evidence in **BB05531G** failed to establish the presence of the prescribed signage. The photographs in **MW06157C** appeared to have been taken in moonlight and were barely

discernible. All three appeals were allowed. The adjudicator pointed out in **MW06157C** that the council could have supplemented the CCTV footage with still photographs of the site or other evidence of the presence of signage, but had not done so.

Bus stop signage

As the adjudicator said in **EI05105D**, evidence about signage is particularly important when the contravention relates to a restricted bus stop or stand. This is because it is the signage itself, not an underlying TRO, which creates the restriction.

In **BB05496H** the video evidence established that the proper bus stop / stand signage was missing. In **EI05105D** the video footage showed the carriageway to be properly marked but, because of the angle of the camera, failed to establish the presence of the roadside time plate. The adjudicator made no finding of fact as to the adequacy of the signage at the location but concluded that the evidence was insufficient to satisfy him of its adequacy on this occasion.

Conclusion

The experience of those authorities that have lead the way in using camera enforcement has demonstrated five important points:

For a penalty to be imposed for a parking contravention the vehicle must be stationary. In a significant number of appeals the film does not prove that the vehicle was stationary and in some cases actually supports the appellant's contention that it was moving. In these cases the driver and sometimes a passenger can be identified in the film. It follows that in many of the appeals that have been dismissed the vehicle is clearly unattended thus proving it was stationary.

There are only limited locations where camera enforcement is suitable.

The Council cannot simply rely on the CCTV vehicle being an approved device, it is how and where it used that matters. They can be used effectively outside schools and on clearways but should not be used where there are exemptions for loading with an exemption for a Blue Badge holders. Even a loading ban does not restrict a vehicle from stopping to set down and pick up a passenger.

Both types of CCTV vehicle have their drawbacks - the difficulty with the moving CCTV vehicle filming as it passes by is that it may not capture the full picture for long enough to establish what was happening; whereas the problem with a CCTV operated by a CEO passenger is that it may have to stop in contravention of the restrictions for quite a time to direct the camera appropriately.

Camera enforcement should not be used as substitute for a CEO issued the PCN. There is little or no justification for the vehicle to be parked for five minutes filming a vehicle when the CEO in the vehicle could get out and issue the PCN.

Enforcement authorities should regularly remind themselves of the Secretary of State's Guidance and ensure that the use of the CCTV enforcement is properly supporting their transport objectives and that it is being applied fairly and with integrity.

Dropped kerbs and double parking

In the last year adjudicators have had to decide appeals against PCNs issued for these two new parking contraventions. Only a few authorities appear to use the new powers, and it is helpful that the experience of the vanguard councils can be examined before other authorities decide to issue PCNs for these problematical contraventions.

Background

Sections 85 and 86 of the TMA create two new offences of parking by a dropped kerb and double parking (albeit expressed in the curious way of prohibiting parking where no part of the vehicle is within 50 centimetres of the kerb). Neither of these are offences under the criminal law, nor have they ever been, although there is obviously the long standing offence of obstructing the highway.

Sections 85 and 86 only apply in a 'special enforcement area'. This is defined in Schedule 8 of the TMA - in practice these are local authority areas where they have applied to the Secretary of State for Transport for the powers to enforce parking offences (contraventions) by means of civil enforcement. Therefore each the enforcement areas in our jurisdiction in both England and Wales is a special enforcement area. Therefore, Sections 85 and 86 of the TMA are entirely new offences that only apply in certain local authority areas in England and Wales.

The effect of a special enforcement order is that the enforcement authority can impose a civil penalty for the hitherto criminal offences set out in Schedule 7 of the TMA.

The rationale for enforcement may seem obvious. In **SS05831J** a PCN was issued because of a complaint by a householder that a vehicle was partially obstructing his drive, where the kerb had been lowered to give access to the property. The adjudicator dismissed the appeal and said: *"I am sure that [the appellant] would recognise now that he has seen the photographs in the*

appeal bundle that he had parked the vehicle inconsiderately and partially obstructing the dropped kerb..."

Nonetheless, in the wider context of civil parking enforcement outside London, dropped kerbs and double parking are oddities. At the time of writing, there have been 40 appeals determined against PCNs issued for either of the two new contraventions, of which 30 have been allowed, 9 have been dismissed with one consent order.

In the usual run of things, a parking contravention occurs when a motorist breaches a term of a Traffic Regulation Order, which has been communicated to him by signs which are clear and comply with The Traffic Signs Regulations and General Directions (2002) (TSRGD). The civil parking contraventions now enforced by local authorities under the statutory framework established by the Traffic Management Act 2004 (TMA) and its associated Regulations, are matters which were formerly (and indeed remain in areas where civil enforcement powers have not been taken up) criminal offences enforced by the Police through the Magistrates Courts. The contraventions involving double and dropped kerb parking are different.

The legal basis for enforcement

To understand the complexity of the new provisos we think it important to cite both sections in full:

85 Prohibition of double parking etc.

(1) In a special enforcement area a vehicle must not be parked on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.

This is subject to the following exceptions.

(2) The first exception is where the vehicle is parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised.

A "designated parking place" means a parking place designated by order under section 6, 9, 32(1)(b) or 45 of the Road Traffic Regulation Act 1984 (c. 27).

(3) The second exception is where the vehicle is being used for fire brigade, ambulance or police purposes.

(4) The third exception is where—

(a) the vehicle is being used for the purposes of delivering goods to, or collecting goods from, any premises, or is being loaded from or unloaded to any premises,

(b) the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1), and

(c) the vehicle is so parked for no longer than is necessary and for no more than 20 minutes.

(5) The fourth exception is where—

(a) the vehicle is being used in connection with any of the following—

(i) undertaking any building operation, demolition or excavation,

(ii) the collection of waste by a local authority,

(iii) removing an obstruction to traffic,

(iv) undertaking works in relation to a road, a traffic sign or road lighting, or

(v) undertaking works in relation to a sewer or water main or in relation to the supply of gas, electricity, water or communications services,

(b) it cannot be so used without being parked as mentioned in subsection (1), and

(c) it is so parked for no longer than is necessary.

(6) In this section "carriageway" has the meaning given by section 329(1) of the Highways Act 1980 (c. 66).

(7) References in this section to parking include waiting, but do not include stopping where—

(a) the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop to avoid an accident, or

(b) the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it.

(8)The prohibition in this section is enforceable as if imposed—

(a) in Greater London, by an order under section 6 of the Road Traffic Regulation Act 1984;

(b) elsewhere in England and Wales, by an order under section 1 of that Act.

86 Prohibition of parking at dropped footways etc.

(1) In a special enforcement area a vehicle must not be parked on the carriageway adjacent to a footway, cycle track or verge where—

(a) the footway, cycle track or verge has been lowered to meet the level of the carriageway for the purpose of—

(i) assisting pedestrians crossing the carriageway,

*(ii) assisting cyclists entering or leaving the carriageway,
or*

(iii) assisting vehicles entering or leaving the carriageway across the footway, cycle track or verge; or

(b) the carriageway has, for a purpose within paragraph (a)(i) to (iii), been raised to meet the level of the footway, cycle track or verge.

This is subject to the following exceptions.

(2) The first exception is where the vehicle is parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised.

A “designated parking place” means a parking place designated by order under section 6, 9, 32(1)(b) or 45 of the Road Traffic Regulation Act 1984 (c. 27).

(3) The second exception is where the vehicle is parked outside residential premises by or with the consent (but not consent given for reward) of the occupier of the premises.

This exception does not apply in the case of a shared driveway.

(4) The third exception is where the vehicle is being used for fire brigade, ambulance or police purposes.

(5) The fourth exception is where—

(a) the vehicle is being used for the purposes of delivering goods to, or collecting goods from, any premises, or is being loaded from or unloaded to any premises,

(b) the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1), and

(c) the vehicle is so parked for no longer than is necessary and for no more than 20 minutes.

(6) The fifth exception is where—

(a) the vehicle is being used in connection with any of the following—

(i) undertaking any building operation, demolition or excavation,

(ii) the collection of waste by a local authority,

(iii) removing an obstruction to traffic,

(iv) undertaking works in relation to a road, a traffic sign or road lighting, or

(v) undertaking works in relation to a sewer or water main or in relation to the supply of gas, electricity, water or communications services,

(b) it cannot be so used without being parked as mentioned in subsection (1), and

(c) it is so parked for no longer than is necessary.

(7) In this section “carriageway”, “cycle track” and “footway” have the meanings given by section 329(1) of the Highways Act 1980 (c. 66).

(8) References in this section to parking include waiting, but do not include stopping where—

(a) the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop to avoid an accident, or

(b) the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it.

(9) The prohibition in this section is enforceable as if imposed—

(a) in Greater London, by an order under section 6 of the Road Traffic Regulation Act 1984 (c. 27),

(b) elsewhere in England and Wales, by an order under section 1 of that Act.

It can be seen that there are three important and unusual elements to sections 85 and 86.

1. **Jurisdiction** – the new offences are only enforceable in a special enforcement area, elsewhere they are not offences for which the miscreant can be fined or have a penalty imposed. By way of example, at the time of writing they apply in Portsmouth and Cambridge but not in Gosport or Ely.
2. **Power to enforce** –The new contraventions are enforceable as the restrictions had been created by a traffic regulation order made under Section 1 of the Road Traffic Act 1984. This brings them within the list of contraventions contained in Paragraph 4 of Schedule 7 of the TMA for which a penalty charge notice can be issued. However, TROs made under Sections 1 (typically waiting restrictions, which are in themselves subject to other statutory requirements, e.g. signing – see below).
3. **There are important exceptions** – in particular the second exception to the dropped kerb restriction that outside residential premises the restriction does not apply if the vehicle is parked with the consent of the occupier, impact on how the authority should identify cases where it is appropriate to issue a PCN.

Although Sections 85 and 86 were brought on 31 March 2008 it was realised that one of the effects of making them enforceable as if they were orders made under Section 1 of the 1984 Act is that Regulation 18 of The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996

(S.I. 2489) (LATOR) would engage, which would require the authority to bring the restriction to the attention of persons using the road by means of signs.

However, there are no authorised signs to indicate either of these restrictions and nor, realistically, could there be. Therefore, after a considerable amount of thought the DfT resolved that particular difficulty in *The Local Authorities' Traffic Orders (Procedure) (England and Wales) (Amendment) (England) Regulations 2009* by removing, with effect from 1 June 2009, the requirement to sign these new restrictions from Regulation 18 of LATOR. The Welsh Assembly Government has yet to issue a similar SI.

The exemption from Regulation 18 of LATOR did not, however, get round the difficulty that a driver has no means on knowing whether the vehicle is in a special enforcement area or not and there is no prescribed signage either within or at points of entry to a special enforcement area. Therefore it is not apparent whether you are in place where your conduct may attract a fine. This is further exacerbated where the vehicle was parked in an otherwise unrestricted street.

Summary of key differences

Contraventions involving dropped kerbs and double parking are therefore different from other contraventions in several important ways.

- Although the Highway Code warns drivers that they should not double park or park against a dropped kerb, neither act is or ever has been a criminal offence (cases involving hazard or obstruction are another matter).
- Dropped kerbs and double parking are not contraventions that apply everywhere in England and Wales but only in special enforcement areas.
- A motorist cannot necessarily tell whether he is in a special enforcement area or not.

- However, unlike other civil parking contraventions, there is no requirement for signage.
- Enforcement policy and practice is not therefore straightforward.

For these reasons TMA s87 specifically requires enforcing authorities to have regard to guidance provided by the Secretary of State. Unlike the generality of the operational guidance, which recommends good practice, **councils must have regard to the guidance issued under section 87.**

The Guidance

The Secretary of State's guidance is contained in chapter 8 of "Parking Policy and Enforcement" published in March 2008 ("the Guidance"). Paragraph 8.59A, which was added after the original version was published and specifically in view of the absence of any requirement to put up signage states:

"The purpose of these powers is to help prevent inconsiderate or selfish parking causing congestion and road safety problems. To be effective enforcement action may need to be quite severe and so the power should always be used reasonably and with circumspection. Enforcement action should only be taken if the vehicle is causing or is likely to cause a road safety hazard or obstruction to other road users or pedestrians. Restrictions on situations in which the authority can use these powers mean that they may be more suitable for tackling persistent problems than occasional ones. An authority that decides to use the power should before commencement publicise the circumstances in which they will or will not take action. If an authority decides to target an area where there is known to be a problem they should first use additional publicities such as leaflets to all households in the area."

Therefore the Secretary of State has made it completely clear that there is a strong duty on enforcement authorities intending to use the powers in their

area to publicise the contraventions and where they apply. It must also be right that motorists are entitled to know of the exceptions.

In most of the appeals that adjudicators have seen the appellant has been in complete ignorance that they could be penalised. The council in **PO05440H** began, as the Chief Adjudicator put it, *"to use their new powers with considerable enthusiasm"* with an approach, that was contrary to the Guidance because the Council had decided it could not afford to publish and distribute leaflets and relied solely on a single press release in August 2009. In a detailed decision about the enforcement of the dropped kerb contravention, the Chief Adjudicator summarised the legal basis for enforcement and the ways in which it differs from other contraventions, and suggested a proper approach for councils to take. While not legally binding on other adjudicators, this decision has been referred to several times in other decisions and may be indicative of the approach that adjudicators will take, especially while these areas of enforcement are relatively new.

The Chief Adjudicator expressed the view that given there had been no leaflets *"the only proper ways for a council to use these powers are either to issue a warning notice for the first contravention with a leaflet in the envelope explaining the prohibition, or, if the CEO does not know if there has been an earlier warning, for the Council to cancel the first PCN, giving a full explanation of the law and where it applies in their area. The PCN processing system will have records of which car has received a warning notice in the past so that information can be used in the event of a further contravention"*.

The Chief Adjudicator pointed out that citizens are taken to know the statutory laws summarised in the well-known maxim *ignorantia juris non excusat* (ignorance of the law is no excuse). However, since the Section 85 and 86 provisions are enforceable as if they were a bylaw, and only in selective area of the nation where the rules may change from one street to the next, the maxim did not apply. *"This is particularly pertinent in Portsmouth because the neighbouring authority, Gosport, is not a Special Enforcement Authority. Therefore how the citizens of Hampshire passing between Portsmouth and Gosport are expected to know where they can be penalised for parking by a*

dropped kerb and where they cannot is a question neither the City Council nor the Department for Transport appear to have considered."

Publicity

In special enforcement areas, therefore, publicity is required. A number of appeals have demonstrated that the council had failed to take the necessary steps to make motorists aware.

In **IW05223K** the council produced no *"evidence to show that the making of the special enforcement area was the subject of any publicity within the council's area"*. In **YS05087D** the appellant and his neighbours had parked in the same place for many years and had been told by a Police officer that this was in order. The council commenced enforcement with no publicity whatsoever, leaving the appellant justifiably perplexed as to why he had received a PCN.

In **RW05356E** the council relied on a limited publicity campaign but the appellant, a local resident, knew nothing about it. The adjudicator said: *"I agree with [the appellant] that it was not satisfactory for the Council to rely on the local newspapers and its own website to advertise enforcement of dropped kerb restrictions. This new law only applies in civil enforcement areas and most residents would not know whether they live in such an area. Importantly, it is not a criminal offence that is subject to civil enforcement in a special enforcement area, but a new contravention that does not apply generally in either England or Wales."*

In **WT05300H** the council produced a draft press release (which in fact went unpublished) extracts from its web site and parts of a leaflet "about Watford" with no clues as to the context or prominence of the extracts quoted. This was not sufficient to satisfy the adjudicator that *"a major policy change was adequately highlighted"*.

In **GX05054E** by contrast, the council produced evidence to establish that it had run a leaflet campaign and placed appropriate warnings on parked cars before beginning to enforce. The adjudicator said: *"I am satisfied that this location is within a Special Enforcement Area and therefore the prohibition on parking adjacent to a dropped footway applies. I am satisfied that this was a dropped footway and therefore the contravention occurred. It may seem unfair that a motorist can be penalised without warning signs drawing attention to a restriction but in this case the Highway Code already informs motorist that a car should not be parked there."*

GH05097G was adjourned to obtain evidence of the council's publicity campaign and eventually resolved by consent. The adjudicator acknowledged that the appellant would not be able to rely on lack of knowledge or information in future.

Enforcement policy

It is clear from paragraph 8.59A of the Guidance that councils should publicise not only their power to enforce these contraventions but the circumstances in which they intend to do so. It is therefore incumbent on the council to produce evidence as to why it was necessary to issue a PCN. This might be a specific complaint (as in **SS05831J**) or evidence of a more general problem. However, these are not contraventions for councils to enforce 'just because they can'.

RW05333K is a striking example of inappropriate enforcement. The appellant parked by a dropped kerb in full view of the civil enforcement officer, who could easily have pointed out the dropped kerb. The appellant never left his vehicle and was wholly unaware of the dropped kerb. He believed that he had parked legitimately on a double yellow line with his blue badge on display but drove away when he noticed the officer taking photographs. Nothing was said and a PCN was served by post. The Chief Adjudicator allowed the appeal and said *"it was never intended that PCNs should be sent to the owner of a car where the driver could be advised to move."*

Proving the contravention

As always, the council has the burden of proving on the balance of probabilities that a contravention occurred.

TMA section 85: prohibition of double parking etc

PCNS are issued under **code 26**: *“Parked in a special enforcement area more than 50 cm from the edge of the carriageway and not within a designated parking place”*. Section 85 (1) of the TMA provides that:

- (1) *In a special enforcement area a vehicle must not be parked on the carriageway in such a way that no part of the vehicle is within 50 centimetres of the edge of the carriageway.*

‘Carriageway’ has the meaning given by Section 329(1) of the Highways Act 1980, namely, *“a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles”*.

The following appeals were allowed because the council failed to establish the basic facts of the contravention. The PCN in **MW05997J** was served by post on the basis of camera evidence, analysis of which proved that the vehicle was actually moving at the time the contravention was said to have occurred. In **MK05444E** the adjudicator found as a fact that the vehicle was less than 50cm from the edge of the carriageway. In **PO05410G** the photographs were inconclusive about the distance from the kerb and the evidence insufficient to prove that a contravention had occurred. In **YS05087D** the appellant parked close to the kerb against a small traffic island which divided the main carriageway. Because the island was not “a way over which the public have a right of way for the passage of vehicles”, the adjudicator found that this kerb was the edge of the carriageway, therefore no contravention had occurred. If the council wished to prevent parking against the island, it should impose a restriction and paint yellow lines.

TMA section 86: prohibition of parking at dropped footways etc

PCNs are issued under **code 27**: “*Parked in a special enforcement area adjacent to a dropped footway*”. Section 86(1) of the TMA provides that:

(1) *In a special enforcement area a vehicle must not be parked on the carriageway adjacent to a footway, cycle track or verge where—*

(a) *the footway, cycle track or verge has been lowered to meet the level of the carriageway for the purpose of—*

(i) *assisting pedestrians crossing the carriageway,*

(ii) *assisting cyclists entering or leaving the carriageway, or*

(iii) *assisting vehicles entering or leaving the carriageway across the footway, cycle track or verge; or*

(b) *the carriageway has, for a purpose within paragraph (a)(i) to (iii), been raised to meet the level of the footway, cycle track or verge.*

There are two elements to be established:

- the **physical** presence of a lowered footway or raised carriageway; and
- its underlying **purpose**.

Physical characteristics

The area of dropped kerb where parking is alleged to be prohibited must be identifiable. Clear photographs are important. In **NH05131J** the appellant said that he parked at night, did not notice the dropped footway and did not know it was wrong to park there. Nonetheless, the contravention was proved and the appeal dismissed. In **BC05332H** by contrast, photographic evidence proved conclusively that the appellant did not park against a dropped kerb.

In **BM07712K** a PCN was issued and the vehicle removed but the presence of a dropped footway could not be established because the photographs were unclear. (The removal documents were also defective.) The photographs in

WT05300F showed the appellant's car on recently laid asphalt but did not establish where the dropped kerb actually started. The adjudicator said: *"An assumption may be that it starts where the asphalt starts but the Council need to prove this on the balance of probabilities and the determinative photographic evidence is just not there. On this material, I cannot find that there was a contravention."* In **HX05051E** the adjudicator noted *"from the set of photographs provided by [the appellant] that there is little difference in the height of the coloured "tactile paving" footway and the paving continuing along that side of Young Street, adding to the potential for confusion that is aggravated by the lack of a requirement to sign this restriction"*.

Before the TMA came into force it was not unusual for councils to sign locations where vehicles might cause an obstruction by the advisory 'keep clear' white line in the form of diagram 1026.1 in Schedule 6 to the TSRGD. Indeed, as the Chief Adjudicator commented in **SG05080G**, *"there would seem no obvious reason for not continuing to do so for the sake of clarity and to ensure consistency"*. Used properly and strictly alongside areas where the kerb is lowered, therefore, these markings may be helpful. Any confusion created by white lines or other road markings, however, is likely to be resolved in the appellant's favour.

In **RW05356E** the appellant parked well away from the white line but nonetheless received a PCN under code 27. The appeal was allowed. In **BC05332H** a civil enforcement officer visited the area because of a complaint from the occupants of nearby premises. The photographs showed a parking area in front of these premises access to which was over a lowered kerb and established that the appellant's vehicle was not parked across the entranceway but adjacent to a raised, albeit low kerb. An advisory white line ran along the whole length of the road *"but this did not mean that any vehicle parked on it was contravening the dropped kerb restriction"*. In **SL05457C** the presence of a single yellow line outside its hours of operation was found to have given cause for confusion and the appeal was allowed.

Purpose

The dropped kerb must also have one of the purposes set out in section 86(1)(a). In **PO05440H** the dropped kerb was barely noticeable and also served no purpose because the schoolchildren for whom it was originally intended now entered school by a different route. In **HX05051E** the adjudicator found that *"the purpose of the dropped footway as described by the Council has clearly been overtaken by the development of the road junction that has not only closed Young Street to through traffic, but also created a new pavement route within a few feet of the dropped footway and parallel to its direction. In the absence of such a purpose, I conclude that the contravention cannot occur and I find that it did not."*

The exceptions

Both prohibitions are subject to certain exceptions. Exceptions apply where:

- *the vehicle is parked wholly within a designated parking place or any other part of the carriageway where parking is specifically authorised (TMA ss85 (2) and 86(2));*
- *the vehicle is being used for fire brigade, ambulance or police purposes (TMA ss85(3) and 86(4));*
- *(a)the vehicle is being used for the purposes of delivering goods to, or collecting goods from, any premises, or is being loaded from or unloaded to any premises,*

(b)the delivery, collection, loading or unloading cannot reasonably be carried out in relation to those premises without the vehicle being parked as mentioned in subsection (1), and

(c)the vehicle is so parked for no longer than is necessary and for no more than 20 minutes (TMA ss85(3) and 86(5));

- Certain works are being undertaken, including building, demolition, waste collection etc (**TMA ss85(5) and 86(6)**);

And also, in the case of dropped kerb parking:

- *where the vehicle is parked outside residential premises by or with the consent (but not consent given for reward) of the occupier of the premises. This exception does not apply in the case of a shared driveway. (TMA s 86(3)).*
- It is also provided that 'parking' includes waiting, but does not include stopping where—
 - (a) *the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop to avoid an accident, or*
 - (b) *the vehicle is stopped, for no longer than is necessary, for the purpose of allowing people to board or alight from it. (TMA ss85(7) and 86(8)).*

Examples of appeals involving exceptions

Three contrasting cases demonstrate the operation of the exception for loading and unloading. All three PCNs were issued for double parking. In **BH07473G** the appellant's evidence established that the loading / unloading exception applied and the appeal was allowed. In **BH07586C** the appellant double parked in order to unload but took longer than the 20 minutes permitted by section 85(3)(c) and the appeal was dismissed. In **BH07553D** the appellant was found to have parked for less than 20 minutes to unload but nonetheless to have taken longer than was necessary. The exception did not apply and the appeal was dismissed.

The appeal in **FP05027J** was allowed because the photographs showed that the vehicle was parked alongside a dropped kerb in a marked parking bay. This was a place where parking was specifically authorised; the exception in s85(2) applied and the appeal was allowed.

The photographs in **MW05997J** established that a passenger boarded during the brief stopping period. Under TMA s86(7) therefore the vehicle had not parked and no contravention occurred.

Conclusion

It is to be hoped that those council that have used the new powers extensively will share their experience in their own annual reports. In the meantime some issues raised in appeals, include that:

1. Councils should, as always, have strict regard to the Secretary of States Guidance before they embark on exercising the new powers, and should continue to have regard to it.
2. Communication and information are crucial. If a thorough and robust information campaign cannot be afforded then the council could revert to warning notices or a sensible policy, similar to the one many councils already have with regard to Blue Badge contraventions, whereby the first PCN is cancelled with a warning and an explanation of the exceptions and the boundaries of the special enforcement area.
3. The purpose of the dropped kerbs is fundamental, and they should be checked to see that they have not fallen into abeyance due to change of use of the adjacent buildings.

Telephone Hearings

"Easy and convenient" commented an appellant from Conwy; "Fair and Informal" suggested another from Gwynedd. Those two endorsements of the telephone hearing process sums up the overall feedback we have had over the past year as we have heard more and more appeals by telephone.

The feedback we have received from both parties more than justifies the initiative and shows that telephone hearings have proved to be a satisfactory and cost-effective method of determining the typical issues that arise in the average parking or bus lane appeal.

When we first introduced the option of a telephone hearing it became apparent that it was most popular with appellants who would otherwise have asked for their appeal to be decided without a hearing of any sort, a 'postal' case as we refer to them. This showed from the start that a significant number of appellants wanted an opportunity to 'have their say' but had clearly found it inconvenient or too time consuming to travel to a hearing venue for a 'personal' hearing.

After reviewing the first stages of the pilot, we decided to redesign the 'Notice of Appeal' form so that it better explained about the three options for having the appeal decided. This has resulted in a far greater take up of telephone hearings with a proportionate reduction in requests for both personal and postal hearings.

We have asked both parties to complete feedback forms throughout this period and we remain encouraged by the responses we have received from both appellants and council officers,

The feedback has also drawn attention to operational procedures which we have improved, for example when there were difficulties hearing the adjudicator the telephone handset was replaced with the desired result.

Council officers consistently take part which has been one of the most successful aspects of the move to telephone hearings. It is understandable that officers cannot always spare the time to leave the office to attend a hearing. By enabling them to take part of the telephone the hearings have become, in many ways, more traditional insofar as both parties can present their cases, can question each other and refer the adjudicator to the relevant parts of their evidence by reference to the page numbers in the bundles. When considering video clips for bus lanes, for example, the parties or the adjudicator can refer to a particular frame to ensure that everyone is looking at the same point in the video.

In some cases, where the council officer has not had the information at hand to answer a question, they have managed to call for another officer to bring it from another part of the office while still on the telephone to the adjudicator and the appellant.

The Tribunal provides clear guidance notes for both parties, who are also given a named member of staff with their direct number should they have any concerns or queries. Despite this, there have been cases where the appellant has decided to take the call in a supermarket or when walking down the street. If the case cannot be heard properly then the adjudicator will always adjourn it to be reconvened when the appellant is in more suitable surroundings.

Feedback from the parties in telephone hearings

Overall in 2009/10:

- 98% of appellants found the time offered to be convenient
- 91% of appellants felt they had sufficient opportunity to put their case across to the Adjudicator
- 90% of appellants would opt for a telephone hearing again or recommend it to a friend

Since telephone hearings were introduced on the appeal form in April 2008, the Tribunal has been monitoring feedback from all parties in order to improve this service. We are pleased that the majority of the feedback continues to be very positive however, the Tribunal also welcomes feedback on operational areas that can be addressed.

Positive Feedback includes:

- “It is quick, easy and all points can be raised by both parties. An excellent service - cannot fault it in any way.”
- “I recommend that all stakeholders should be made aware of this service - it is fantastic and saves time.”
- “Convenient and cost effective”
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- “It serves almost the same purpose as a personal hearing and at the same time saves one time and money in travelling to the hearing venue.”
- “I originally opted for a personal hearing but was told... a telephone hearing could be done much sooner and I was happy to accept this.”

Improving the accessibility of the Tribunal

The focus for the development of the tribunal's service over the last year, and one which will continue in 2010/2011, has been on ease of access to the tribunal, whether in initiating and progressing an appeal or in conducting hearings.

Paperless communications

The appeals process begins with the vehicle owner, who has had their challenge to the penalty charge rejected by the council, sending a written appeal to the tribunal. In order to assist those making an appeal, the tribunal has always provides a standard appeal form for the council to send to the vehicle owner at the appropriate time. However, the tribunal has, in recent years, gone further and provides the ability for the appeal form to be completed and submitted on-line through the tribunal's website- www.trafficpenaltytribunal.gov.uk. By increasing the options for the parties in communicating with the tribunal, so the accessibility of the tribunal is improved.

The tribunal needs the cooperation of the councils in its jurisdiction in offering this facility. Access to the on-line appeal form is controlled by means of the council providing a PIN number in the letter to the vehicle owner rejecting a challenge to a penalty charge, this being the decision against which the vehicle owner may appeal to the tribunal. The tribunal has worked with the various IT suppliers which councils use to ensure that whatever IT system a council uses it does have the facility to generate the PIN code required to access the on-line appeal form. The tribunal now needs councils to work with it to switch on this option across the whole of England outside London and Wales.

The trend over the last year has been encouraging. The number of councils allowing access to the on-line appeal form has doubled from 41 to 80 over the

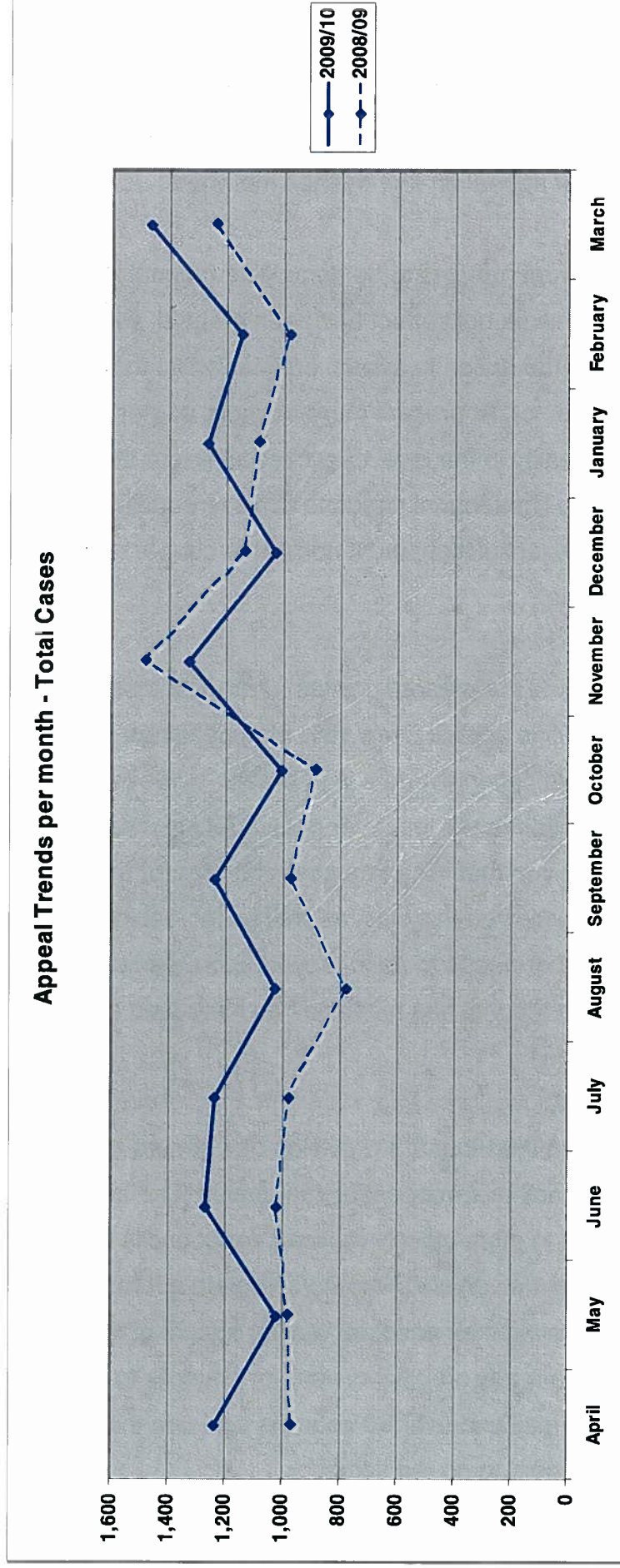
course of 2009/2010 and as at September 2010 stands at 88. The tribunal would like to thank various council IT user groups who extended an invitation to the tribunal to attend their meetings during the course of the year to promote the take up of appeal on-line by their members.

Nevertheless, much work remains to be done. The tribunal is concerned that at the moment a patchwork quilt effect has been created, with vehicle owners in many areas having the option to appeal on-line, whilst those in neighbouring areas do not. At present more councils do not offer this option than do and this inequality in the level of accessibility that the tribunal is able to offer is unfortunate. The tribunal needs to achieve equality of access across all of the councils in its jurisdiction and it needs the cooperation of many other councils to achieve this.

The figures illustrate well the present position. Amongst those councils that offer access to the on-line appeal form, 18% of appeals are received that way. It is clearly an attractive option where it is available. However, because it is not universally available, the total number of all appeals received this way reduces to only 6%. Given that it is more cost-effective for the tribunal to administer an appeal received this way, as well as increasing the tribunal's accessibility, this number needs to be improved upon, particularly as the number of appeals the tribunal has received has increased again in the last year (see Table 1 below).

The story is similar with the tribunal's provision of a secure portal through which councils can e-mail their responses to appeals. The tribunal is doing more work in this area to more closely replicate for councils the on-line appeal process which enables the vehicle owner to complete a form on-line setting out their details and stating their case, as well as attaching their evidence. However, the tribunal already offers a system for councils to send their response by secure e-mail and over 60 councils now use this facility. The tribunal encourages others to do the same.

Table 1 - Appeal Trends per month (Total Cases 2009/10 and 2008/09)



Telephone Hearings

The above initiatives focus on the administration of the appeal as it progresses from the start of the appeal towards a decision. The benefit of telephone hearings is to increase the ability of both parties to put their case to the adjudicator at a hearing.

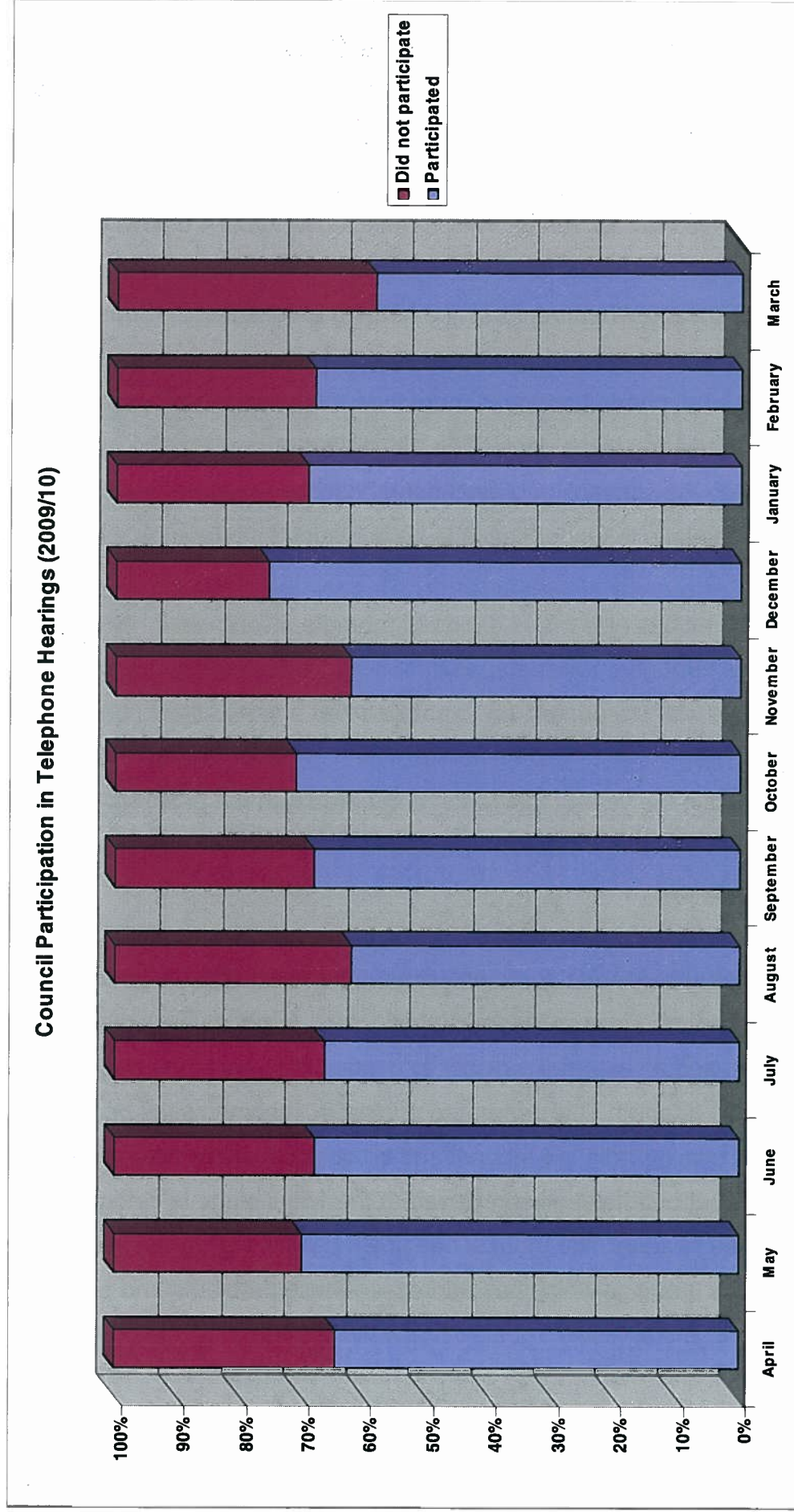
The tribunal does hold hearings regularly at a number of venues across England and Wales (see Table 2 below for a summary of the most frequently used venues). There are venues where the volume of cases simply does not merit such frequent hearings. Inevitably, this means that cases to be heard at those venues wait longer for a hearing. Even, where hearings occur frequently, the time involved, often taken out of the working day, and the cost of travel, particularly given that the amount usually at stake in an appeal is relatively small, can be barriers to participation in a hearing.

Table 2 - Hearing Venue Usage (01/04/09 to 31/03/10)

Venue	Number of Hearing Sessions
Brighton	19
Manchester	15
Liverpool	12
London	12
Leicester	9
Reading	9
Birmingham	8
Bolton	7
Nottingham	7
Aldershot	6
Dorking	6
Leeds	6
Maidstone	6
Sunderland	6
Bournemouth	5

The telephone hearing removes or reduces these barriers as far as is practicable but preserves the opportunity for the parties to state their case at a hearing before the adjudicator. For example, the telephone hearing has aided

the council representatives in attending hearings. Table 3 below shows that council participation in telephone hearings has been consistently high throughout the year. As well as increasing accessibility, telephone hearings also offer a much more cost-effective method of providing a hearing, particularly for a tribunal which has no hearing centres of its own, and has to hire its venues.

Table 3 - Council Participation in Telephone Hearings (01/04/09 to 31/03/10)

Where a telephone hearing is requested the tribunal staff endeavour to contact both parties to agree a time in the working day for the hearing which is convenient for both parties. Not only is the hearing date more convenient to the parties as a result, it is usually much earlier than were the case to be heard at the nearest venue. This is reflected in Table 4 below which shows the average time taken to decide appeals where no hearing is requested; where a personal hearing (that is a hearing at a venue) is requested and where a telephone hearing is requested. The average time taken to decide a case at a telephone hearing is more than three weeks less than where a personal hearing takes place. The tribunal has increased the administrative support to the scheduling of telephone hearings in recent months to try to reduce the time taken for cases to have a telephone hearing still further.

The tribunal has also made efforts to promote awareness of telephone hearings through a revised appeal form and in the contact the administrative staff have with the parties, for example when a party asks to change a date set for a hearing at a hearing venue. The number of telephone appeals increased in the year of this report compared with the previous year and a significant number of appeals are now dealt with in this way (see Table 5 and Table 6 below).

The tribunal has made some adjustments to its arrangements to telephone hearings in response to feedback from users. In particular, at the outset the tribunal used an external provider to contact the parties to bring them in to the telephone hearing. This generated confusion in some cases because the call was not coming from the tribunal and on occasion there was adverse comment about the service received at this initial stage in setting up the telephone hearing. The tribunal has taken back in-house the initiation of the telephone hearings which has addressed these problems and provided experienced staff able to deal with questions the parties may have at that stage.

The availability of telephone hearings has, however, been a significant step forward in improving the ease of access of the parties to the tribunal and the tribunal is encouraged that they have proved beneficial to its users. Table 7 below shows the number of appellant who request a telephone hearing has doubled from 9 % to 17% in the past two year.

Table 4 - Disposal of Cases

Parking Comparison – April to March 2008/09 to April to March 2009/10

Type of Hearing	Postal		Personal		Telephone	
	Apr 09 - Mar 10	Apr 08 - Mar 09	Apr 09 - Mar 10	Apr 08 - Mar 09	Apr 09 - Mar 10	Apr 08 - Mar 09
Average no of weeks between registration and decision issued	5.58 weeks	6.20 weeks	13.01 weeks	12.24 weeks	9.37 weeks	11.31 weeks
Cases with less than 7 weeks between registration and decision (postal target)	8,244 (86%)	6,614 (80%)	n/a	n/a	n/a	n/a
Cases with less than 8 weeks between registration and decision (personal/ telephone target)	n/a	n/a	837 (32%)	856 (35%)	737 (55%)	354 (38%)
Cases with less than 12 weeks between registration and decision (personal/telephone target)	9,109 (95%)	7,854 (95%)	1,614 (61%)	1,589 (65%)	1,100 (82%)	704 (76%)

Bus Lane Comparison – April to March 2008/09 to April to March 2009/10

Type of Hearing	Postal		Personal		Telephone	
	Apr 09 - Mar 10	Apr 08 - Mar 09	Apr 09 - Mar 10	Apr 08 - Mar 09	Apr 09 - Mar 10	Apr 08 - Mar 09
Average no of weeks between registration and decision issued	6.28 weeks	6.58 weeks	14.81 weeks	17.97 weeks	9.37 weeks	13.79 weeks
Cases with less than 7 weeks between registration and decision (postal target)	311 (76%)	230 (72%)	n/a	n/a	n/a	n/a
Cases with less than 8 weeks between registration and decision (personal/ telephone target)	n/a	n/a	15 (18%)	4 (11%)	24 (56%)	15 (36%)
Cases with less than 12 weeks between registration and decision (personal/telephone target)	363 (88%)	294 (92%)	36 (42%)	10 (27%)	38 (88%)	24 (57%)

Table 5 - Trends in Hearing Types

**Actual Hearing Types per month
2009/10 compared to 2008/09 (Cases)**

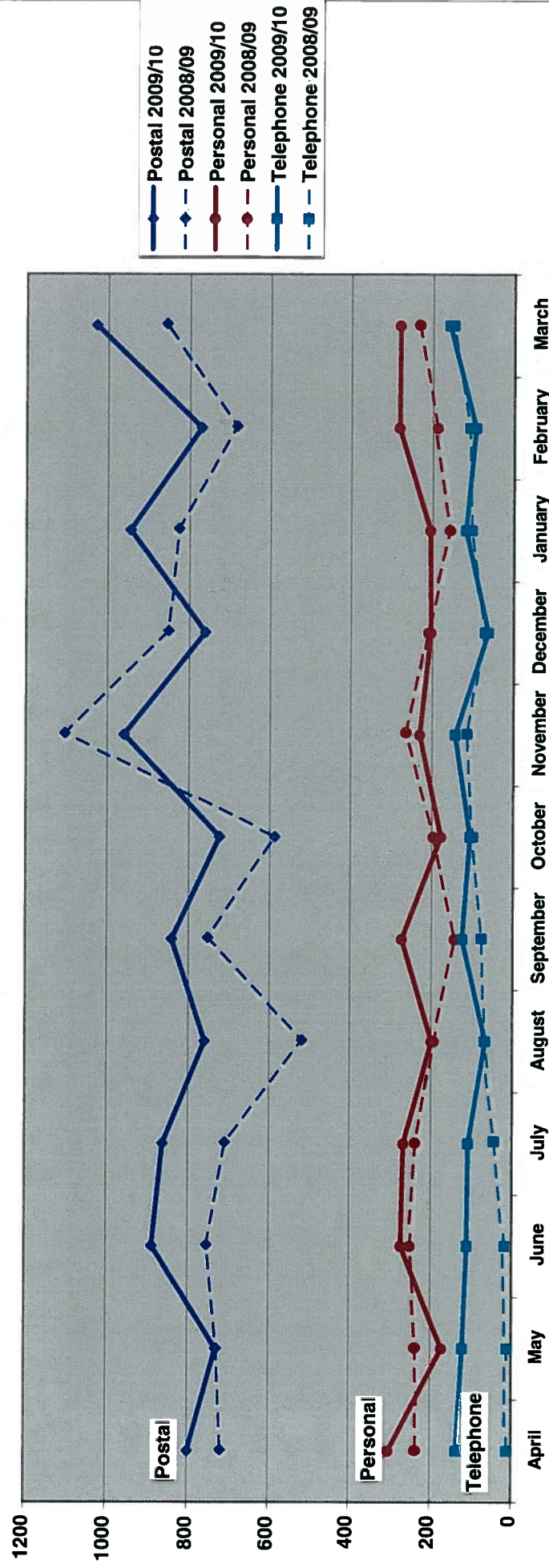


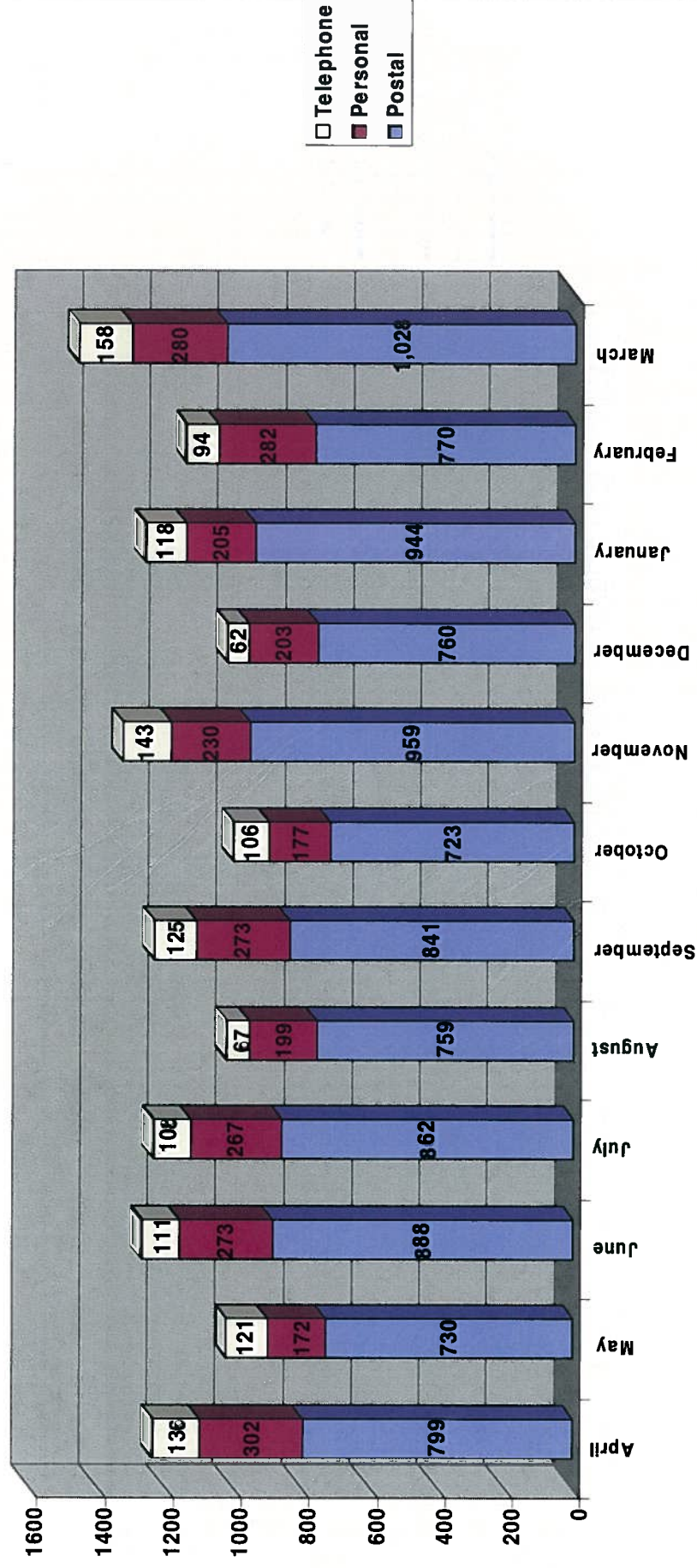
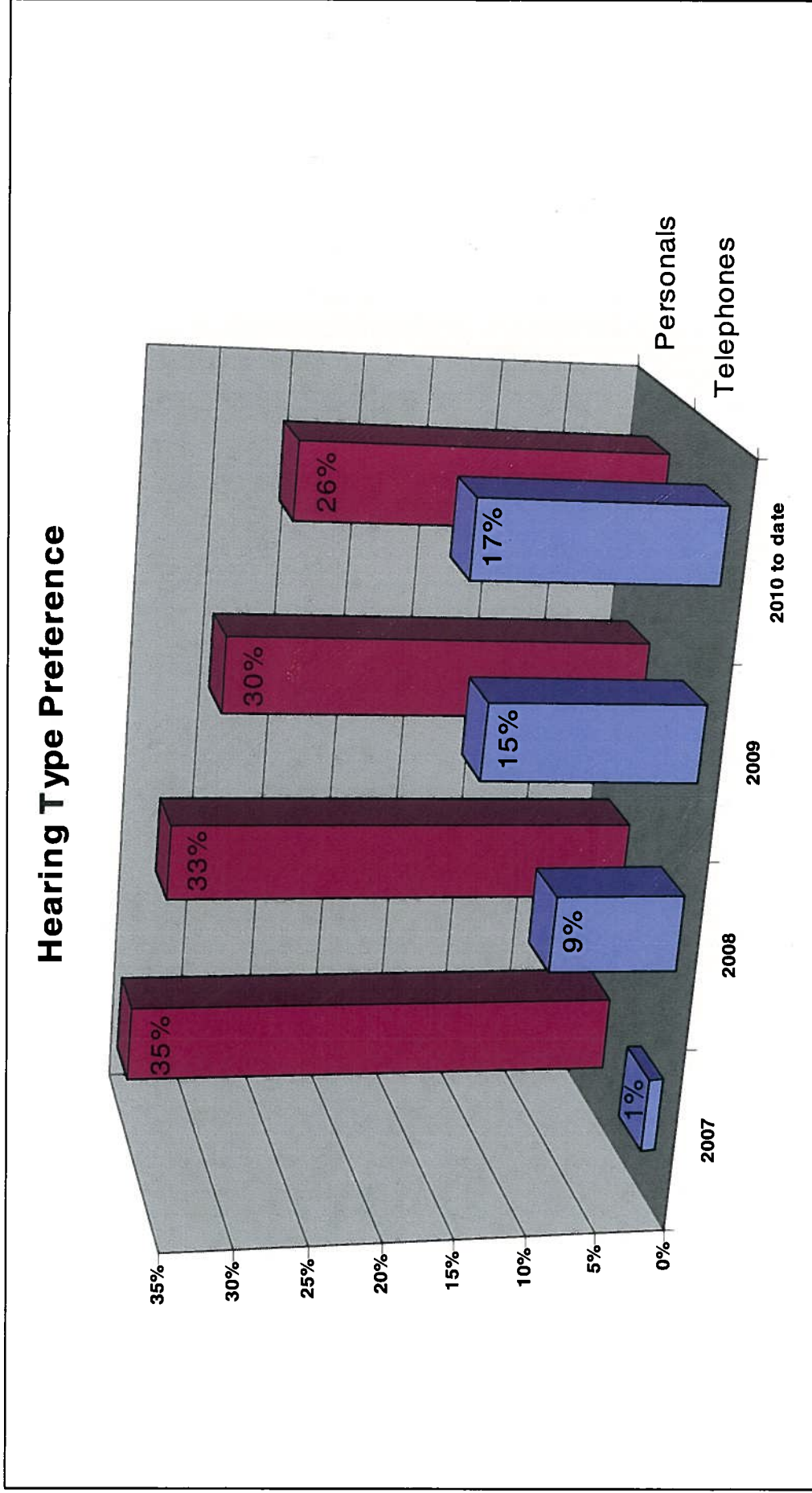
Table 6 - Breakdown of Hearing Types**Hearing Types per month 2009/10 (Cases - Parking and Bus Lane)**

Table 7 – Hearing Type Preference



The Joint Report of the Parking Adjudicators with regard to Appeals from the Welsh Enforcement Authorities for the period 2009/2010

Foreword from the Chief Adjudicator for Wales

I am pleased to present to the PATROL Executive Sub-Committee – Wales the annual report of the Traffic Penalty Tribunal (TPT) Adjudicators regarding appeals from the Welsh authorities for the year 2009/10. While there are two adjudicators who specialise in dealing with appeals from Wales, one of whom in particular undertakes hearings in the Welsh language, in fact all the Traffic Penalty Tribunal Adjudicators are appointed to determine appeals from Wales. They find it enlightening to compare the different approaches that have become apparent between authorities in Wales and some authorities in England. The general theme of the Adjudicators' report this year is 'Compare and Contrast' and it is useful to identify some differing trends in Wales that help to cast light on the early experience and efficacy of Civil Parking Enforcement (CPE) regime developed by the Traffic Management Act 2004 (TMA) measures.

In the main body of this report we have addressed at some length issues that have arisen from the initiatives introduced into CPE by the TMA and its associated regulations together with the Guidance issued by the Secretary of State for Transport (DfT) for the English authorities, and the Welsh Assembly Government (WAG) for the Welsh authorities. In particular we have focussed on:

- Penalty Charge Notices sent by post
- Procedural Impropriety
- Cases referred back by the Adjudicator to the Chief Executive of the enforcement authority
- Enforcing offences of parking by a dropped kerb and double parking.

Crucially, however, for the reasons explained in this report, most of the issues discussed have not arisen in appeals from Wales. This is because Welsh authorities do issue PCNs for dropped kerbs or double parking and there is only one instance that Adjudicators have seen where a Welsh authority has issued a PCN by post. There has not been a single example of an Adjudicator referring a case back to the Chief Executive of a Welsh authority.

Adjudicators therefore consider that the 'softly, softly' approach demonstrated by Welsh authorities will prove helpful and enlightening when the DfT and WAG consider how effective the new powers have been, and assess how necessary they are. The differing experience of England and Wales can usefully be compared and contrasted when updating the Guidance and recommending new policies. We have emphasised in the general report for England that there are many English authorities who, like their Welsh counterparts, have been hesitant to apply the full powers. Reports of their experience will be equally valuable.

More generally, the issues raised in appeals from Wales tend to be the ones that one would expect across the board for parking appeals, for example involving disputes about signs and lines, pay and display tickets, car park contraventions etc. Therefore, there are no particular trends that merit particular comment and no specific problems that Adjudicators consider need to be addressed.

Last year we reported that there had been 35% fewer appeals from Welsh Authorities. The volume of appeals from those authorities has remained stable, but it can be seen from the tables that the overall number of appeals from Wales increased last year with the arrival of Swansea in the civil enforcement scheme.

With regard to the statistics in the tables the overall message that comes over loud and clear is that the proportion and number of PCNs issued in Wales that result in an appeal to the Traffic Penalty Tribunal is very small. So far as the other figures are concerned it must be borne in mind that the numbers for each authority are so minimal that they cannot provide a meaningful reflection of the performance of each or any authority; for example, a single case involving more than one PCN can disproportionately alter the apparent percentage. Consequently, comparisons between the different authorities are not particularly helpful.

In looking at the tables in terms of allowed and dismissed appeals it must always be borne in mind that some appeals are not concerned with whether or not there was a parking contravention, or that the civil enforcement officer made an error, but concern the person or company who is liable to pay. For example, of the 13 appeals from Gwynedd that were allowed three were about ownership of the vehicle. Appeals about who is liable to pay typically involve the sale of the vehicle or a hired vehicle. In many cases the appellant has managed to obtain further letters from the DVLA or there is a better copy of a hire agreement that is submitted with the appeal. Not surprisingly, councils seeing the additional evidence usually decide not to contest the appeal; but there are always cases where the adjudicator must decide whether the appellant is liable for the payment.

In the quest to compare and contrast Adjudicators applauded the new initiative of the PATROL Joint Committee to create a competition for the best local authority civil enforcement annual report. Three of the North Wales authorities submitted a report, all of which highlighted the work and approach of the Welsh penalty Processing Partnership (WPPP). Last year we commented with approval on the positive effect of joint working amongst the North Wales authorities in terms of the quality of appeal evidence bundles, and on consistency of approach, particularly in dealing with representations. The same approval is merited this year. Furthermore, the annual reports informed us that WPPP has received a well deserved 'commended' in the 'Excellence Wales Awards'.

Adjudicators understand that the authorities in South Wales also work together on an informal basis, so we look forward to the bonds between those authorities being strengthened as soon as Cardiff embarks on CPE. If the Adjudicators' experience of appeals from Swansea, characterised by the helpful and responsive attitude of that authority's officers, is replicated in Cardiff it will ensure that the efficient and consistent system that thrives in North Wales will be replicated in the South.

We understand that all twenty-two of the Welsh authorities will soon be in the CPE scheme and the Traffic Penalty Tribunal welcomes this development. The participation of all local authorities in Wales will assist the Tribunal in providing a consistent service across Wales for appellants and local authorities alike.

Furthermore, we understand that the Welsh Assembly Government is preparing to implement the moving traffic provisions of the Traffic Management Act and in doing so it is intending to repeal the eight sets of regulations relating to civil enforcement of parking and replace them with a single set of civil enforcement regulations dealing with both parking and moving traffic offences. This will represent an enormous improvement on the number of regulations that are currently in force. The present set of complex and intertwining regulations, just to deal with parking, has turned out to be a minefield for local authorities, motorists and WAG drafting and welcome the lead taken by Wales in this regard.

There are two requests that Adjudicators are making to WAG to consider when producing the new regulations: the first is to specify the form of both penalty charge notices, and the Notice to Owner. By prescribing the forms in simple and everyday language they will be readily understandable in both English and the Welsh language and the number of appeals based on unmeritorious technical arguments about compliance with the precise wording of the regulations should be reduced.

Our second request is for the adjudication procedural regulations to be revised and based on the model rules drafted by Lord Justice Elias's Rules Committee for all the tribunals in the English Tribunals Service, and applying now to some of the devolved Welsh Tribunals. By expressly embracing the fundamental principles that apply in all tribunals, adjudication of appeals relating to the civil enforcement of minor traffic contraventions will be seen by all parties to belong within the broad tribunals 'church'.

Caroline Sheppard
Chief Adjudicator for Wales and England

The Report

We are pleased to report that there were ten sessions of personal hearings in Wales during the period covered by this report and that in 68% of cases an officer attended and participated. (This compares with 48% of English Council officers participating in their personal hearings).

There was also an impressive incidence of officers from Wales participating in their telephone hearings - 77% of Welsh Councils having participated (compared with 68% of English Councils).

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- "It serves almost the same purpose as a personal hearing and at the same time saves one time and money in travelling to the hearing venue."
- "I originally opted for a personal hearing but was told... a telephone hearing could be done much sooner and I was happy to accept this."

Welsh Language.

We receive approximately one appeal per month in the Welsh language and have continued to offer both personal and telephone hearings in Welsh when required.

Over the next year we are proposing to recruit some new adjudicators for the Traffic Penalty Tribunal and the intention is to appoint more adjudicators with Welsh language skills in anticipation of all 22 Welsh authorities coming into the civil enforcement scheme in the near future.

Traffic Management Act 2004 changes

We have dealt with the development of the TMA initiatives at greater length in the main body of our report. So far as the changes have been considered in appeals emanating from Wales, there are relatively few cases about which to report. We have given a brief synopsis of the general issues that arose with regard to each authority in Wales at the end of this report.

Procedural Impropriety

The Civil Enforcement of Parking Contraventions (Representations and Appeals) (Wales) Regulations 2008 introduced a new ground of appeal that the enforcement authority had committed a procedural impropriety insofar as they had not followed one of the requirements set down in the regulations or the Act itself. Procedural impropriety is defined in Regulation 4(5).

Remarkably few Welsh appeals were allowed on the ground of procedural impropriety. In fact from the longer period between April 2009 and August 2010 only seven appeals were allowed for this reason on this new ground.

Referring Back

The TMA regulations provide that if there are no grounds to allow the appeal, but the adjudicator considers that there are compelling reasons why the appellant

should not be required to pay then the adjudicator may refer the matter back to the authority for further consideration. Paragraph 111 of the Welsh Assembly Government's Statutory Guidance to Local Authorities on The Civil Enforcement of Parking Contraventions issued in March 2008 provides that referrals of this nature are made to the Chief Executive of the enforcement authority.

I am pleased to report that there has not yet been a case from a Welsh authority where the adjudicator has considered the matter should be referred to the Chief Executive.

Exercising Discretion

The duty of the enforcement authority to consider mitigation and whether there are compelling reasons why a PCN should be cancelled is to be found in Regulation 4 of the Welsh Appeal Regulations. Adjudicators have formed the impression, and the appeal statistics tend to confirm, that on the whole, councils in Wales are responsive and pragmatic about the exercise of discretion. Initially Swansea had a 'zero tolerance' policy to resident permit contraventions that was criticised by the adjudicators in WJ05080C and WJ05086K as being at odds with their duty under Regulation 4 to consider representations on their own merits. We understand that the policy has now been modified.

Annual Report 09/10 – Summary of cases in Wales

Carmarthen

There were a small number of cases. Most cases that were contested were dismissed.

This may suggest that the Council is using its discretion appropriately and is taking to appeal only those cases that it believes merit pursuing.

Conwy

Again a small number of cases, however most of which appear to have been allowed. In particular CQ05062B and CQ05068J relate to the same location namely a bay which tapers, the contravention being parking beyond the marked bay. Both appeals allowed.

Denbighshire

There was an even mix of cases some were allowed and some dismissed. DE05203F related to the signing when an area of a car park was suspended to accommodate a weekly market.

Gwynedd

There were more cases allowed than refused. Of the 13 allowed cases three involved ownership, GW05097L was a case where the Council failed to consider the Appellant's representations.

Isle of Anglesey

So far there have only been a few appeals with no significant issues.

Neath Port Talbot

The majority of cases were allowed. NT05112F turned on **the** interpretation of the TRO that provided an exemption for a Health Visitor's permit.

Swansea

Having entered the scheme in September 2008, not surprisingly, Swansea had by far the highest number of cases.

The Council has demonstrated a willingness to consider mitigation as evidenced by the following decisions:

WJ05011L – Council accepted mitigation at the hearing and cancelled 2 PCNS

WJ05033CSD – Further representations submitted by the Appellant accepted by the Council who no contested the case

WJ05038G – Council prepared to accept discounted penalty charge out of time.

In terms of procedure, two cases about residents' permits were allowed because the Council stated that they have a zero tolerance policy which was adjudged to be contrary to their duty to consider discretion.

There appears to have been only one Regulation 6 PCN sent by post – this was allowed due to the fact that the PCN produced in evidence did not comply with the requirements of the regulations.

Four cases were allowed relating to Controlled Parking Zones – the Council having failed to provide plans showing the location of the signs. However in a later case, WJ05060F, both a plan of the location of the signs and photographs of the signs were provided by the Council. The case was dismissed.

Three cases related to the signing of a clearway which is located adjacent to a hospital. In each case the signs were adjudged to be adequate and the appeals were dismissed.

Wrexham

From the small number of cases considered one was allowed on the basis that the wrong contravention was used on the PCN, and another because the relevant sign was obscured.

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Details of Appeals Received for All Councils April 2009 to March 2010

Table 2

Rate of appeal per PCN grouped by volume of PCNs Issued

- 2.1 Councils Issuing up to 10,000 PCNs
- 2.2 Councils Issuing 10,000 to 20,000 PCNs
- 2.3 Councils Issuing 20,000 to 50,000 PCNs
- 2.4 Councils Issuing 50,000 to 100,000 PCNs
- 2.5 Councils Issuing 100,000+ PCNs

Table 3

Allowed Appeals ranked by percentage of those Not Contested by the Council, grouped by volume of appeals received by the Tribunal.

- 3.1 1 -19 Appeals Received
- 3.2 20 – 49 Appeals Received
- 3.3 50 – 99 Appeals Received
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- 3.5 200+ Appeals Received

Table 4

Summary of Appeals involving Tow Aways

- 4.1 Summary of Appeals involving Tow Aways
- 4.2 Rate of Appeal per Tow Away
- 4.3 Number of PCNs Issued by the Councils involved in Tow Aways
- 4.4 Number of Vehicles Towed Away

Table 1

Details of Appeals Received for All Councils April 2009 to March 2010

1	2	3	4	5	6	7	8	9
Council	Appeals Rec'd	PCN's issued	Rate of appeal per PCN	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator incl. out of time and withdrawn by appellant	Awaiting decision incl. other decided
All Councils April 09 - Mar 10	14,269	4,245,998	0.34%	3,880 27%	4,188 29%	8,068 57%	5,804 41%	397 3%
Adur Apr 09 - Mar 10	46	6,206	0.74%	23 50%	14 30%	37 80%	9 20%	0 0%
Allerdale Apr 09 - Mar 10	21	15,744	0.13%	6 29%	4 19%	10 48%	11 52%	0 0%
Amber Valley Apr 09 - Mar 10	9	3,726	0.24%	2 22%	3 33%	5 56%	2 22%	2 22%
Ashfield Apr 09 - Mar 10	9	2,873	0.31%	5 56%	4 44%	9 100%	0 0%	0 0%
Ashford Apr 09 - Mar 10	7	11,407	0.06%	2 29%	2 29%	4 57%	3 43%	0 0%
Aylesbury Vale Apr 09 - Mar 10	54	13,376	0.40%	3 6%	18 33%	21 39%	32 59%	1 2%
Barnsley Apr 09 - Mar 10	7	9,176	0.08%	2 29%	2 29%	4 57%	3 43%	0 0%
Barrow-in-Furness Apr 09 - Mar 10	31	8,621	0.36%	4 13%	14 45%	18 58%	13 42%	0 0%
Basildon Apr 09 - Mar 10	71	10,059	0.71%	16 23%	19 27%	35 49%	30 42%	5 7%
Basingstoke and Deane Apr 09 - Mar 10	11	8,644	0.13%	2 18%	1 9%	3 27%	3 27%	0 0%
Bassetlaw Apr 09 - Mar 10	20	4,587	0.44%	6 30%	11 55%	17 85%	3 15%	0 0%
Bath and North East Somerset Apr 09 - Mar 10	51	26,843	0.19%	12 24%	21 41%	33 65%	18 35%	0 0%
Bedford Apr 09 - Mar 10	28	17,568	0.16%	17 61%	4 14%	21 75%	6 21%	1 1%
Birmingham Apr 09 - Mar 10	831	135,554	0.61%	317 38%	143 17%	460 55%	360 43%	11 1%
Blaby Apr 09 - Mar 10	8	2,644	0.30%	4 50%	3 38%	7 88%	1 13%	0 0%
Blackburn with Darwen Apr 09 - Mar 10	96	14,916	0.64%	34 35%	32 33%	66 69%	28 29%	2 2%
Blackpool Apr 09 - Mar 10	16	26,215	0.06%	3 19%	4 25%	7 44%	6 38%	3 19%
Bolsover Apr 09 - Mar 10	0	0	0.00%	0 0%	0 0%	0 0%	0 0%	0 0%
Bolton Apr 09 - Mar 10	160	28,244	0.57%	58 36%	44 28%	102 64%	55 34%	3 2%
Bournemouth Apr 09 - Mar 10	97	26,351	0.37%	14 14%	39 40%	53 55%	43 44%	1 1%
Bracknell Forest Apr 09 - Mar 10	5	2,375	0.21%	0 0%	3 60%	3 60%	2 40%	0 0%
Bradford Apr 09 - Mar 10	132	66,252	0.20%	41 31%	35 27%	76 58%	53 40%	3 2%
Braintree Apr 09 - Mar 10	3	5,047	0.06%	1 33%	1 33%	2 67%	1 33%	0 0%
Brentwood Apr 09 - Mar 10	19	9,694	0.20%	18 95%	1 5%	19 100%	0 0%	0 0%
Brighton & Hove Apr 09 - Mar 10	671	116,369	0.58%	162 24%	217 32%	379 56%	288 43%	4 1%
Bristol Apr 09 - Mar 10	200	60,278	0.33%	74 37%	46 23%	120 60%	76 38%	4 2%
Broxbourne Apr 09 - Mar 10	65	12,158	0.53%	8 12%	26 40%	34 52%	30 46%	1 2%
Broxtowe Apr 09 - Mar 10	6	839	0.72%	3 50%	1 17%	4 67%	2 33%	0 0%
Burnley Apr 09 - Mar 10	41	5,968	0.69%	23 56%	8 20%	31 76%	10 24%	0 0%
Bury Apr 09 - Mar 10	95	19,051	0.50%	24 25%	33 35%	57 60%	37 39%	1 1%

Table 1

1	2	3	4	5	6	7	8	9
Council	Appeals Rec'd	PCN's issued	Rate of appeal per PCN	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator Incl. out of time and withdrawn by appellant	Awaiting decision Incl. other decided
Calderdale Apr 09 - Mar 10	53	13,554	0.39%	15 28%	17 32%	32 60%	18 34%	3 6%
Cambridge Apr 09 - Mar 10	60	43,122	0.14%	17 28%	11 18%	28 47%	30 50%	2 3%
Cannock Chase Apr 09 - Mar 10	4	5,847	0.07%	0 0%	0 0%	0 0%	4 100%	0 0%
Canterbury Apr 09 - Mar 10	30	24,295	0.12%	6 20%	13 43%	19 63%	11 37%	0 0%
Carlisle Apr 09 - Mar 10	20	13,806	0.14%	2 10%	5 25%	7 35%	12 60%	1 5%
Carmarthenshire Apr 09 - Mar 10	13	9,164	0.14%	1 8%	2 15%	3 23%	9 69%	1 8%
Castle Point Apr 09 - Mar 10	0	1,440	0.00%	0 0%	0 0%	0 0%	0 0%	0 0%
Central Bedfordshire** Apr 09 - Mar 10	27	10,834	0.25%	8 30%	11 41%	6 70%	8 30%	0 0%
Charnwood Apr 09 - Mar 10	81	16,525	0.49%	27 33%	32 40%	59 73%	21 26%	1 1%
Chelmsford Apr 09 - Mar 10	25	13,965	0.18%	2 8%	12 48%	14 56%	10 40%	1 4%
Cheltenham Apr 09 - Mar 10	33	20,724	0.16%	10 30%	11 33%	21 64%	10 30%	2 6%
Cheshire East** Apr 09 - Mar 10	107	29,623	0.36%	21 20%	52 49%	73 68%	31 29%	3 3%
Cheshire West** Apr 09 - Mar 10	63	15,564	0.40%	12 19%	20 32%	32 51%	30 48%	1 2%
Chesterfield Apr 09 - Mar 10	27	7,686	0.35%	14 52%	6 22%	20 74%	6 22%	1 4%
Chiltern Apr 09 - Mar 10	20	8,479	0.24%	8 40%	3 15%	11 55%	8 40%	1 5%
Chorley Apr 09 - Mar 10	26	5,460	0.48%	17 65%	3 12%	20 77%	6 23%	0 0%
Christchurch Apr 09 - Mar 10	7	6,774	0.10%	2 29%	3 43%	5 71%	2 29%	0 0%
Colchester Apr 09 - Mar 10	18	22,062	0.08%	4 22%	3 17%	7 39%	11 61%	0 0%
Conwy Apr 09 - Mar 10	16	13,438	0.12%	5 31%	6 38%	11 69%	5 31%	0 0%
Copeland Apr 09 - Mar 10	15	3,120	0.48%	1 7%	10 67%	11 73%	3 20%	1 7%
Cornwall County** Apr 09 - Mar 10	156	32,126	0.49%	24 15%	58 37%	82 53%	69 44%	5 3%
Cotswold & Stroud Apr 09 - Mar 10	62	13,799	0.45%	20 32%	14 23%	34 55%	28 45%	0 0%
Coventry Apr 09 - Mar 10	129	35,996	0.36%	50 39%	38 29%	88 68%	41 32%	0 0%
Dacorum Apr 09 - Mar 10	35	15,915	0.22%	3 9%	8 23%	11 31%	24 69%	0 0%
Dartford Apr 09 - Mar 10	19	7,811	0.24%	2 11%	7 37%	9 47%	9 47%	1 5%
Denbighshire Apr 09 - Mar 10	27	9,323	0.29%	6 22%	6 22%	12 44%	14 52%	1 4%
Derby Apr 09 - Mar 10	77	27,653	0.28%	13 17%	27 35%	40 52%	36 47%	1 1%
Derbyshire Apr 09 - Mar 10	61	19,090	0.32%	29 48%	11 18%	40 66%	20 33%	1 2%
Derbyshire Dales Apr 09 - Mar 10	14	5048	0.28%	4 29%	6 43%	10 71%	3 21%	1 7%
Doncaster Apr 09 - Mar 10	34	21,400	0.16%	6 18%	7 21%	13 38%	21 62%	0 0%
Dorset (East Dorset, North Dorset, Purbeck, Wareham, and West Dorset) Apr 09 - Mar 10	18	13,935	0.13%	4 22%	5 28%	9 50%	8 44%	1 6%
Dover Apr 09 - Mar 10	19	13,899	0.14%	4 21%	7 37%	11 58%	8 42%	0 0%
Dudley Apr 09 - Mar 10	47	13,822	0.34%	9 19%	15 32%	24 51%	23 49%	0 0%
Durham Apr 09 - Mar 10	20	9,798	0.20%	2 10%	9 45%	11 55%	9 45%	0 0%

This table does not include Witness Statements where no appeal was registered or Consent Orders

Table 1

1 Council	2 Appeals Rec'd	3 PCN's issued	4 Rate of appeal per PCN	5 Not Contested by council	6 Allowed by Adjudicator	7 Total allowed including not contested by council	8 Refused by Adjudicator incl. out of time and withdrawn by appellant	9 Awaiting decision incl. other decided
East Devon Apr 09 - Mar 10	21	9,080	0.23%	6 29%	2 10%	8 38%	12 57%	1 5%
East Hertfordshire Apr 09 - Mar 10	51	29,296	0.17%	6 12%	13 25%	19 37%	30 59%	2 4%
East Staffordshire Apr 09 - Mar 10	11	12,808	0.09%	0 0%	4 36%	4 36%	7 64%	0 0%
East Sussex [Lewes] Apr 09 - Mar 10	23	22,249	0.10%	11 48%	4 17%	15 65%	8 35%	0 0%
Eastbourne Apr 09 - Mar 10	42	20,365	0.21%	21 50%	14 33%	35 83%	7 17%	0 0%
Eastleigh Apr 09 - Mar 10	23	13,407	0.17%	3 13%	3 13%	6 26%	15 65%	2 9%
Eden Apr 09 - Mar 10	18	5,267	0.34%	3 17%	10 56%	13 72%	4 22%	1 6%
Elmbridge Apr 09 - Mar 10	59	17,927	0.33%	9 15%	21 36%	30 51%	29 49%	0 0%
Epping Forest Apr 09 - Mar 10	39	23,783	0.16%	9 23%	8 21%	17 44%	21 54%	1 3%
Epsom and Ewell Apr 09 - Mar 10	34	10,643	0.32%	14 41%	15 44%	29 85%	5 15%	0 0%
Erewash Apr 09 - Mar 10	4	1,843	0.22%	2 50%	0 0%	2 50%	2 50%	0 0%
Exeter Apr 09 - Mar 10	89	20,536	0.43%	23 26%	24 27%	47 53%	41 46%	1 1%
Fareham Apr 09 - Mar 10	38	10,750	0.35%	8 21%	14 37%	22 58%	14 37%	2 5%
Forest of Dean Apr 09 - Mar 10	1	976	0.10%	0 0%	0 0%	0 0%	1 100%	0 0%
Fylde Apr 09 - Mar 10	25	4,492	0.56%	8 32%	7 28%	15 60%	9 36%	1 4%
Gateshead Apr 09 - Mar 10	61	15,397	0.40%	20 33%	19 31%	39 64%	22 36%	0 0%
Gedling Apr 09 - Mar 10	9	3,401	0.26%	4 44%	3 33%	7 78%	2 22%	0 0%
Gloucester Apr 09 - Mar 10	36	24,143	0.15%	9 25%	11 31%	20 56%	14 39%	2 6%
Gravesham Apr 09 - Mar 10	40	16,670	0.24%	15 38%	18 45%	33 83%	6 15%	1 3%
Guildford Apr 09 - Mar 10	10	27,355	0.04%	0 0%	5 50%	5 50%	5 50%	0 0%
Gwynedd Apr 09 - Mar 10	32	14,337	0.22%	15 47%	8 25%	23 72%	9 28%	0 0%
Harborough Apr 09 - Mar 10	28	6,953	0.40%	10 36%	8 29%	18 64%	10 36%	0 0%
Harlow Apr 09 - Mar 10	8	8,197	0.10%	7 88%	1 13%	8 100%	0 0%	0 0%
Harrogate Apr 09 - Mar 10	20	17,245	0.12%	0 0%	7 35%	7 35%	12 60%	1 5%
Hart Apr 09 - Mar 10	23	5,816	0.40%	8 35%	8 35%	16 70%	7 30%	0 0%
Hartlepool Apr 09 - Mar 10	15	7,043	0.21%	1 7%	8 53%	9 60%	6 40%	0 0%
Hastings Apr 09 - Mar 10	59	22,752	0.26%	8 14%	20 34%	28 47%	31 53%	0 0%
Havant Apr 09 - Mar 10	15	6,667	0.22%	0 0%	9 60%	9 60%	6 40%	0 0%
Herefordshire Apr 09 - Mar 10	17	16,600	0.10%	1 6%	7 41%	8 47%	8 47%	1 6%
Hertsmere Apr 09 - Mar 10	41	7,301	0.56%	23 56%	9 22%	32 78%	9 22%	0 0%
High Peak Apr 09 - Mar 10	9	1,933	0.47%	5 56%	2 22%	7 78%	2 22%	0 0%
Hinckley & Bosworth Apr 09 - Mar 10	32	6,107	0.52%	9 28%	8 25%	17 53%	14 44%	1 3%
Horsham Apr 09 - Mar 10	42	10,869	0.39%	3 7%	29 69%	32 76%	10 24%	0 0%
Hyndburn Apr 09 - Mar 10	8	1,698	0.47%	3 38%	3 38%	6 75%	2 25%	0 0%
Ipswich Apr 09 - Mar 10	11	16,285	0.07%	4 36%	4 36%	8 73%	3 27%	0 0%

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Table 1

1	2	3	4	5	6	7	8	9
Council	Appeals Rec'd	PCN's Issued	Rate of appeal per PCN	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator Incl. out of time and withdrawn by appellant	Awaiting decision Incl. other decided
Isle of Anglesey Apr 09 - Mar 10	13	2,159	0.60%	3 23%	3 23%	6 46%	6 46%	1 3%
Isle of Wight Apr 09 - Mar 10	104	29,594	0.35%	26 25%	20 19%	46 44%	55 53%	3 3%
Kingston-upon-Hull Apr 09 - Mar 10	103	20,875	0.49%	31 30%	64 62%	95 92%	1 1%	7 7%
Kirklees Apr 09 - Mar 10	133	28,828	0.46%	6 5%	37 28%	43 32%	87 65%	3 2%
Lancaster Apr 09 - Mar 10	60	10,643	0.56%	23 38%	21 35%	44 73%	15 25%	1 2%
Lancashire CC Apr 09 - Mar 10	134	33,433	0.40%	44 33%	38 28%	82 61%	49 37%	3 2%
Leeds Apr 09 - Mar 10	135	121,416	0.11%	26 19%	33 24%	59 44%	70 52%	6 4%
Leicester Apr 09 - Mar 10	285	54,362	0.52%	108 38%	85 30%	193 68%	91 32%	1 0%
Lichfield Apr 09 - Mar 10	4	7,641	0.05%	1 25%	1 25%	2 50%	2 50%	0 0%
Liverpool Apr 09 - Mar 10	410	67,742	0.61%	71 17%	141 34%	212 52%	179 44%	19 5%
Luton Apr 09 - Mar 10	198	34,121	0.58%	31 16%	78 39%	109 55%	87 44%	2 1%
Maidstone Apr 09 - Mar 10	117	28,747	0.41%	46 39%	30 26%	76 65%	40 34%	1 1%
Maldon Apr 09 - Mar 10	10	4,117	0.24%	6 60%	4 40%	10 100%	0 0%	0 0%
Manchester Apr 09 - Mar 10	620	127,149	0.49%	154 25%	189 30%	343 55%	249 40%	28 5%
Mansfield Apr 09 - Mar 10	17	4,683	0.36%	8 47%	4 24%	12 71%	5 29%	0 0%
Medway Apr 09 - Mar 10	256	45,709	0.56%	105 41%	76 30%	181 71%	58 23%	17 7%
Melton Apr 09 - Mar 10	18	3,737	0.48%	10 56%	4 22%	14 78%	4 22%	0 0%
Mid Devon Apr 09 - Mar 10	4	4,191	0.10%	1 25%	3 75%	4 100%	0 0%	0 0%
Mid Sussex Apr 09 - Mar 10	20	11,825	0.17%	0 0%	6 30%	6 30%	13 65%	1 5%
Middlesbrough Apr 09 - Mar 10	36	11,586	0.31%	13 36%	4 11%	17 47%	17 47%	2 6%
Milton Keynes Apr 09 - Mar 10	132	36,599	0.36%	42 32%	50 38%	92 70%	35 27%	5 4%
Mole Valley Apr 09 - Mar 10	9	7,777	0.12%	0 0%	0 0%	0 0%	8 89%	1 22%
Neath Port Talbot Apr 09 - Mar 10	25	12,975	0.19%	11 44%	8 32%	19 76%	6 24%	0 0%
Newark & Sherwood Apr 09 - Mar 10	17	5,335	0.32%	6 35%	3 18%	9 53%	7 41%	1 6%
Newcastle under Lyme Apr 09 - Mar 10	10	7,390	0.14%	3 30%	1 10%	4 40%	5 40%	1 10%
Newcastle upon Tyne Apr 09 - Mar 10	123	68,641	0.18%	20 16%	25 20%	45 37%	76 62%	2 2%
New Forest Apr 09 - Mar 10	5	7,998	0.06%	2 40%	1 20%	3 60%	2 40%	0 0%
North Devon Apr 09 - Mar 10	39	10,321	0.38%	9 23%	10 26%	19 49%	16 41%	4 10%
North East Derbyshire Apr 09 - Mar 10	2	783	0.26%	0 0%	2 100%	2 100%	0 0%	0 0%
North Hertfordshire Apr 09 - Mar 10	25	12,184	0.21%	16 64%	6 24%	22 88%	3 12%	0 0%
North Lincolnshire Mar 10 - Mar 10	0	1,086	0.00%	0 0%	0 0%	0 0%	0 0%	0 0%
North Tyneside Apr 09 - Mar 10	74	16,125	0.46%	29 39%	20 27%	49 66%	22 30%	3 4%
Northamptonshire Apr 09 - Mar 10	87	38,543	0.23%	17 20%	19 22%	36 41%	50 57%	1 1%
Norwich Apr 09 - Mar 10	128	26,625	0.48%	45 35%	27 21%	72 56%	38 30%	18 14%
Nottingham Apr 09 - Mar 10	195	65,196	0.30%	80 41%	28 14%	108 55%	83 43%	4 2%
Nottinghamshire Apr 09 - Mar 10	178	31,592	0.56%	65 37%	53 30%	118 66%	59 33%	1 1%

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Council	Appeals Rec'd	PCN's Issued	Rate of appeal per PCN	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator incl. out of time and withdrawn by appellant	Awaiting decision incl. other decided
NW Leicestershire	28	7,072	0.40%	4	6	10	17	1
Apr 09 - Mar 10				14%	21%	36%	61%	4%
Oadby & Wigston	29	5,098	0.57%	10	4	14	15	0
Apr 09 - Mar 10				34%	14%	48%	52%	0%
Oldham	72	29,705	0.24%	2	34	36	34	2
Apr 09 - Mar 10				3%	47%	50%	47%	3%
Oxfordshire (Oxford)	119	37,912	0.31%	20	21	41	72	6
Apr 09 - Mar 10				17%	18%	34%	61%	5%
Pendle	18	2,756	0.65%	4	9	13	5	0
Apr 09 - Mar 10				22%	50%	72%	28%	0%
Peterborough	60	16,516	0.36%	17	28	45	13	2
Apr 09 - Mar 10				28%	47%	75%	22%	3%
Plymouth	184	36,243	0.51%	62	40	102	77	5
Apr 09 - Mar 10				34%	22%	55%	42%	3%
Poole	79	17,337	0.46%	13	34	47	31	1
Apr 09 - Mar 10				16%	43%	59%	39%	1%
Portsmouth	117	44,020	0.27%	11	28	39	72	6
Apr 09 - Mar 10				9%	24%	33%	62%	5%
Preston	58	7,919	0.73%	18	11	29	27	2
Apr 09 - Mar 10				31%	19%	50%	47%	3%
Reading	362	44,699	0.81%	132	105	237	119	6
Apr 09 - Mar 10				36%	29%	65%	33%	2%
Redcar & Cleveland	30	7,622	0.39%	10	6	16	13	1
Apr 09 - Mar 10				33%	20%	53%	43%	3%
Redditch	11	6,725	0.00%	6	4	10	0	1
Apr 09 - Mar 10				55%	36%	91%	0%	9%
Reigate & Banstead	33	14,445	0.23%	4	20	24	9	0
Apr 09 - Mar 10				12%	61%	73%	27%	0%
Ribble Valley	10	1,622	0.62%	6	2	8	2	0
Apr 09 - Mar 10				60%	20%	80%	20%	0%
Rochdale	73	15,860	0.46%	15	28	43	27	3
Apr 09 - Mar 10				21%	38%	59%	37%	4%
Rochford	34	7,335	0.46%	18	7	25	9	0
Apr 09 - Mar 10				53%	21%	74%	26%	0%
Rossendale	18	2,323	0.77%	3	8	11	7	0
Apr 09 - Mar 10				17%	44%	61%	39%	0%
Rotherham	31	8,948	0.35%	4	7	11	19	1
Apr 09 - Mar 10				13%	23%	35%	61%	3%
Royal Borough of Windsor and Maidenhead	267	39,643	0.67%	72	81	153	112	2
Apr 09 - Mar 10				27%	30%	57%	42%	1%
Rugby	31	8,563	0.36%	3	6	9	22	0
Apr 09 - Mar 10				10%	19%	29%	71%	0%
Runnymede	7	6,293	0.11%	1	2	3	4	0
Apr 09 - Mar 10				14%	29%	43%	57%	0%
Rushcliffe	12	3,181	0.38%	6	3	9	3	0
Apr 09 - Mar 10				24%	36%	75%	25%	0%
Rushmoor	25	12,169	0.21%	6	9	15	7	3
Apr 09 - Mar 10				24%	36%	60%	28%	12%
Rutland	7	1,969	0.36%	3	2	5	2	0
Apr 09 - Mar 10				43%	29%	71%	29%	0%
Salford	151	33,395	0.45%	14	92	106	41	4
Apr 09 - Mar 10				9%	61%	70%	27%	3%
Sandwell	63	32,728	0.19%	17	8	25	38	0
Apr 09 - Mar 10				27%	13%	40%	60%	0%
Scarborough	81	20,197	0.40%	10	25	35	35	11
Apr 09 - Mar 10				12%	31%	43%	43%	14%
Sefton	49	41,934	0.12%	9	14	23	24	2
Apr 09 - Mar 10				18%	29%	47%	49%	4%
Sevenoaks	44	11,251	0.39%	7	16	23	20	1
Apr 09 - Mar 10				16%	36%	52%	45%	2%
Sheffield	162	56,312	0.29%	59	39	98	61	3
Apr 09 - Mar 10				36%	24%	60%	38%	2%
Shepway	28	14,558	0.19%	4	7	11	16	1
Apr 09 - Mar 10				14%	25%	39%	57%	4%
Shropshire**	48	10,068	0.48%	15	7	22	23	3
Apr 09 - Mar 10				31%	15%	46%	48%	6%
Slough	251	33,226	0.76%	109	56	165	81	5
Apr 09 - Mar 10				43%	22%	66%	32%	2%

This table does not include Witness Statements where no appeal was registered or Consent Orders

Table 1

1	2	3	4	5	6	7	8	9
Council	Appeals Rec'd	PCN's issued	Rate of appeal per PCN	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator Incl. out of time and withdrawn by appellant	Awaiting decision Incl. other decided
Solihull	115	15,991	0.72%	11	16	27	88	0
Apr 09 - Mar 10				10%	14%	23%	77%	0%
South Derbyshire	0	514	0.00%	0	0	0	0	0
Apr 09 - Mar 10				0%	0%	0%	0%	0%
South Gloucester	38	9,075	0.42%	8	18	26	12	0
Apr 09 - Mar 10				21%	47%	68%	32%	0%
South Hams	15	10,919	0.14%	3	3	6	8	1
Apr 09 - Mar 10				20%	20%	40%	53%	7%
South Lakeland	36	8,693	0.41%	1	25	26	6	4
Apr 09 - Mar 10				3%	69%	72%	17%	11%
South Ribble	16	1,273	1.26%	4	10	14	2	0
Apr 09 - Mar 10				25%	63%	88%	13%	0%
South Staffordshire	0	1,006	0.00%	0	0	0	0	0
Apr 09 - Mar 10				0%	0%	0%	0%	0%
South Tyneside	26	11,582	0.22%	5	9	14	10	2
Apr 09 - Mar 10				19%	35%	54%	38%	8%
Southampton	128	42,408	0.30%	7	31	38	86	4
Apr 09 - Mar 10				5%	24%	30%	67%	3%
Southend-on-Sea	103	32,821	0.31%	43	24	67	33	3
Apr 09 - Mar 10				42%	23%	65%	32%	3%
Spelthorne	12	6,137	0.20%	5	7	12	0	0
Apr 09 - Mar 10				42%	58%	100%	0%	0%
St Albans	67	22,848	0.29%	42	9	51	16	0
Apr 09 - Mar 10				63%	13%	76%	24%	0%
St Helens	47	13,306	0.35%	1	15	16	31	0
Apr 09 - Mar 10				2%	32%	34%	66%	0%
Stafford	17	14,622	0.12%	0	7	7	10	0
Apr 09 - Mar 10				0%	41%	41%	59%	0%
Staffordshire Moorlands	8	6,248	0.13%	0	2	2	5	1
Apr 09 - Mar 10				0%	25%	25%	63%	13%
Stevenage	15	6,903	0.22%	1	7	8	7	0
Apr 09 - Mar 10				7%	47%	53%	47%	0%
Stockport	0	17,570	0.00%	0	0	0	0	0
Apr 09 - Mar 10				0%	0%	0%	0%	0%
Stockton-on-Tees	17	12,389	0.14%	4	7	11	6	0
Apr 09 - Mar 10				24%	41%	65%	35%	0%
Stoke-on-Trent	34	20,337	0.17%	0	8	8	24	2
Apr 09 - Mar 10				0%	24%	24%	71%	6%
Stratford upon Avon	13	13,962	0.09%	6	2	8	5	0
Apr 09 - Mar 10				46%	15%	62%	38%	0%
Sunderland	129	12,292	1.05%	9	19	28	55	46
Apr 09 - Mar 10				7%	15%	22%	43%	36%
Surrey Heath	14	7,933	0.18%	6	2	8	4	2
Apr 09 - Mar 10				43%	14%	57%	29%	14%
Swale	32	11,113	0.29%	5	14	19	13	0
Apr 09 - Mar 10				16%	44%	59%	41%	0%
Swansea	84	27,599	0.30%	23	18	41	41	2
Apr 09 - Mar 10				27%	21%	49%	49%	2%
Swindon	137	38,730	0.35%	36	25	61	74	2
Apr 09 - Mar 10				26%	18%	45%	54%	1%
Tameside	39	25,474	0.15%	14	7	21	18	0
Apr 09 - Mar 10				36%	18%	54%	46%	0%
Tamworth	4	7,086	0.06%	0	0	0	4	0
Apr 09 - Mar 10				0%	0%	0%	100%	0%
Tandridge	8	4,363	0.18%	0	5	5	3	0
Apr 09 - Mar 10				0%	63%	63%	38%	0%
Taunton Deane	56	10,698	0.52%	19	11	30	24	2
Apr 09 - Mar 10				34%	20%	54%	43%	4%
Telbridge	42	9,111	0.46%	17	12	29	12	1
Apr 09 - Mar 10				41%	29%	69%	29%	2%
Tendring	57	8,869	0.64%	28	16	44	13	0
Apr 09 - Mar 10				49%	28%	77%	23%	0%
Test Valley	6	7,575	0.08%	4	1	5	1	0
Apr 09 - Mar 10				67%	17%	83%	17%	0%
Tewkesbury	21	7,050	0.30%	4	8	12	7	2
Apr 09 - Mar 10				19%	38%	57%	33%	10%
Thanet	48	14,277	0.34%	18	12	30	18	0
Apr 09 - Mar 10				38%	25%	63%	38%	0%
Three Rivers	15	4,664	0.32%	0	4	4	11	0
Apr 09 - Mar 10				0%	27%	27%	73%	0%

This table does not include Witness Statements where no appeal was registered or Consent Orders

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1	2	3	4	5	6	7	8	9
Council	Appeals Rec'd	PCN's issued	Rate of appeal per PCN	Not Contested by council	Allowed by Adjudicator	Total allowed including not contested by council	Refused by Adjudicator incl. out of time and withdrawn by appellant	Awaiting decision incl. other decided
Thurrock	53	10,615	0.50%	12	25	37	14	2
Apr 09 - Mar 10				23%	47%	70%	26%	4%
Tonbridge & Malling	13	8,661	0.15%	3	5	8	5	0
Apr 09 - Mar 10				23%	39%	62%	38%	0%
Torbay	192	33,335	0.58%	32	56	88	103	1
Apr 09 - Mar 10				17%	29%	46%	54%	1%
Torridge	18	8,186	0.22%	7	3	10	8	0
Apr 09 - Mar 10				39%	17%	56%	44%	0%
Trafford	139	31,375	0.44%	44	32	76	59	4
Apr 09 - Mar 10				32%	23%	55%	42%	3%
Tunbridge Wells	42	21,976	0.19%	5	13	18	24	0
Apr 09 - Mar 10				12%	31%	43%	57%	0%
Uttlesford	3	4,395	0.07%	2	0	2	1	0
Apr 09 - Mar 10				67%	0%	67%	33%	0%
Walsall	13	25,147	0.05%	2	4	6	7	0
Apr 09 - Mar 10				15%	31%	46%	54%	0%
Warrington	33	12,435	0.27%	18	6	24	9	0
Apr 09 - Mar 10				55%	18%	73%	27%	0%
Warwick	49	18,654	0.26%	3	18	21	28	0
Apr 09 - Mar 10				6%	37%	43%	57%	0%
Watford	74	22,363	0.33%	11	17	28	44	2
Apr 09 - Mar 10				15%	23%	38%	59%	3%
Waverley	16	10,710	0.15%	3	8	11	4	1
Apr 09 - Mar 10				19%	50%	69%	25%	6%
Welwyn Hatfield	13	7,500	0.17%	2	6	8	4	1
Apr 09 - Mar 10				15%	46%	62%	31%	8%
West Berkshire	21	10,933	0.19%	9	7	16	5	0
Apr 09 - Mar 10				43%	33%	76%	24%	0%
West Devon	1	2,590	0.04%	0	0	0	1	0
Apr 09 - Mar 10				0%	0%	0%	100%	0%
West Oxfordshire	0	660	0.00%	0	0	0	0	0
Jan 10 - Mar 10				0%	0%	0%	0%	0%
West Lancashire	9	3,402	0.26%	3	2	5	4	0
Apr 09 - Mar 10				33%	22%	56%	44%	0%
Weymouth & Portland	16	13,101	0.12%	0	1	1	15	0
Apr 09 - Mar 10				0%	6%	6%	94%	0%
Wigan	58	20,377	0.28%	18	13	31	25	2
Apr 09 - Mar 10				31%	22%	53%	43%	3%
Wiltshire**	73	39,358	0.19%	6	28	34	38	1
Apr 09 - Mar 10				11%	32%	44%	53%	1%
Winchester	4	12,910	0.03%	0	0	0	4	0
Apr 09 - Mar 10				0%	0%	0%	100%	0%
Wirral	109	34,932	0.31%	45	36	81	25	3
Apr 09 - Mar 10				41%	33%	74%	23%	3%
Woking	6	8,571	0.07%	2	1	3	3	0
Apr 09 - Mar 10				50%	17%	50%	50%	0%
Wolverhampton	97	21,405	0.45%	15	68	83	13	1
Apr 09 - Mar 10				15%	70%	86%	13%	1%
Worcester	41	16,740	0.24%	11	9	20	20	1
Apr 09 - Mar 10				27%	22%	49%	49%	2%
Worthing	159	30,400	0.52%	20	61	81	77	1
Apr 09 - Mar 10				13%	38%	51%	48%	1%
Wrexham	18	6,606	0.27%	4	3	7	11	0
Apr 09 - Mar 10				22%	17%	39%	61%	0%
Wychavon	7	7,270	0.10%	3	1	4	3	0
Apr 09 - Mar 10				43%	14%	57%	43%	0%
Wycombe	76	22,990	0.10%	10	21	31	39	5
Apr 09 - Mar 10				13%	28%	41%	51%	7%
Wyre	23	5,353	0.43%	13	5	18	8	0
Apr 09 - Mar 10				57%	22%	78%	35%	0%
Wyre Forest	4	11,295	0.04%	3	0	3	1	0
Apr 09 - Mar 10				75%	0%	75%	25%	0%
York	5	18,870	0.03%	0	5	5	0	0
Apr 09 - Mar 10				0%	100%	100%	0%	0%

**These are new unitary authorities created in April 2009. Figures may include appeals received in this period in relation to PCNs issued by these unitary authorities' predecessor councils.

Rate of appeal per PCN grouped by volume of PCNs Issued

2.1 Rate of appeal - Councils issuing up to 10,000 PCNs

Council	Rate of appeal per PCN	Appeals Rec'd	PCN's issued (up to 10,000)
Redditch	0.00%	11	6,725
West Devon	0.04%	1	2,590
Lichfield	0.05%	4	7,641
Tamworth	0.06%	4	7,086
Braintree	0.06%	3	5,047
New Forest	0.06%	5	7,998
Uttlesford	0.07%	3	4,395
Cannock Chase	0.07%	4	5,847
Woking	0.07%	6	8,571
Barnsley	0.08%	7	9,176
Test Valley	0.08%	6	7,575
Mid Devon	0.10%	4	4,191
Wychavon	0.10%	7	7,270
Harlow	0.10%	8	8,197
Forest of Dean	0.10%	1	976
Christchurch	0.10%	7	6,774
Runnymede	0.11%	7	6,293
Mole Valley	0.12%	9	7,777
Basingstoke and Deane	0.13%	11	8,644
Staffordshire Moorlands	0.13%	8	6,248
Newcastle under Lyme	0.14%	10	7,390
Carmarthenshire	0.14%	13	9,164
Tonbridge & Malling	0.15%	13	8,661
Welwyn Hatfield	0.17%	13	7,500
Surrey Heath	0.18%	14	7,933
Tandridge	0.18%	8	4,363
Spelthorne	0.20%	12	6,137
Brentwood	0.20%	19	9,694
Durham	0.20%	20	9,798
Bracknell Forest	0.21%	5	2,375
Hartlepool	0.21%	15	7,043
Erewash	0.22%	4	1,843
Stevenage	0.22%	15	6,903
Torridge	0.22%	18	8,186
Havant	0.22%	15	6,667
East Devon	0.23%	21	9,080
Chiltern	0.24%	20	8,479
Amber Valley	0.24%	9	3,726
Maldon	0.24%	10	4,117
Dartford	0.24%	19	7,811
North East Derbyshire	0.26%	2	783
West Lancashire	0.26%	9	3,402
Gedling	0.26%	9	3,401
Wrexham	0.27%	18	6,606
Derbyshire Dales	0.28%	14	5,048
Denbighshire	0.29%	27	9,323
Tewkesbury	0.30%	21	7,050
Blaby	0.30%	8	2,644
Ashfield	0.31%	9	2,873
Newark & Sherwood	0.32%	17	5,335
Three Rivers	0.32%	15	4,664
Eden	0.34%	18	5,267
Rotherham	0.35%	31	8,948
Chesterfield	0.35%	27	7,686
Rutland	0.36%	7	1,969
Barrow-in-Furness	0.36%	31	8,621
Rugby	0.36%	31	8,563
Mansfield	0.36%	17	4,683
Rushcliffe	0.38%	12	3,181
Redcar & Cleveland	0.39%	30	7,622
Hart	0.40%	23	5,816
NW Leicestershire	0.40%	28	7,072
Harborough	0.40%	28	6,953
South Lakeland	0.41%	36	8,693
South Gloucester	0.42%	38	9,075
Wyre	0.43%	23	5,353
Bassetlaw	0.44%	20	4,587
Tainbridge	0.46%	42	9,111
Rochford	0.46%	34	7,335
High Peak	0.47%	9	1,933
Hyndburn	0.47%	8	1,698
Chorley	0.48%	26	5,460
Copeland	0.48%	15	3,120
Melton	0.48%	18	3,737
Hinckley & Bosworth	0.52%	32	6,107
Fylde	0.56%	25	4,492
Hertsmere	0.56%	41	7,301
Oadby & Wigston	0.57%	29	5,098
Isle of Angelsey	0.60%	13	2,159
Ribble Valley	0.62%	10	1,622
Tendring	0.64%	57	8,869
Pendle	0.65%	18	2,756
Burnley	0.69%	41	5,968
Broxtowe	0.72%	6	839
Preston	0.73%	58	7,919
Adur	0.74%	46	6,206
Rossendale	0.77%	18	2,323
South Ribble	1.26%	16	1,273

2.2 Rate of appeal - Councils issuing 10,000 to 20,000 PCNs

Council	Rate of appeal per PCN	Appeals Rec'd	PCN's issued (10,000 to 20,000)
York	0.03%	5	18,870
Winchester	0.03%	4	12,910
Wyre Forest	0.04%	4	11,295
Ashford	0.06%	7	11,407
Ipswich	0.07%	11	16,285
East Staffordshire	0.09%	11	12,808
Stratford upon Avon	0.09%	13	13,962
Herefordshire	0.10%	17	16,600
Harrogate	0.12%	20	17,245
Stafford	0.12%	17	14,622
Conwy	0.12%	16	13,438
Weymouth & Portland	0.12%	16	13,101
Dorset [East Dorset, North Dorset, Purbeck, Wareham, and West Dorset]	0.13%	18	13,935
Allerdale	0.13%	21	15,744
Dover	0.14%	19	13,899
Stockton-on-Tees	0.14%	17	12,389
South Hams	0.14%	15	10,919
Carlisle	0.14%	20	13,806
Waverley	0.15%	16	10,710
Bedford	0.16%	29	17,568
Mid Sussex	0.17%	20	11,825
Eastleigh	0.17%	23	13,407
Chelmsford	0.18%	25	13,965
West Berkshire	0.19%	21	10,933
Shepway	0.19%	28	14,558
Neath Port Talbot	0.19%	25	12,975
North Hertfordshire	0.21%	25	12,184
Rushmoor	0.21%	25	12,169
Dacorum	0.22%	35	15,915
Gwynedd	0.22%	32	14,337
South Tyneside	0.22%	26	11,582
Reigate & Banstead	0.23%	33	14,445
Gravesham	0.24%	40	16,670
Worcester	0.24%	41	16,740
Central Bedfordshire	0.25%	27	10,834
Warwick	0.26%	49	18,654
Warrington	0.27%	33	12,435
Swale	0.29%	32	11,113
Middlesbrough	0.31%	36	11,586
Epsom & Ewell	0.32%	34	10,643
Derbyshire	0.32%	61	19,090
Elmbridge	0.33%	59	17,927
Thanet	0.34%	48	14,277
Dudley	0.34%	47	13,822
St Helens	0.35%	47	13,306
Fareham	0.35%	38	10,750
Peterborough	0.36%	60	16,516
North Devon	0.38%	39	10,321
Horsham	0.39%	42	10,869
Calderdale	0.39%	53	13,554
Sevenoaks	0.39%	44	11,251
Gateshead	0.40%	61	15,397
Aylesbury Vale	0.40%	54	13,376
Cheshire West	0.40%	63	15,564
Cotswold & Stroud	0.45%	62	13,799
Poole	0.46%	79	17,337
North Tyneside	0.46%	74	16,125
Rochdale	0.46%	73	15,860
Shropshire	0.48%	48	10,068
Charnwood	0.49%	81	16,525
Bury	0.50%	95	19,051
Thurrock	0.50%	53	10,615
Taunton Deane	0.52%	56	10,698
Broxbourne	0.53%	65	12,158
Lancaster	0.56%	60	10,643
Blackburn with Darwen	0.64%	96	14,916
Solihull	0.71%	71	10,059
Solihull	0.72%	115	15,991
Sunderland	1.05%	129	12,292

2.3 Rate of appeal - Councils issuing 20,000 to 50,000 PCNs

Council	Rate of appeal per PCN	Appeals Rec'd	PCN's issued (20,000 to 50,000)
Guildford	0.04%	10	27,355
Walsall	0.05%	13	25,147
Blackpool	0.06%	16	26,215
Colchester	0.08%	18	22,062
Wycombe	0.10%	76	22,890
East Sussex (Lewes)	0.10%	23	22,249
Sefton	0.12%	49	41,934
Canterbury	0.12%	30	24,295
Cambridge	0.14%	60	43,122
Gloucester	0.15%	36	24,143
Tameside	0.15%	39	25,474
Doncaster	0.16%	34	21,400
Cheltenham	0.16%	33	20,724
Epping Forest	0.16%	39	23,783
Stoke-on-Trent	0.17%	34	20,337
East Hertfordshire	0.17%	51	29,296
Wiltshire	0.19%	73	39,358
Bath and North East Somerset	0.19%	51	26,843
Tunbridge Wells	0.19%	42	21,976
Sandwell	0.19%	63	32,728
Eastbourne	0.21%	42	20,365
Northamptonshire	0.23%	87	38,543
Oldham	0.24%	72	29,705
Hastings	0.26%	59	22,752
Portsmouth	0.27%	117	44,020
Derby	0.28%	77	27,653
Wigan	0.28%	58	20,377
St Albans	0.29%	67	22,848
Southampton	0.30%	128	42,408
Swansea	0.30%	84	27,599
Wirral	0.31%	109	34,932
Southend-on-Sea	0.31%	103	32,821
Oxfordshire (Oxford)	0.31%	119	37,912
Watford	0.33%	74	22,363
Isle of Wight	0.35%	104	29,594
Swindon	0.35%	137	38,730
Coventry	0.36%	129	35,996
Milton Keynes	0.36%	132	36,599
Cheshire East	0.36%	107	29,623
Bournemouth	0.37%	97	26,351
Lancashire CC	0.40%	134	33,433
Scarborough	0.40%	81	20,197
Maidstone	0.41%	117	28,747
Exeter	0.43%	89	20,536
Trafford	0.44%	139	31,375
Salford	0.45%	151	33,395
Wolverhampton	0.45%	97	21,405
Kirklees	0.46%	133	28,828
Norwich	0.48%	128	26,625
Cornwall County	0.49%	156	32,126
Kingston-upon-Hull	0.49%	103	20,875
Plymouth	0.51%	184	36,243
Worthing	0.52%	159	30,400
Medway	0.56%	256	45,709
Nottinghamshire	0.56%	178	31,592
Bolton	0.57%	160	28,244
Torbay	0.58%	192	33,335
Luton	0.58%	198	34,121
Royal Borough of Windsor and Maidenhead	0.67%	267	39,643
Slough	0.76%	251	33,226
Reading	0.81%	362	44,699

2.4 Rate of appeal - Councils issuing 50,000 to 100,000 PCNs

Council	Rate of appeal per PCN	Appeals Rec'd	PCN's issued (50,000 to 100,000)
Newcastle upon Tyne	0.18%	123	68,641
Bradford	0.20%	132	66,252
Sheffield	0.29%	162	56,312
Nottingham	0.30%	195	65,196
Bristol	0.33%	200	60,278
Leicester	0.52%	285	54,362
Liverpool	0.61%	410	67,742

2.5 Rate of appeal - Councils issuing 100,000+ PCNs

Council	Rate of appeal per PCN	Appeals Rec'd	PCN's issued (100,000+)
Leeds	0.11%	135	121,416
Manchester	0.49%	620	127,149
Brighton & Hove	0.58%	671	116,369
Birmingham	0.61%	831	135,554

Allowed Appeals ranked by percentage of those Not Contested by the Council, grouped by volume of appeals received

3.1 Appeals No Contested - 1 - 19 Appeals Received

Council	Percentage of Not contested	Percentage of allowed	Percentage of total allowed including not contested	Appeals Rec'd (1 - 19)
Forest of Dean	0%	0%	0%	1
West Devon	0%	0%	0%	1
North East Derbyshire	0%	100%	100%	2
Cannock Chase	0%	0%	0%	4
Tamworth	0%	0%	0%	4
Winchester	0%	0%	0%	4
Bracknell Forest	0%	60%	60%	5
York	0%	100%	100%	5
Staffordshire Moorlands	0%	25%	25%	8
Tandridge	0%	63%	63%	8
Mole Valley	0%	0%	0%	9
Guildford	0%	50%	50%	10
East Staffordshire	0%	36%	36%	11
Havant	0%	60%	60%	15
Three Rivers	0%	27%	27%	15
Weymouth & Portland	0%	6%	6%	16
Stafford	0%	41%	41%	17
Walsall	0%	0%	0%	13
Herefordshire	6%	41%	47%	17
Copeland	7%	67%	73%	15
Hartlepool	7%	53%	60%	15
Stevenage	7%	47%	53%	15
Cardiff	8%	15%	23%	13
Dartford	11%	37%	47%	19
Runnymede	14%	29%	43%	7
Welwyn Hatfield	15%	46%	62%	13
Eden	17%	56%	72%	18
Rossendale	17%	44%	61%	18
Basingstoke and Deane	18%	9%	27%	11
Blackpool	19%	25%	44%	16
Waverley	19%	50%	69%	16
South Hams	20%	20%	40%	15
Dover	21%	37%	58%	19
Amber Valley	22%	33%	56%	9
Colchester	22%	17%	39%	18
Dorset (East Dorset, North Dorset, Purbeck, Wareham, and West Dorset)	22%	28%		18
Pendle	22%	50%	72%	18
Wrexham	22%	17%	39%	18
Isle of Anglesey	23%	23%	46%	13
Tonbridge & Malling	23%	38%	62%	13
Stockton-on-Tees	24%	41%	65%	17
Lichfield	25%	25%	50%	4
Mid Devon	25%	75%	100%	4
South Ribble	25%	63%	88%	16
Ashford	29%	29%	57%	7
Barnsley	29%	29%	57%	7
Christchurch	29%	43%	71%	7
Derbyshire Dales	29%	43%	71%	14
Newcastle under Lyme	30%	10%	40%	10
Conwy	31%	38%	69%	16
Braintree	33%	33%	67%	3
Woking	33%	17%	50%	6
West Lancashire	33%	22%	56%	9
Newark & Sherwood	35%	18%	53%	17
Ipswich	36%	36%	73%	11
Hyndburn	38%	38%	75%	8
Torridge	39%	17%	56%	18
New Forest	40%	20%	60%	5
Spelthorne	42%	58%	100%	12
Rutland	43%	29%	71%	7
Wychavon	43%	14%	57%	7
Surrey Heath	43%	14%	57%	14
Gedling	44%	33%	78%	9
Stratford upon Avon	46%	15%	62%	13
Mansfield	47%	24%	71%	17
Erewash	50%	0%	50%	4
Broxtowe	50%	17%	67%	6
Blaby	50%	38%	88%	8
Rushcliffe	50%	25%	75%	12
Redditch	55%	36%	91%	11
Ashfield	56%	44%	100%	9
High Peak	56%	22%	78%	9
Melton	56%	22%	78%	18
Maldon	60%	40%	100%	10
Ribble Valley	60%	20%	80%	10
Uttlesford	67%	0%	67%	3
Test Valley	67%	17%	83%	6
Wyre Forest	75%	0%	75%	4
Harlow	88%	13%	100%	8
Brentwood	95%	5%	100%	19

3.2 Appeals No Contested - 20 - 49 Appeals Received

Council	Percentage of Not contested	Percentage of allowed	Percentage of total allowed including not contested	Appeals Rec'd (20 - 49)
Harrogate	0%	35%	35%	20
Mid Sussex	0%	30%	30%	20
Stoke-on-Trent	0%	24%	24%	34
St Helens	2%	32%	34%	47
South Lakeland	3%	69%	72%	36
Warwick	6%	37%	43%	49
Horsham	7%	69%	76%	42
Chelmsford	8%	46%	54%	25
Dacorum	9%	23%	31%	35
Rugby	10%	19%	29%	31
Carlisle	10%	25%	35%	20
Durham	10%	45%	55%	20
Tunbridge Wells	12%	31%	43%	42
Reigate & Banstead	12%	61%	73%	33
Barrow-in-Furness	13%	45%	58%	31
Rotherham	13%	23%	35%	31
Eastleigh	13%	13%	26%	23
NW Leicestershire	14%	21%	36%	28
Shepway	14%	25%	39%	28
Swale	16%	44%	59%	32
Sevenoaks	16%	36%	52%	44
Doncaster	18%	21%	38%	34
Sefton	18%	29%	47%	49
Tewkesbury	19%	38%	57%	21
Dudley	19%	32%	51%	47
South Tyneside	19%	35%	54%	26
Canterbury	20%	43%	63%	30
Fareham	21%	37%	58%	38
South Gloucester	21%	47%	68%	38
Denbighshire	22%	22%	44%	27
Epping Forest	23%	21%	44%	39
North Devon	23%	26%	49%	39
Rushmoor	24%	36%	60%	25
Gloucester	25%	31%	56%	36
Worcester	27%	22%	49%	41
Hinckley & Bosworth	28%	25%		32
Allerdale	29%	19%	53%	21
East Devon	29%	10%	38%	21
Central Bedfordshire	30%	41%	71%	27
Bassetlaw	30%	55%	85%	20
Cheltenham	30%	33%	64%	33
Shropshire	31%	15%	46%	48
Fylde	32%	28%	60%	25
Redcar & Cleveland	33%	20%	53%	30
Oadby & Wigston	34%	14%	48%	29
Hart	35%	35%	70%	23
Harborough	36%	28%	64%	28
Tameside	36%	18%	54%	39
Middlesbrough	36%	11%	47%	36
Gravesham	38%	45%	83%	40
Thames Valley	38%	25%	63%	48
Chiltern	40%	15%	55%	20
Teignbridge	40%	29%	69%	42
Epsom and Ewell	41%	44%	85%	34
West Berkshire	43%	33%	76%	21
Neath Port Talbot	44%	32%	76%	25
Gwynedd	47%	25%	72%	32
East Sussex (Lewes)	48%	17%	65%	23
Eastbourne	50%	33%	83%	42
Adur	50%	30%	80%	46
Chesterfield	52%	22%	74%	27
Rochford	53%	21%	74%	34
Warrington	55%	18%	73%	33
Burnley	56%	20%	76%	41
Hertsmere	56%	22%	78%	41
Wyre	57%	22%	79%	23
Bedford	61%	14%	75%	28
North Hertfordshire	64%	24%	88%	25
Chorley	65%	12%	77%	26

3.3 Appeals No Contested - 50 - 99 Appeals Received

Council	Percentage of Not contested	Percentage of allowed	Percentage of total allowed including not contested	Appeals Rec'd (50 - 99)
Oldham	3%	47%	50%	72
Aylesbury Vale	6%	33%	39%	54
Wiltshire	8%	38%	47%	73
East Hertfordshire	12%	25%	37%	51
Broxbourne	12%	40%	52%	65
Scarborough	12%	31%	43%	81
Wycombe	13%	28%	41%	76
Hastings	14%	34%	47%	59
Bournemouth	14%	40%	55%	97
Watford	15%	23%	38%	74
Elmbridge	15%	36%	51%	59
Wolverhampton	15%	70%	86%	97
Poole	16%	43%	59%	79
Derby	17%	35%	52%	77
Cheshire West	19%	32%	51%	63
Northamptonshire	20%	22%	41%	87
Rochdale	21%	38%	59%	73
Basildon	23%	27%	49%	71
Thurrock	23%	47%	70%	53
Bath and North East Somerset	24%	41%	65%	51
Bury	25%	35%	60%	95
Exeter	26%	27%	53%	89
Sandwell	27%	13%	40%	63
Swansea	27%	21%	49%	84
Calderdale	28%	32%	60%	53
Cambridge	28%	18%	47%	60
Peterborough	28%	47%	75%	60
Preston	31%	19%	50%	58
Wigan	31%	22%	53%	58
Cotswold & Stroud	32%	23%	55%	62
Gateshead	33%	31%	64%	61
Charnwood	33%	40%	73%	81
Taunton Deane	34%	20%	54%	56
Blackburn with Darwen	35%	33%	69%	96
Lancaster	38%	35%	73%	60
North Tyneside	39%	27%	66%	74
Derbyshire	48%	18%	66%	61
Tendring	49%	28%	77%	57
St Albans	63%	13%	76%	67

3.4 Appeals No Contested - 100 - 199 Appeals Received

Council	Percentage of Not contested	Percentage of allowed	Percentage of total allowed including not contested	Appeals Rec'd (100 - 199)
Kirklees	5%	28%	32%	133
Southampton	5%	24%	30%	128
Sunderland	7%	15%	22%	129
Salford	9%	61%	70%	151
Portsmouth	9%	24%	33%	117
Solihull	10%	14%	23%	115
Worthing	13%	38%	51%	159
Cornwall County	15%	37%	53%	156
Luton	16%	39%	55%	198
Newcastle upon Tyne	16%	20%	37%	123
Torbay	17%	29%	46%	192
Oxfordshire (Oxford)	17%	18%	34%	119
Leeds	19%	24%	44%	135
Cheshire East	20%	49%	68%	107
Isle of Wight	25%	19%	44%	104
Swindon	26%	18%	45%	137
Kingston-upon-Hull	30%	62%	92%	103
Bradford	31%	27%	58%	132
Trafford	32%	23%	55%	139
Milton Keynes	32%	38%	70%	132
Lancashire CC	33%	28%	61%	134
Plymouth	34%	22%	55%	184
Norwich	35%	21%	56%	128
Bolton	36%	28%	64%	160
Sheffield	36%	24%	60%	162
Nottinghamshire	37%	30%	66%	178
Coventry	39%	29%	68%	129
Maldstone	39%	26%	65%	117
Nottingham	41%	14%	55%	195
Wirral	41%	33%	74%	109
Southend-on-Sea	42%	23%	65%	103

3.5 Appeals No Contested - 200+ Appeals Received

Council	Percentage of Not contested	Percentage of allowed	Percentage of total allowed including not contested	Appeals Rec'd (200+)
Liverpool	17%	34%	52%	410
Brighton & Hove	24%	32%	56%	671
Manchester	25%	30%	55%	620
Royal Borough of Windsor and Maidenhead	27%	30%		267
Reading	36%	29%	57%	362
Bristol	37%	23%	60%	200
Leicester	38%	30%	68%	285
Birmingham	38%	17%	55%	831
Medway	41%	30%	71%	256
Slough	43%	22%	66%	251

4.1 Summary of Appeals involving Tow Aways

Council	Year	Total number of Appeals involving Tow Aways	Number of Vehicles Towed Away	Not Contested	Allowed by Adjudicator	Total Allowed including not contested by Council	Appeal Out of Time	Appeal withdrawn by Appellant	Dismissed by Adjudicator	Total Refused by Adjudicator including out of time, and withdrawn by appellant
Birmingham	2009-10	18	2,157	4 22%	5 28%	9 50%	0 0%	0 0%	8 44%	8 44%
	2008-09	12	1,705	4 33%	4 33%	8 67%	0 0%	0 0%	4 33%	4 33%
Blackpool	2009-10	0	61	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
	2008-09	2	231	0 0%	2 100%	2 100%	0 0%	0 0%	0 0%	0 0%
Brighton & Hove	2009-10	17	1,217	2 12%	5 29%	7 41%	1 6%	0 0%	9 53%	10 59%
	2008-09	26	1,169	3 12%	18 69%	21 81%	1 4%	0 0%	4 15%	5 19%
Bristol	2009-10	5	121	0 0%	4 80%	4 80%	0 0%	0 0%	1 20%	1 20%
	2008-09	9	1,870	0 0%	6 67%	6 67%	0 0%	0 0%	1 11%	1 11%
Manchester	2009-10	62	3,963	10 16%	22 35%	32 52%	1 2%	1 2%	28 45%	30 48%
	2008-09	22	3,496	3 14%	5 23%	8 36%	0 0%	0 0%	14 64%	14 64%
Nottingham	2009-10	10	2,344	3 30%	2 20%	5 50%	0 0%	0 0%	5 50%	5 50%
	2008-09	17	2,523	5 29%	3 18%	8 47%	0 0%	0 0%	9 53%	9 53%
Oxford	2009-10	0	14	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
	2008-09	0	24	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%	0 0%
All	2009-10	112	9,877	19 17%	38 34%	57 51%	2 2%	1 1%	51 46%	54 48%
	2008-09	88	11,018	15 17%	38 43%	53 60%	1 1%	0 0%	32 36%	33 38%

4.2 Rate of Appeal per Tow Away

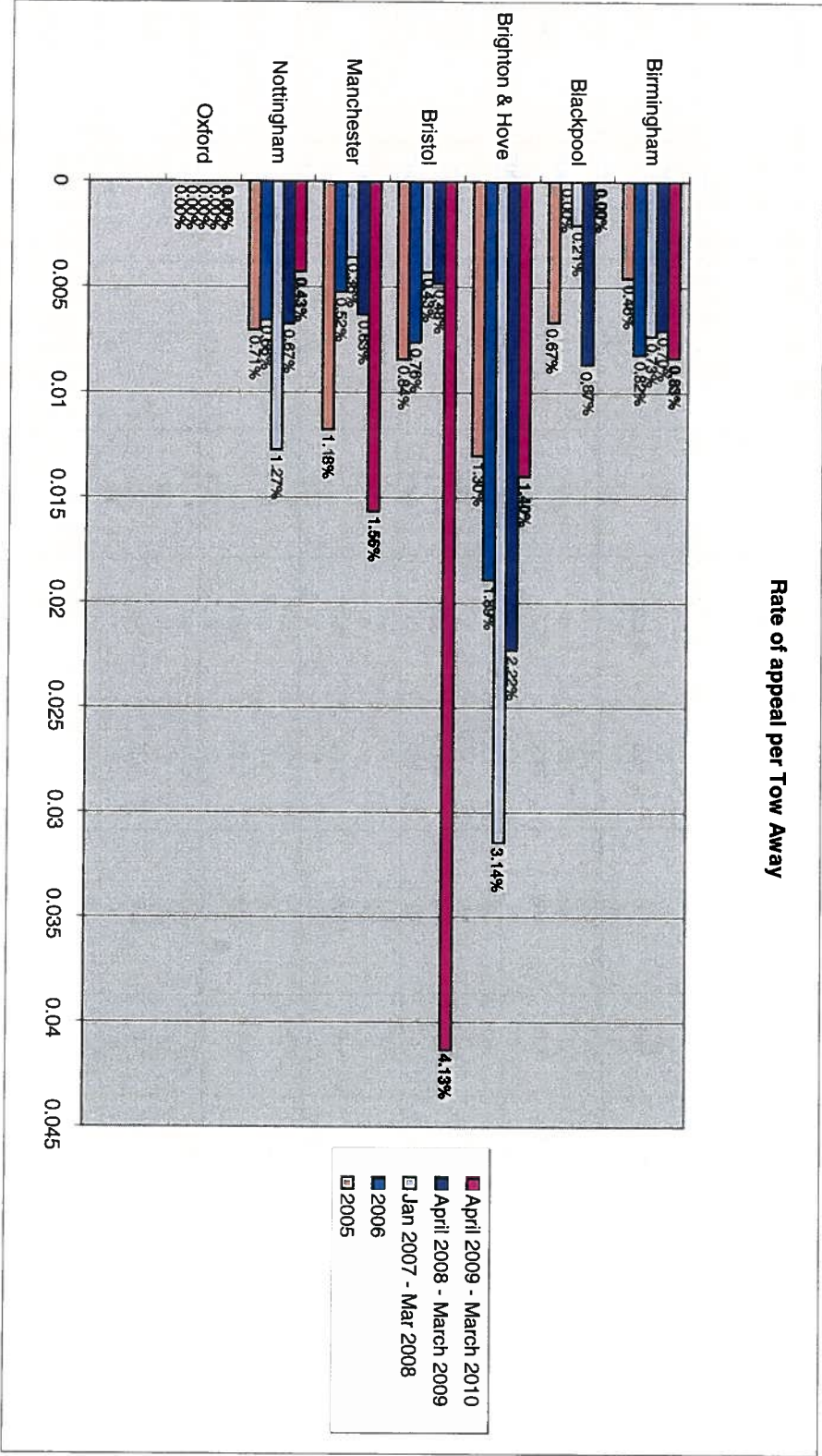


Table 4

4.3 Number of PCNs Issued by the Councils involved in Tow Aways

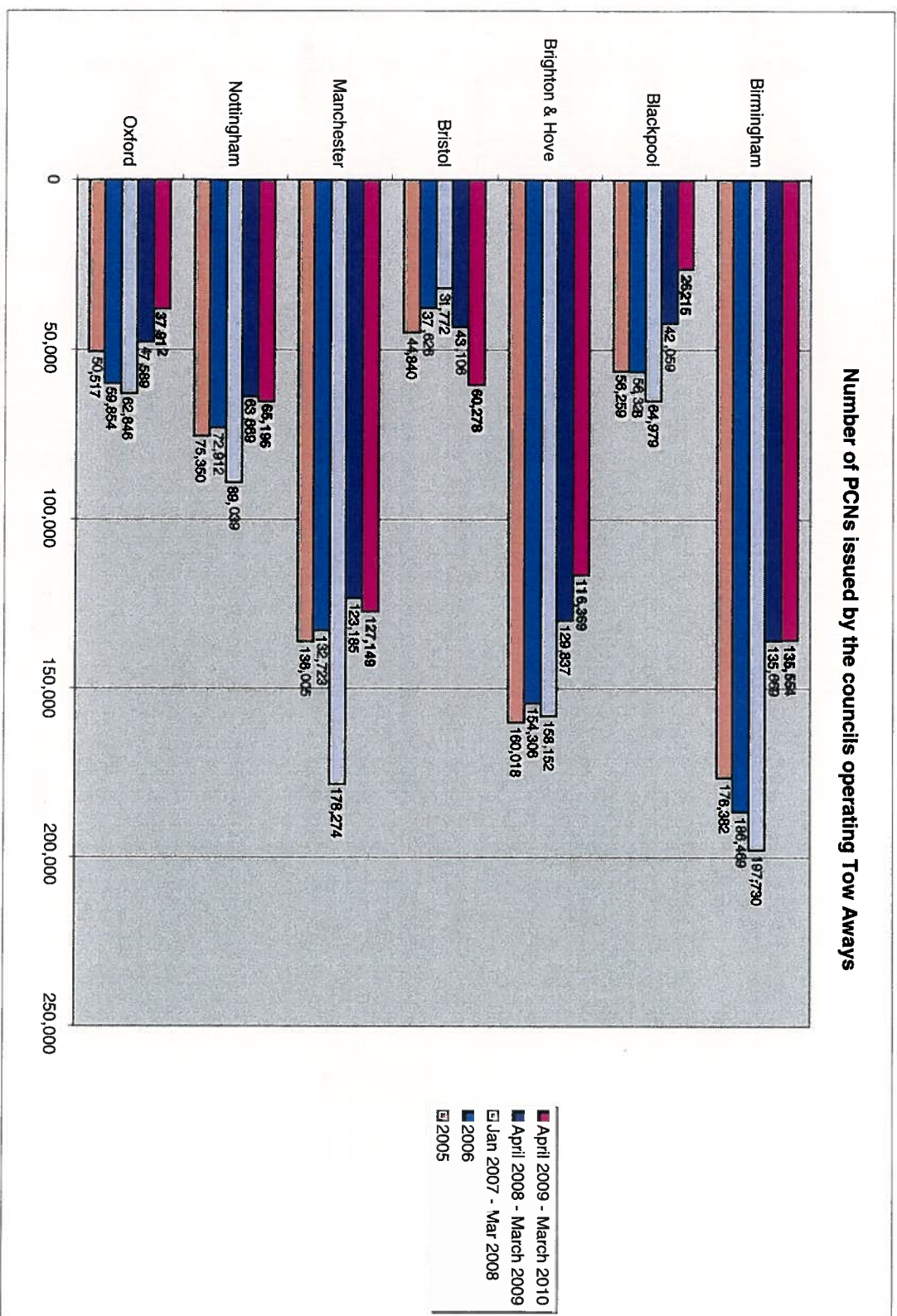


Table 4

4.4 Number of Vehicles Towed Away

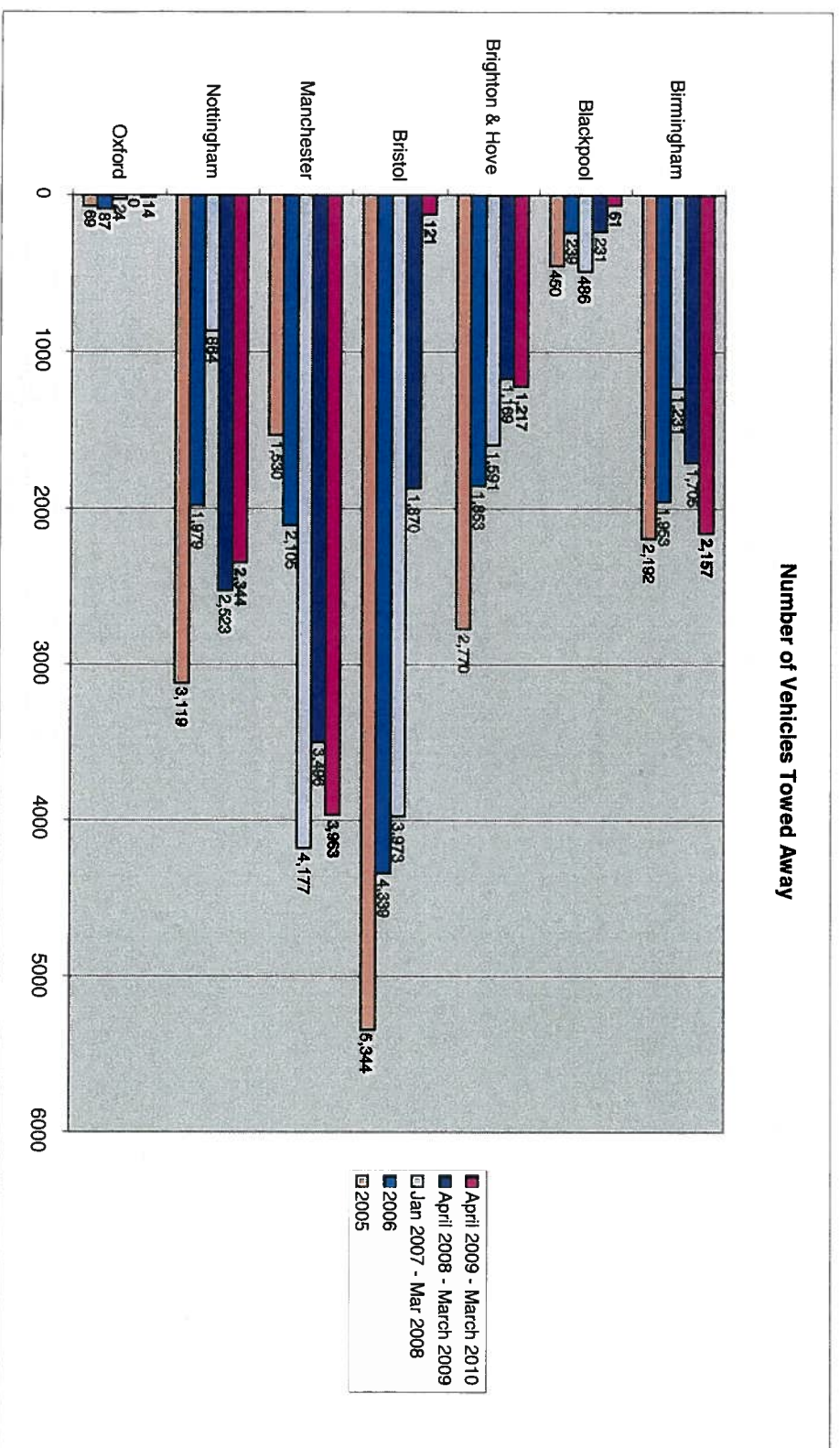


Table 4