

# Parking and traffic controls – your rights

With enforcement of parking and traffic controls being big business today, most motorists will have had traffic tickets issued to them at some time, often for offences they had no idea they had committed. As no local authority (or Transport for London) parking or traffic ticket may be ignored this article explains the process for fighting such tickets.

Although many parking tickets are still issued in the traditional manner with a traffic warden placing the ticket on the car windscreen, increasingly large numbers of tickets for parking and moving traffic offences now derive from CCTV surveillance. In these cases the motorist knows nothing about any alleged offence until the ticket arrives in the mail, often several weeks after the incident. CCTV tickets can be particularly hard to dispute because the motorist may have forgotten the circumstances of the incident or may not be able to return to the location to examine signs which in any event may have been altered in the interim. Nevertheless many parking/traffic tickets may be legitimately contested and the prospects of success are often quite good if the motorist follows the correct procedures.

Most successfully contested tickets are fought on signage or procedural grounds. The traffic authorities are generally far more assiduous about collecting fines than they are about maintaining signage or making restrictions clear and where they fail in this obligation a ticket is likely to be invalid. Restriction signs are frequently damaged or missing, sometimes two signs relating to the same restriction are inconsistent, sometimes the wording on a sign may be confusing or a parking bay or other road markings may be faded or hard to see at night



Gary Shaw who has saved hundreds of residents from the clutches of TfL

or on a wet road or locations may be mis-recorded. The authorities may also be over-zealous, seeking for example to fine a motorist who has become trapped in a box junction despite entering it when the exit was clear or where a driver may have been forced into a bus lane by an overtaking emergency vehicle. The full cat's cradle of rules and regulations is far too lengthy to recite here but so complex is it that it is often just as likely to be the local authority that ends up entangled in the red tape as the motorist.

Having made the decision to fight a ticket two points are vital; First, no payment whatsoever should be made because it will be deemed to represent acceptance of guilt and will disqualify the motorist from the appeals process. Second, Notices or Charge Certificates must not be ignored. Those documents take priority over any other correspondence the motorist might be having with the traffic authority and in all circumstances they should be attended to immediately upon receipt. The procedures for appeal are explained below;

## Penalty Charge Notice (Parking ticket)

Upon receipt of a traditional windscreen parking ticket an informal appeal may be made

by letter or email to the issuing authority. If this is rejected or if no appeal is lodged a Notice to Owner will be sent to the registered keeper 28 days after the PCN was issued. CCTV issued PCNs are now served as a combined PCN/Notice to Owner in which case the informal appeal option does not apply and the procedure starts at the Notice to Owner stage below.

## Notice to Owner (NtO)

A formal appeal may be made at this stage based upon one or more of nine standard defences listed on the NtO form. If in doubt it is usually best to submit a defence under the catch-all heading, 'The contravention did not occur'. It is also possible to make an appeal based upon mitigation. If the appeal is not accepted the issuing authority must supply a Notice of Rejection along with an application form for the independent Parking and Traffic Adjudication Service (PATAS) for cases in London. An appeal to PATAS may be made on any of the same nine grounds listed on the NtO but PATAS adjudicators have no remit to consider mitigation. Therefore if an appeal is based wholly on mitigation and is rejected by the local authority there will be no point in referring it to PATAS. Once an appeal to PATAS has been lodged the fine will be frozen pending the outcome of the case. PATAS appeals may be

made in person or in writing at the discretion of the motorist. Whether it is better to attend a hearing or to have it dealt with by post depends on a variety of factors, some relating to the case, others to the personality of the appellant. However it is worth noting that the local authorities very rarely send representatives to personal hearings and this can be to the advantage of the personal appellant. If the PATAS adjudicator rules in favour of the authority the full (i.e. non-discounted) fine will become due. If the ruling favours the motorist the fine and PCN will be cancelled. Costs are very rarely awarded no matter how obdurate or unreasonable the local authority may have been.

## Charge Certificate

A Charge Certificate is issued by the local authority when its records show that it has received neither the payment nor a representation within 28 days of the Notice to Owner being issued or that no appeal has been made to PATAS within 28 days of the Notice of Rejection being sent. However, delays with the mail system and the inefficiency of many local authority parking departments mean that Charge Certificates are often issued against motorists who return the relevant documents on time or who never receive them in the first place. The Charge Certificate will cause the fine to be elevated by a further 50% and if this is not settled within 14 days the local authority may make an application for a court order with costs against the motorist. Generally speaking, once a Charge Certificate has been issued the local authority will not cancel it even if it was issued in error so it is usually necessary to wait for the court order to be served before taking action to have the whole case overturned.

## Court Order

Local authority traffic enforcement has become such an industry that it has its own court, the

Traffic Enforcement Centre (TEC) in Northampton. Most local authorities can request court orders from the TEC electronically, meaning that there is often only a short interval between expiry of the Charge Certificate and generation of the order which will be served with a Statutory Declaration or Witness Form enclosed in the envelope. This form allows the motorist to swear that one of the relevant previous notices was not received. Once such a declaration is made and the Witness Form is returned to the court, the order will be quashed and the local authority will be instructed to re-set the process to the relevant stage. Sometimes the local authority will then abandon the case but more often than not a new Notice to Owner or Notice of Rejection will be served and an appeal can then be mounted from scratch. For practical purposes receipt of a correctly completed Witness Form is all the TEC requires to cancel an order and the local authority does not have the opportunity to present any counter-evidence to the court.

The foregoing is for guidance only as procedures can vary. Full details of how the parking/traffic enforcement process works may be found at [www.parkingandtrafficappeals.gov.uk](http://www.parkingandtrafficappeals.gov.uk).

Procedures for appealing against local authority clamping or removals may also be found here as can the process for contesting a congestion charge fine. Slightly

different procedures apply outside London and information for these may be found at [www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk).

Anyone who needs assistance fighting parking or traffic cases, whether local authority or private contractor, is welcome to contact me at [raparking@hgs.org.uk](mailto:raparking@hgs.org.uk).

## New Sign

Following lobbying from the RA's Roads and Traffic Committee, TfL has agreed to add a sign to the north side loading bay (opposite the post office in Market Place).

The sign will be similar to the one shown here and enforcement of the bay will be suspended until it is in position, which may be several weeks.



## Remember red triangles for danger?

For 28 years I passed an old T junction sign with a red triangle on top on the corner of Hill Top and Ludlow Way. Over 10 years later it was still there and I didn't realise that by then it was the only one in London and in

perfect condition. So writes sign enthusiast David Howard who is hoping someone may have a photograph of the bit of Hill Top at a time when the sign was still there. If so he will be delighted to hear from you on 8200 7725.

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