NPAS Consultation Responses

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007

Regulation	Comment	Comment taken forward or not
2 (1) 2 (3)	Should the definition of adjudicator state 'appointed or treated as appointed under Part 4? Ought there to be a definition of 'approved device'? See comments on persistent evaders (in Response to Consultation on the Provisions for Parking	
3	The vehicle leasing and rental industry has for some time negotiated with the London councils for NtOs to be sent to them electronically. Can there be a provision for service by EDT where the recipient has consented to this form of service?	
5	There is no explicit provision as to the material time for ownership i.e. should it be made clear that it is the owner at the time of the contravention?	
8 (1) (a)	The natural interpretation of 'given' in this context is confined to PCNs issued under 9(b). Since the title to both reg. 9 and 10 is 'service', could that word be used here?	
11	If dual enforcement with the police is preserved, then a police officer in uniform should be added as 'c'	
12	There should be an express provision that the PCN is issued and attached to the vehicle before it is immobilised.	
12 (4)	the reference to paragraph (4) should presumably be changed to paragraph (3)?	
13 (2) and (3)	While the idea behind this is discernable these provisions are very confused. We presume they have been included lest a persistent evader decides to use a disabled badge. Were separate regulations to be made for the persistent evader enforcement these provisions could be placed more meaningfully there.	

14 (2)	Reference to 12(3) should be 12(2)	
14 (2) (c)	See comments on persistent evaders	
16 (1)	Should there be a reference to section 81 of the Act here in parallel to 15(1)(a)? We are extremely concerned that the provisions provide for more than one joint committee outside London. While the original modifications to the RTA applied to the outside London authorities embraced the possibility of more than one joint committee, that was in 1999 when the arrangements for a single joint committee were not fully formulated. Now that a single joint committee is well established, what is the reason for preserving the 1999 options? There is already public confusion about the existence of two adjudication services in England and Wales (20% of the NPAS email box concerns London PCNs). The purpose of a joint committee is to preserve independence and to ensure that all councils contribute to the funding on a fair basis. The possibility of creating a splinter group could prove disruptive, might be subject to political objectives and undermine the essential principles of the tribunal.	
19	The requirements in 19(2) do not appear to have been double checked against those for a PCN in the Schedule – see Para (b) and (c) in the Schedule. 19(2)(c) does not deal with PCNs served by post. While the addition of the NTO stage in the process for Reg. 10 PCNs is more cumbersome we are pleased that this approach has been adopted. It will provide adjudication for payment disputes, and the London councils are already familiar with this process.	
19 (2) (e)	(2)(e) - We have consistently expressed out concern about the apparent implication that councils can simply ignore representations that they regard as out of time. We appreciate that the TMA replicated the provisions from the RTA, but it would be hoped that a clause requiring the council to serve a notice to that effect could be inserted. Also, the Secretary of State's Guidance should encourage councils: a) To take into account reasons for late representations on a similar basis to the	

	adjudicator's discretion with out of time appeals b) In any event to consider the substance of the representation, since if they clearly show a ground for cancellation of the PCN then it is equitable so to do. This is particularly relevant to proof of change of ownership.	
20	We reiterate our concern that six months is too long to allow the service of a first NtO. We appreciate that this length of time is aimed at the comparatively but disproportionately troublesome few who are negligent about or deliberately avoid registering their vehicle, but in focussing on them it is allowing far too much leeway which will impact on the many that are responsible about vehicle registration. Also, in many cases the council may have difficulty getting the data from the DVLA, but that is hardly the fault of the vehicle owner and why should they be prejudiced by circumstances beyond their control? Exponents of the six month time limit rely on the argument that no reasonable council would wait for six months before trying to recover payment of a penalty, but all too often issues raised in appeals reveal councils experiencing difficulties with their software, or with insufficient staff resources, or simply being ill-prepared or disorganised, resulting in them sending NtOs out after four, five or even six months. The three month time limit for serving a NtO mooted at the start of this process should be reintroduced with an exception created so that six months is allowed in cases where the DVLA has no keeper recorded for the vehicle for the date of the alleged contravention. If the six month time limit is preserved then the Secretary of State's Guidance should remind councils that enforcement of payment of fines should be prosecuted within the time scales set out in the basic process, i.e. a NtO should be sent soon after the twenty eight day period had expired, and should set out some examples of the exceptional circumstances where it would be justifiable to send a first NtO up to the six month limit.	
20 (20 (b)	As with 8(1)(a), the word 'service' would cause less interpretive arguments than 'given'.	

23 (2)(c)(i)	This clause is unnecessary – if the appeal was still undecided when the Charge Certificate was issued (2)(c)(ii) would apply.	
23	It is not clear whether, assuming the papers are in time, the district judge is obliged to set aside the charge certificate or if there is a discretion how it is to be exercised but this might be dealt with as part of any consideration of other specific points below.	
23 (1)	(1) - This should refer to service rather than the making of the order.	
23(5) (7) and (8)	(5) (7) and (8) - (5) refers to a witness statement but (8) refers to a notice to owner. (8) refers to a notice to owner being declared void under (5) but (5) deals with witness statements being declared void. It is not clear to me how these fit together. The reference in (8) to a witness statement served under (1)(c) should be a reference to (1)(b) Also one would have expected (7) to be part of (5) if the reference to a witness statement is correct.	
24 (5)	(5) - It was always an anomaly in the RTA that the ground for representations for removed vehicles is expressed as 'that there were no reasonable grounds for believing……' This is because if its literal meaning is applied it might preclude cases where the vehicle was lawfully engaged in unloading, but the vehicle was removed because it was parked on a yellow line. It would make more sense to replicate Reg 4(4)(a) of the Representations and Appeals Regulations –'the alleged parking contravention did not occur'. Since there are several examples of stretching the enabling provisions of the TMA in these draft regulations, might this sensible course of action be adopted?	
24 (5)	(5) – The new 5C(2) of the Removal and Disposal of Vehicles (Amendment) (England) Regulations needs to be addressed in the grounds for representations and appeal.	
24 (6)	(6) - The definition imported from Representations and Appeals Regulation is a little uncomfortable here. The reference to the 'recovery of a penalty charge' would apply where there is a dispute about outstanding penalty charges, but would not arise in a straight forward removal case. If the persistent evader regulations are to be reconsidered separately then the reference to 'recovery'	

	confuses here. We would urge that the failure to follow the Secretary of State's Guidance with regard to removal procedures (which in itself should place emphasis on the a judgement as to whether removal is proportionate) to be included in the definition of procedural impropriety.	
26 (4)	No council has ever managed to process a refund 'forthwith'. It might be as well to place an achievable duty on the council by requiring the refund to be made in 14, or 21 at the latest, days.	

Consultation on the Provisions on Parking Responses

Question Asked	**Comment**	**Comment taken forward or not**
1 and 2 (RIA)	There is no reference to the costs involved for DPE councils in the change over from RTA to TMA. The new regulations require a complete overhaul of the all the notices and documents in the process and will involve significant changes to the computer processing software. Councils will also have to preserve their old processing system and files to apply the correct documents and provision to outstanding PCN issued under RTA. The RIA should address the considerable costs involved with this. Since the changes will be the same for councils with large or small operations, the impact will be greatest on councils that issue relatively few PCNs. The new regulations are at considerable variance to the RTA provisions, therefore the parking department staff will need thorough training to prepare them for the new scheme. In addition they will be continuing to process the outstanding RTA cases, so the training will need to embrace the principles involved in applying the correct legal procedures depending when the PCN was issued. The cost of this training should not be underestimated.	

3 and 4 (information on parking)	The importance of clear, easily accessible information cannot be overemphasised. It serves not merely to advise people of services, and explain about enforcement, but it is at the heart of the authority's accountability for this important aspect of council activity involving the public paying the authority money. Councils should therefore publish information in a variety of media about their parking regulations, including the availability and conditions of permitted parking and car parks, how and where to obtain disc and permits, facilities for the disabled, the hours and locations of loading bans, maps and explanations of CPZs and restricted zones, any special arrangements for match days etc. They should also publish their polices for providing parking services and for enforcement, including policies concerning the exercise of discretion. There should be clear information about how to communicate with the parking department, and the service standards for responding to queries and complaints. They must also provide information at every stage of the enforcement process and about the right to and grounds for appeal to the adjudicator. They should publish a full annual report including a clear description of the accounts and how income, including surpluses is spent. All this should available on the council's website clearly described as 'parking', not buried in a sub-section of, say, transportation. Leaflets should also be available in libraries, petrol stations and shops. Schools should be targeted in campaigns to make children aware of the need for responsible parking and particularly why the roads round schools should be kept clear.	
5. Accountability. Set up a unit independent of the parking department?	No. Councils already have the departments able to cope with more general grievances, depending on the type of grievance. One of the enduring problems with DPE is that many parking departments appear to operate outwith the main organisational structures and strategies of the council. If parking were to be seen to be at the heart of council services, the	

	Chief Executives complaints unit , the highways department, would all be involved as appropriate. To create yet another parking department may further disengage parking from other council activities A common characteristic of the five councils that performed best in the 2004 NPAS statistics was that their appeal cases and more difficult representations were reviewed by an individual who was not in the main parking enforcement office – "a second pair of eyes" as one put it. This practice should be encouraged in all councils, but not by setting up another department. That person could also filter non TMA grievances.	
6. Role of police	No – it is bad enough having some parts of England in the DPE scheme and others in the criminal; scheme without confusing matters further, There are different legal principles applied to a criminal regime, for example driver liability. Also magistrates' can take mitigation into account and give absolute discharges. Some individuals might consider that they would rather be prosecuted or given a FPN by the police.	
7 and 8 Differential penalty charges	There is nothing new in this - the RTA provides for differing penalties and they were used in the early days of DPE in some of the outer London boroughs. Many appellants question the fairness of paying the same penalty for what is regarded as a minor infringement, typically where parking is permitted. There is particular concern that contraventions in council car parks should be subject to what many consider to be a disproportionate penalty. Our impression is that the public would welcome proportionate penalties. It would not be confusing if councils fulfilled their duties to communicate properly, widely advertising which contraventions attracted what penalty. We have commented that the Secretary of State's Guidance should list in everyday terminology and with reference to the established contravention codes, the contraventions subject to civil enforcement in Schedule 7. The Secretary of State should also give guidance as to which type of contravention could attract a higher or lower penalty.	

9 Discretion	This should be a matter for individual councils. It is more satisfactory to avoid issuing a PCN in circumstances where the vehicle turns out to be involved in loading, rather than embark on the expensive and time consuming exercise of a challenge. The exercise of discretion based on robust published polices would enhance public acceptance of CPE.	
10, 11 and 12 Time limits	We believe that The Secretary of State should suggest targets for dealing with the different stages of the process. It would make the CPE system more robust because: a. there are time limits set for motorists and vehicle owners at every stage of the process and there is no equality if councils are not at least subject to standard targets; b. there will be a presumption that contracts are geared to those suggestions; c. now that the ring-fence for spending the surpluses has been lifted for councils achieving a rating of two stars the Secretary of State's suggestions will provide a helpful structure for standards required for parking services to ensure that parking departments are sufficiently resourced to deliver those standards. If councils are to set their own targets then the Secretary of State should give Guidance that they should be the same targets that are applied to other departments within the council. For example, most councils commit to answering correspondence within ten working days; if that is the case the parking department should be bound by the same standards. The targets illustrated should therefore be achievable. In our experience many councils now achieve those turn-round times, and consider representations carefully while some authorities subject to the worst delays also over-use standard letters.	
13 PCN to be sent within 14 days?	Yes. When the PCN is issued to a vehicle still parked in contravention if the driver disagrees with PCN he/she can retain the relevant evidence and take photos at the location. The longer the delay in issuing the PCN, the more the vehicle owner will be prejudiced in providing evidence to challenge the penalty. For example, adjudicators are often shown	

	receipts that are timed that support the appeal that a vehicle was parked for the purpose of loading. If PCNs are sent later the motorist may well have thrown away the receipt.	
14 21 day discount for PCNs sent by post?	Yes, since, for the reasons set out in 17 above, it is likely to take the recipient longer to track down evidence, or identify the driver. However, the proposal in the regulations to give different time limits depending on the reason for the postal service will cause confusion about the basic rules of the scheme, and is of questionable purpose, bearing in mind the owner liability principle. The Secretary of State's Guidance should remind councils that the time runs from *service* of the PCN, not from the day it is produced from their system and advise them to take a pragmatic approach to accepting the reduced penalty.	
15 and 16 Re-offer discount after rejecting informal challenge?	Yes. This should be clearly set down in the guidance. It is in the council's own interest to resolve any dispute at the earliest opportunity and they should be encouraged to properly consider informal challenges and give reasons if they do not accept. The fundamental CPE process should be clearly understood by all drivers and vehicle owners. It is not helpful to that objective if different councils apply different rules.	
17 Time before clamping or removal	The 60 minutes provided for in the draft regulations seems sensible and will meet with public approval,	
18 and 19 Definition of a persistent evader Should ALG expand their persistent evader database?	We are extremely concerned about the current proposals to implement the persistent evader proposals. We consider that they need considerably more thought and require special regulations of their own. There are no adjudication provisions made for vehicles that are being held in a pound in circumstances where liability for .payment of 'outstanding' penalties is disputed There are numerous examples of how the owner of a vehicle that is being retained by a Council under the persistent evader regulations may not be liable for payment of	

	the penalties. Typically: a. They may have recently bought the vehicle and the penalty charges were incurred prior to their purchasing of it. b. A Council may have progressed the penalty charge processing to the charge certificate level when in fact the case is subject to representations or an appeal. The pound will be staffed by contractors who will not be in a position to decide whether or not the vehicle should be released. It is unrealistic to assume that everybody who has purchased a new car will go around with confirmation of the date of purchase, and in any event this could occur in relation to PCNs issued some considerable time prior to the incident where the vehicle was impounded. In America, where the "Scofflaw" provisions were invented the registration plate stays with the owner of the vehicle and therefore the provisions work well. In addition to that the American procedure requires that the person about to be placed on the Scofflaw list is sent a warning notice explaining that this is about to happen, providing a final opportunity for the persistent evader to pay outstanding penalties. Finally there is a provision for "boot" hearings where the person whose car has been impounded can get a hearing before an Adjudicator the following day to determine whether the vehicle should be released pending adjudication of liability of the earlier tickets. There is no indication in either the regulations or the guidance as to how these disputes are likely to be sorted out. Bearing in mind that the data concerning unpaid penalty charges may come from a variety of councils, the authority holding the vehicle will not necessarily have access to all the case details relating to the penalty charges which are being disputed. There is therefore no accountability on the part of the holding authority for the quality of data submitted to them by other authorities who claim that there are outstanding penalty	

	charges. This in itself will cause a problem for the authority holding the vehicle since they will be the public authority who has seized a citizen's possession and yet will not be able to account for the reliability of the information on which they are holding the vehicle. If it transpires that, for example, one of the authorities has progressed the case to Charge Certificate erroneously, then the holding authority might be subject to legal proceedings in the County Court on the basis of another authority's error. It is likely that the authorities that have the most active and efficient removal schemes will be the authorities that find themselves being held responsible for failing to release vehicles held to satisfy penalties of less efficient councils.. There is also a question of the value of the vehicle weighed against the amount of penalty charges that are outstanding. We understand that the London Councils are proposing to increase a penalty charge to £120 which means that after Charge Certificate the penalty will be £180. If there are three outstanding penalties and the penalty for which the vehicle was removed ,plus the release fees ,many cases will involve a sum in excess of £600 (slightly less if outside London councils are involved). Therefore a vehicle owner whose car is worth less than £600 may well take the decision that leaving the vehicle in the pound is a convenient way of disposing of it. They can then proceed to acquire another low cost vehicle and continue to drive and park it with impunity. It would not be surprising, therefore, if councils decided that it was a high risk strategy to even remove vehicles that in their opinion were worth less than £600 in case the vehicle is left with them indefinitely and they have to incur the additional cost of having to dispose of the vehicle. That also raises the issue of arrangements that will need to be made between the Councils with removal facilities and pounds and those Councils who wish to put their outstanding Penalty Charge Notices on the list.	

	Presumably if a vehicle is being held pending payment of other authorities penalty charges the holding council will want the other authority to contribute towards the cost of the removal operation and running the pound. On the other hand if the penalty charge is not recovered because the vehicle is left there. none of the Councils will be gaining any satisfaction whilst they are incurring additional costs. Of course it will be a benefit to the community if that particular vehicle is taken off the road but it will do nothing to improve the conduct and behaviour of the owner of the vehicle who has decided to leave it there. It is fundamental that Article 1 of the Fist Protocol of the European Convention on Human Rights is considered in respect of these provisions. Of course the theory behind the provisions is to enforce the law and that is a justifiable reason for depriving a citizen of his or her property. However if it turns out that the vehicle should not have been held and that the information on which it was removed and held is wrong then it may well give rise to cases involving the Human Rights Act. Furthermore, there could be said to have been a breach of Article 6.1 of the ECHR insofar as the Regulations fail to provide for any adjudication with respect to alleged liability for penalties outstanding against the vehicle. There needs to be a right to appeal to an Adjudicator, together with a fast track procedure where the Adjudicator has powers to give a direction that the vehicle is released if the information upon which it is being held is reasonably in dispute. This also calls into question whether the variety of Councils that have submitted the information to the Council which is holding the vehicle are able to produce sufficient case data to enable the Adjudicator to make an informed decision. It is for these reasons that we have always believed that the persistent evader provisions can only work in respect of outstanding penalty charges owed to the authority that removes and holds the vehicle. In that way that Council is totally accountable for its own information	

	and processes, should be in a position to have full case details on each of the outstanding penalty charges ready and available both at the pound, and for any proceedings before the Adjudicator where a liability for the outstanding penalty charges is being disputed. The complications involved in holding vehicles on behalf of other councils represent too great a risk and, in cases where it turns out that the vehicle should not have been held and a demand for a large sum of money has been made, the public outcry that will ensue will do nothing to maintain confidence in the CPE scheme. There is a further difficulty with regulation 14(2)(c). If a persistent evader cannot pay the sum demanded to release the vehicle then it will remain clamped in the contravening position for some time. This may be regarded as conflicting with the traffic management objectives of CPE. In practice the vehicle will need to be removed if the owner cannot pay the full amount immediately. These issues will need to be dealt with in the Secretary of Secretary of State's Guidance.	

Comments on Statutory Guidance To Local Authorities On The Civil Enforcement Of Parking Contraventions

Comment	**Comment taken forward or not**
We must express our disappointment with the draft Guidance, a substantial proportion of which is expressed in such general terms that, whilst the sentiment is admirable, it does not provide practical steps for local authorities to follow. (We acknowledge that it is to be read in conjunction with more detailed procedural guidance – not yet available). Conversely, the absence of measurable and timed objectives means that any meaningful assessment of whether a local authority is complying cannot be carried out.	
The Statutory Guidance is specific and detailed in the sections on On-Street Activities (section IX) and Considering Challenges/Representations/Appeals (section X). This is because these sections are largely restating in layman's terms the provisions of the various regulations. The detail of	

the Statutory Guidance is simply the detail of the Regulations. However, in the sections which put the flesh on the bones of the Regulations requirements and standards are expressed in vague and abstract terms (with some exceptions, particularly on financial objectives). For example: • *"Its [CPE] objectives and operations should be well communicated. It should be enforced fairly, accurately and expeditiously…it should be underpinned by quality-based standards."* • *"Communicating the rationale for the scheme is important.."* • *"LTAs should ensure that sufficient numbers of staff are provided and that those staff have the necessary skills training, authority and resources to provide a high quality, professional, efficient, timely and user-friendly service to the public"* • *"LTAs should ensure that their processes for the pursuit of outstanding penalties and the handling of challenges, representations and appeals are efficient, effective.. "* These are valid aims but do not tell us how they are to be achieved or how we can identify whether or not they are being achieved. How does a council, or the independent on-looker judge whether, for example, the LTAs staff have the necessary skills and training?	
We had hoped that the Guidance would place stronger emphasis on the principle that parking enforcement is a legal process. That the only parts of the Guidance that the LTA **must** comply with are matters that they are required to do under the legislation may well confuse council officers as to whether they are applying Guidance or the law. However, in spite of the rephrasing of the regulations, there is no description of which parking offences are subject to CPE. Schedule 8 is not as straight forward as it seems, for example, the parking enforcement staff in councils outside London would almost certainly appreciate some guidance as to what type of offences are covered by setion53(5) and (6) of the Road Traffic Regulation Act 1984. These have been added to the offences currently listed in Schedule 3 of the RTA. References to Section 122 of the '84 Act and the 1996 Traffic Orders Regulations would give weight to the general exhortations about policy and consultation. We hope that the proposed revisions to 1/95 will rectify the position.	

The adjudicators particularly encourage the updating of the firm, clear Guidbnce given in 1/95 about the principles and procedures involved in vehicle removals. The adjudicators further encourage that this Guidance will be issued under Section 87 of TMA as guidance to which councils should have regard.	

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS
Observations

Regulation/ Issue	Comment	Comment taken forward or not
Wales	It is not yet clear whether the Welsh Assembly will be able to pass parallel legislation applying the TMA simultaneously to England. The joint committee has always appreciated the participation of the Welsh councils and retaining them in the same arrangements makes sense financially as well as offering an extended service to appellants, both Welsh and English. We therefore express the hope that the legislation in relation to the joint committee arrangements will enable the Welsh authorities that are already part of the committee to remain sharing joint functions. The position of Welsh councils planning to join the decriminalised scheme after the implementation of TMA in England, if Wales has not done so, will also need to be considered.	
Annual Reports	The draft Regulations appear to have omitted the requirement for the adjudicators to present an annual report to the joint committee.	
Regulation 16 of the General Regulations	We are extremely concerned that the provisions provide for more than one joint committee outside London. The original modifications to the RTA, applied to the outside London authorities, included the possibility of having more than one joint	

	committee. However, that was in 1999 when the arrangements for a single joint committee were not fully formulated. Now that a single joint committee is well established, it would be desirable to remove the 1999 options. There is already public confusion about the existence of two adjudication services in England and Wales (20% of the NPAS email box concerns London PCNs). The purpose of a joint committee is to preserve independence and to ensure that all councils contribute to the funding on a fair basis. The possibility of creating a splinter group could prove disruptive, might be subject to political objectives and undermine the essential principles of the tribunal. It would be preferable for the Regulations to make the same provision for English LTAs outside London, namely a single joint committee.	
Determining the Form of Representations	We note the new function for the joint committee to determine the form of representations. While we recognise the value in agreeing common formats for making representations that both councils and the motoring public can become familiar with, this is not a function that the council has exercised in the past. The joint committee has not yet taken legal advice about the effect of gaining a new TMA function. It is desirable that the form of representations is determined in good time for the relevant documents to be printed by LTAs prior to the implementation of the TMA, It may be necessary to have further discussion with the Department to explore whether it is necessary to replicate the RTA provisions whereby the London joint committee determines the form of representations for London LTAs, but that function is not one for the outside London joint committee	
Guidance	The bringing into force of the TMA will impact differently on those councils already in the DPE scheme, and those proposing to apply for CPE powers after the bringing into force of the TMA. The outside London authorities would	

	appreciate some Guidance from the Secretary of State as to what needs to be undertaken to bring their operations in line with the new provisions. Similarly, there are new councils currently considering DPE, that would benefit from Guidance as to the effects of making an application under RTA, or waiting until the TMA has come into force.	
Transitional Provisions	Authorities outside London would appreciate having a draft of the transitional provisions as soon as possible, and at least before next year's budgets are finalised, to assess the likely impact on RTA penalty enforcement after the implementation of the new Act and the budget resources required for compliance with the new requirements.	

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

Regulation/Issue	**Comment**	**Comment taken forward or not**
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.	
3(4)(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.	