

National Parking Adjudication Service

Comments

The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007

Regulation

- 3 (4)(f) - We welcome the inclusion of this ground which will go a long way to meet justice of cases that do not fall within the standard grounds of appeal.
- (i)(j) – If dual enforcement with police is not applied, these grounds could be removed. Fewer grounds of appeal would make the NtO simpler and a less cumbersome document.
5. (1) We have always been concerned by this provision which implies that a council may simply ignore what they regard as late representations. At the very least they should be required to inform the person making the representations why they are not being considered. However, the Secretary of State's Guidance should make clear that:
- a. Councils have a discretion to consider late representations;
 - b. They should consider any reason given for the apparent delay in the same way the adjudicator will consider an out-of-time appeal;
 - c. If the late representation makes out a ground of appeal, especially when evidence is produced, the council should take appropriate action, particularly in cases involving change of ownership of the vehicle.
- 6 (1)(b) –Why has this clause has been changed from the drafting of the RTA? If this drafting is preferred then the words after 'costs' should be deleted. The user surveys conducted for the then London PAS and for NPAS both found overwhelming evidence that the fear of costs was a significant reason for people who would otherwise have appealed, deciding not to exercise their right. In practice costs are very seldom awarded against an appellant whereas they are awarded against councils fairly regularly. This a subject about which the Select Committee made recommendations. It is both oppressive and, on the evidence, virtually an empty threat, to warn of costs against the appellant alone.
- 7 (2) – We would appreciate an explanation why it is thought necessary to change the drafting with respect to the adjudicator's directions. The two options contained here are far too narrow. Adjudicators tend to make standard

directions in respect of the vast majority of allowed appeals and these are familiar to councils. Typically and adjudicator would direct a council:

- a. To cancel the PCN where there has been a PA error or the contravention did not occur, and/or
- b. To cancel the Notice to Owner (without the cancellation of the PCN) where the ground had been ownership, or a hired vehicle.

Also:

- c. There are cases involving when payment was made where it is necessary to direct the council to accept the reduced penalty provided it is paid in 14 days
- d. From time to time there are special circumstances in a particular case that require a more detailed direction.

Therefore to restrict directions to a pick-list in the regulations may not meet the requirements of the case.

The application of the 'give such directions as he sees fit' was clarified in the Walmsley case and we see no reason to depart from that drafting. We would respectfully suggest that we now have considerable experience of the directions required when allowing appeals and we have never had an application for a review relating the directions given, other than to correct an error.

- 8 (5)(a) – See our comments with respect to this ground with respect to removed vehicles.

Procedure in Adjudication Proceedings

It is regrettable that there is felt the need to adapt the drafting of the present adjudicators' regulations for no apparent purpose Section 80(2)(f) of the TMA is a generally wide provision and does not in itself require a departure from the structure and words of the existing adjudicators' regulations.

It should be understood that every change made to the existing and well understood procedures adds to the burden on councils to train staff in the changes, and makes errors more likely. Council officers and adjudicators are experienced and familiar with the form of the present regulations and there are no discernable benefits in introducing unnecessary changes on top of the necessary ones.

It would be particularly helpful if the numbering of the current procedural regulations and the paragraphs of the new Schedule matched, thus minimising the scope for making mistakes in say, applying for review under Regulation 11 where the PCN was issued under RTA while having to apply for a Review under Paragraph 12 for a TMA PCN.

- 9 (1) - This change seems particularly unnecessary The parties obviously may appear and the adjudicator has an inherent discretion about any other people regardless of the regulations.
- 11 (1) - We are dismayed by this statement of the obvious.