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# **To Appeal or Not To Appeal?**

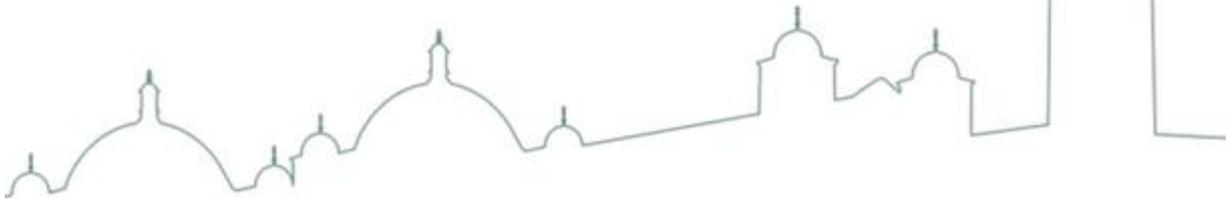
## Motorists' Awareness and Experience of The Traffic Penalty Tribunal.

**A Research Report**

**By**

**John Raine, Adam Snow & Eileen Dunstan.**

***Institute of Local Government Studies.***



*May 2016*

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### **Foreword from the Chief Adjudicator**

I am delighted that Professor Raine and his research team from the University of Birmingham have once again been able to undertake a user survey so that we can understand what is working well and what steps we need to take to improve the user experience for appellants to the Traffic Penalty Tribunal.

In the first Birmingham User Survey “User Perspectives on the National Parking Adjudication Service” (2005) we asked Professor Raine to research what factors influenced a motorist’s decision **not** to appeal against the local authority’s rejection of their representations asking for the penalty to be cancelled. We wanted to find out whether there were failings, weaknesses or poor communication on the part of TPT (or NPAS as we then were) that discouraged motorists from exercising their right to appeal. That was a hard commission, but with the enthusiastic assistance of key local authorities, enough motorists who fell within the criteria were identified and took part in the research.

The 2005 report highlighted a number of issues and made invaluable recommendations that enabled us to take steps to improve our service and perceptions of it.

It is some ten years since that last user survey in a world which was very much paper-based. The tribunal has recently introduced a transformational online appeal system, removing the requirement to post or email an appeal form, and be sent paper communications.

When we were developing the online service a common reaction was that appealing would be so easy that the floodgates would open and every motorist whose representations had been rejected would appeal. So when, a few months after the launch of the prototype, it became apparent that appeals had not increased, but slightly decreased, we realised that we needed to commission more research into the reasons.

There is no doubt that our Fast Online Appeals Management (FOAM, as we call it) has vastly improved the accessibility of the tribunal both to online, and, curiously, off-line appellants. It has impressively reduced the time taken for appeals to be decided, and is designed for appellants and respondent authorities to be able to view the decision online. Other features include:

- Appeals are submitted online with instantaneous notification to authority
- Evidence including photos, audio and video files is submitted online by both parties who may view and comment on each other’s evidence
- Authorities may not contest or the appellant withdraw at any point
- Authorities have a dashboard to manage and follow cases
- Instant messaging promotes a more inquisitorial approach
- The point at which the appellant requests a hearing is deferred to the point at which all parties have reviewed the evidence.
- Parties receive email and text prompts and directions
- Authority and tribunal can see when appellant has read the decision.
- A web URL is available for direct payment where an appellant has lost their case.

So why had the volume of appeals not ballooned as many anticipated? We wanted to discover whether people realised they could appeal, whether how to appeal is clear, and importantly, whether their experience of the new technology was easy and intuitive.

The report therefore covers the experiences and perceptions of two groups, those who did not appeal, and those that did using the prototype system.

In this report Professor Raine and his team have identified a number of insightful persisting perceptions about TPT and the adjudicators that, I am bound to say, we thought we had successfully dispelled in our efforts to implement his recommendations. It also highlights the lack of clarity in the Notice of Rejection letters that the authorities send, both in terms of language and presentation, where information about how to appeal often slips to the end of a long and complex letter.

So the findings in this report serve as an important reminder that we need to redouble our efforts to ensure that motorists are aware of their right to appeal to the independent adjudicator, and that the adjudicators are lawyers. The starting point for any appeal is the authority's Notice of Rejection. The Adjudicators are committed to supporting the development of a standard notice which sets out clearly the options open to motorists including the right of appeal.

In addition, the tribunal will ensure that it uses a range of communication methods (including supporting authorities to improve their communications) to convey the ease of appealing using the online system and the support available to the offline appellant and, most importantly, the independence of the solicitors, barristers and their support staff that make up the Traffic Penalty Tribunal.

The Traffic Penalty Tribunal was one of the first tribunals to introduce telephone hearings in 2008 which has promoted greater accessibility and flexibility. Following the report's recommendation, the tribunal will explore the potential for utilising web cams in these hearings.

I am grateful to Professor Raine and his team and to those authorities who assisted in reaching motorists who had decided not to appeal.

**Caroline Sheppard**  
**Chief Adjudicator for England and Wales**

## Report Summary

This report was commissioned as a follow-up to previous research on the users' experience of the Traffic Penalty Tribunal, particularly in light of recent developments including the introduction of a new web-portal and on-line appeals process. It also aimed to investigate reasons for a small reduction in the rate of appeals that has become apparent in recent months. Surveys (offered in both on-line and paper formats) were undertaken for three distinct groups of motorists, all of whom had received penalty charge notices which they had challenged with written representations, but then had those representations rejected by the council traffic enforcement departments. The first group comprised a sample of motorists who had submitted appeals to the Traffic Penalty Tribunal (described in the report as the 'appellants'); the second, a sample of those who started to prepare an appeal but did not complete the process (described as 'non-completers'); and the third, a sample of motorists who did not make an appeal to the Tribunal (the 'non-appellants').

Although the response rate for the 'non-completers' was too low to allow detailed analysis (and with good reasons for non-completion in each such case), the returns for the both the appellant and non-appellant samples were much stronger and have supported extensive analysis both of the appellants' experience of taking their cases to the Tribunal and of the reasons why many motorists who having had their representations rejected by the councils did not take the matters any further but paid the penalties instead.

Mostly the key messages from the appellants' survey were positive – with high levels of user satisfaction with different aspects of the experience, although with a clear (and perhaps predictable) tendency for those who had lost their appeals to feel more negative about their experiences and to provide more critical assessments. However, probably the most revealing findings from the research came from the non-appellants' survey, and from a series of twenty follow-up interviews conducted with such parties, as to the reasons for not submitting appeals to the Tribunal. Here the key finding was that more than half the sample of non-appellants were unaware of their right of appeal and had not seen the boxed information about this right in the Notice of Rejection of Representations from the councils. Indeed, a smaller but nevertheless significant proportion of appellants also indicated not spotting this information in their letters but happened to know or learn about the Tribunal from other sources (e.g. friends or media sources). While a proportion of the respondents indicated that they had not pursued an appeal because they were satisfied with the councils' reasons for rejecting their representations, because they felt their chances of winning the case were too slim, or because they preferred to accept the 50% discount for prompt settlement of the penalty, many more indicated that, had they known about or understood better their right of appeal, they would have done so.

Although much progress has been made in raising public awareness and the building the profile of the Tribunal since a not dissimilar finding was reported from the previous research conducted more than a decade earlier, it seems clear that there is still much to be done to ensure that all motorists who challenge council-issued penalty charge notices, are made well aware of their rights of appeal and understand the options available to them and the implications in this respect, six recommendations are made from the findings of this research as follows:

1. Ensure Optimal Efficiency for Online Appellants
2. Ensure Mobile Optimisation
3. Pilot and Evaluate the Impact of the Option of Web-Cams in Telephone Hearings.
4. Seek Out More Opportunities to Increase Public Awareness of the Tribunal.
5. Agree a new standard NOR design and format that the adjudicators can approve as compliant with the regulations
6. Develop Training Materials and Consider Providing Workshops for Council Traffic Enforcement Teams to Ensure Best Practice and Consistency in the Provision of Advice about Appeals.

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## Acknowledgements

We would like to thank the staff of the Traffic Penalty Tribunal for commissioning us to undertake this research project and for supporting us in the process, most particularly by contacting samples of appellants on our behalf and answering our various queries with such efficiency. Similarly we want to thank staff from the seven council parking departments – at Bournemouth, Brighton, Bristol, Cardiff, Luton, Oxfordshire and Sandwell – for their willingness to support the project and for all their work on our behalf in contacting samples of motorists and dispatching our letters of introduction to motorists about the research. Last, but by no means least, we want to express our appreciation to all those who responded to the survey and agreed to be subjects of follow-up interviews – and without whose willingness freely and fully to share their experiences and perceptions of traffic enforcement and the appeals process, the project would have been in vain.

*John Raine, Adam Snow & Eileen Dunstan  
University of Birmingham  
May 2016*

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## **1. Introduction**

In January 2016, the Traffic Penalty Tribunal commissioned the Institute of Local Government Studies at the University of Birmingham to undertake a research study to investigate why some motorists, whose representations against local authority-traffic penalties have been rejected, take their cases further by submitting appeals to the Tribunal for independent adjudication, while others do not. Previous research on the users' experience of the Tribunal<sup>1</sup> had identified quite a widespread lack of awareness of the existence of the Tribunal, as well as low public understanding of the procedures to be followed and of the grounds for appeals. But it also found mostly positive experiences amongst those who had taken their cases to appeal.

The PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee has supported the Tribunal's digital by design approach in developing a more 'easy-to-use' on-line appeals process (albeit retaining the traditional paper application form as an option available on request for those preferring this mode, or for those without internet access). The Tribunal has also recently commissioned a fully customised digital appeals management system which will interface with the local authorities to support electronic transmission and exchange of information and improved efficiency of operation more generally. This system has recently been piloted with a number of local authorities and will shortly be rolled out to all English and Welsh councils outside London.

However, in the initial months of the pilot, a small reduction in the proportion of appeals being received by the Tribunal was noted among the pilot authorities and this research project was commissioned, in part, to understand the reasons for this. One possibility to be considered in this respect concerns a parallel change in practice – this being a switch from the local authorities' past practice of including an appeal form from the Tribunal (explaining the right of appeal and providing guidance on the process) in the same envelope as the councils' own formal letters rejecting motorists' representations against the issue of PCNs (i.e. the 'Notice of Rejection of Representations' (NoR)). Instead, the 'Notice of Rejection of Representations' now includes a paragraph of information about the Tribunal and about right of appeal in a 'boxed' format as part of the councils' formal Notice. The possibility being considered here, then, was that not all motorists would read the full letter from the councils, and if so, might fail to see the boxed information about the Tribunal, especially if this were printed on the back of the Notice, after the local authority's key message, namely, that the vehicle owner's representations had been rejected and that, as a result, *'the penalty is now payable'* (and within a 28 day period in order to ensure a 50% discount).

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<sup>1</sup> Raine J W and E Dunstan (2005) *User Perspectives on the National Parking Adjudication Service*, School of Public Policy, University of Birmingham.

Moreover, while we had understood that the councils had agreed to follow the Tribunal's recommended format and wording for the 'boxed notification' about the right of appeal (which includes the link to the Tribunal's website through which appeals can be made), we quickly realised that council 'Notices of Rejection of Representations' letters are hardly of a standard design and use varying wording and formatting so that the right of appeal to the Tribunal is probably more prominently and clearly explained in some than in others. Indeed, while the content of the 'boxed notification' from the Tribunal is expected to be in a common format, we saw one without the 'box' and others of varying sizes and clarity.

Another related possibility, however, is that the slight dip noted recently in the numbers of appeals being submitted might reflect a dip in confidence in the independence of the Tribunal because the appeal option now comes as part of a council's rejection letter rather than being provided by the Tribunal itself as a separate document (albeit one included within each council's envelope). There is also the possibility that it has arisen as a consequence of the switch to a default-based 'on-line' appeals process (a similar reduction in take-up having been noted initially by the DWP when the default for social security appeals was similarly changed from paper-forms to a web-based process).

On the other hand, there is equally the possibility that those councils that have been piloting the new appeals management system happen also to be handling their representations from motorists more carefully and sensitively than many of the others, with the result that less motorists within the pilot councils remain aggrieved to the extent of being motivated to seek independent adjudication through appeals to the Tribunal.

## **2. Research Design**

While a primary aim of this research, then, was to explore these and other possible explanations for the slight reduction noted in rates of appeal, it was also considered opportune for the project to examine more generally why some motorists take their cases to appeal yet others, who having already challenged the enforcing local authority, accept the rejection of their representations and pay the penalty charges. Might this reflect their acquiescence to the explanations and reasons for rejection proffered by the councils? Or might it be that they consider it better to settle the penalty charge at the discounted rate than risk losing an appeal to the Traffic Penalty Tribunal and, as a result, end up having to pay twice as much? Or might it perhaps be the result of misunderstandings about the independence of the Tribunal and a belief that it is just another part of the same councils that issued the penalty charge notices and so might be perceived as unlikely to judge the cases any differently? Or, indeed, might it simply reflect unawareness of the right of further appeal? As well as exploring these possibilities, it was also decided to gather additional information on the experiences of those who had chosen to submit appeals to find out more about their experience as users of the process – from preparing, completing and submitting appeals through to final decisions by the adjudicator. In doing so, the research was, in effect, updating some of the data collected and the analyses made of user experiences from survey findings reported back in 2005 (see above).

The chosen research design involved devising and conducting surveys of samples of motorists who had received penalty charge notices and who had subsequently challenged them (rather than immediately paying the penalty charges). Three such surveys were devised – one for a sample of those who did not

take their cases to the Tribunal (but who might perhaps have done so because they had already challenged the local authority's enforcement action), another for those who did go to appeal, and a third for those who had commenced the process of making their appeal via the Tribunal's web-site, but who had never completed the process or formally submitted it – a group in whom there was additional interest to understand why their appeals were incomplete.

All three surveys were prepared as self-completion on-line surveys (using SurveyMonkey.com), although in each case with an optional paper copy version made available as an alternative mode of completion (for those preferring a more traditional mode or without access to the internet). All three surveys were focused on motorists who had received their penalty charge notices in the three month period September-November 2015, and whose cases were therefore likely to be finalised by March-April 2016 when the data gathering phase of the research was undertaken. For the survey of motorists who did not go to appeal, we sought the support of a small sample of councils from among the thirty two who were piloting the Tribunal's new adjudication management system to help us in accessing potential respondents. Seven such local authorities were chosen, two cities, each issuing fairly large numbers of PCNs per year (Bristol and Cardiff), three medium-sized local authorities, each with a sizeable main population centre (Bournemouth, Brighton and Luton), one metropolitan district (Sandwell), and one more geographically extensive county council area (Oxfordshire). In each instance, the parking department manager kindly agreed to support the research by mailing out an introductory letter from us, as the researchers, to randomly selected samples of motorists who had had their representations rejected in the chosen three month period. Our introductory letter explained the purposes of the research and requested that recipients support the project by volunteering to complete the on-line survey or by completing and returning a paper copy (that was attached to the letter of introduction and for which a pre-paid and addressed envelope was also enclosed for return to us at the University). In this way we were able to avoid issues of data-protection (i.e. not having to request personal address details from the councils) while also presenting ourselves and the research as independent of the councils, and governed by University-approved standards for research ethics. We are grateful to the parking department staff in the seven councils for their willingness to help us in this way, and for their time in mailing out our research materials to the randomly-selected samples.

For the survey of those who had submitted appeals to the Tribunal (and also of those who had started preparing appeals but who had not completed them) we were similarly fortunate to be able to rely on the assistance of others – in this case the Tribunal itself – to send out our introductory letter with a link to the 'on-line' survey (and again offering a paper copy and pre-paid/addressed envelope as an alternative method of response). We are similarly very grateful to the staff at the Tribunal for their assistance in this respect.

In fact the survey of 'non-completers' (i.e. those who commenced preparation of an appeal to the Tribunal, but failed to complete it) turned out to be largely unsuccessful. Only five responses were generated from some 152 such letters of introduction mailed out on our behalf, three of which turned out to be for traffic matters outside the seven selected local authority areas. Of the remaining two (eligible) responses, one indicated that the reason for non-completion was that, during the process, the council had made contact to inform the respondent that the PCN had been cancelled. In the other case, the respondent explained that she had found the on-line process difficult and, having contacted the Tribunal by telephone for help, had been allowed to submit her appeal by email instead.

Accordingly, Table 1 below shows the response rates achieved in relation only to the surveys of appellants and non-appellants (respectively contacted on our behalf by the Tribunal and by the seven participating councils).

**Table 1. Responses to Surveys by Local Authority Area**

	Number of contacts sought	Number of respondents	Response rate
Bournemouth	192	19	9.9%
Brighton	506	62	12.3%
Bristol	324	44	13.6%
Cardiff	443	39	8.8%
Luton	158	11	7.0%
Oxfordshire	87	10	11.5%
Sandwell	236	28	11.9%
Overall	1946	213 <sup>2</sup>	11.0%

Between the seven council areas the response rate was fairly consistent within the range 7-14% and averaging out at 11%. For a survey focused on events that had taken place several months previously and with no special incentives being offered for completion (e.g. no reward payments nor entry into a prize draw), we consider this to be a reasonably successful response rate. Again, we wish to express our gratitude to all who took the trouble to complete what, inevitably, were fairly lengthy, albeit fairly straight forward, surveys<sup>3</sup>. Certainly the overall response rate was such as to enable us to be confident in the key aggregate patterns being generated. Indeed, such confidence was reinforced by the finding of a high degree of consistency between responses from the seven council areas, thus providing a sound basis from which to generalise about user experiences and perceptions in relation to local authority traffic enforcement decision-making and the Tribunal's appeals process on a more widespread basis.

While the surveys were designed to be completed anonymously the final question on each asked respondents if they might be willing in principle to participate in follow-up telephone interviews (and if so, to provide us with a telephone number or email address by which we might contact them). Our aim here was to be able to supplement the data derived from the surveys with additional depth and insight from telephone conversations about some of the issues raised in the submitted responses. More than 7 out of 10 respondents replied positively to this request and a total of 20 follow-up interviews were conducted during April 2016 – all with respondents who had *not* submitted appeals – as we were especially keen to use the interviews to deepen our understanding of reasons for not appealing to the Tribunal. As a final further component of the research, we also made a visit towards the end of the research period (in early May 2016) to one of the seven local authorities (Sandwell) to discuss our findings and possible implications with some of the staff there and obtain better insight on the perspectives of councils in this respect.

<sup>2</sup> In addition, a further sixteen responses were received after the closing date for the surveys – all non-appellants - and these have been excluded from the analysis.

<sup>3</sup> We received 62% of the responses via the on-line Monkey Survey and the remaining 38% as paper copies which we subsequently added into the Monkey Survey files for analysis.

### 3. The Sample of Respondents

As indicated above, a total of 213 people who received and challenged PCNs issued by the seven participating councils responded to our surveys<sup>4</sup> – either as individuals who had submitted appeals to the Traffic Penalty Tribunal for independent adjudication (a total of 138 ‘appellant’ responses were received from 1046 contacts) or as individuals who did not appeal and instead settled the penalties with the councils (73 ‘non-appellant’ responses were received from 900 contacts)<sup>5</sup>.

Overall, nearly half the respondents were in the age category 41 to 60 years; 62% were male; 81% described their ethnicity as White British; and 53% indicated being in full-time employment (see Table 2). That said, some slight differences were noted between the demographic profiles of the Appellant and Non-Appellant samples and these are highlighted in Tables 3 and 4 – the main differences being a more even age distribution among the appellant sample than the non-appellants (where just over half were in the 41-60 years age cohort), and a much larger proportion (83%) of males in the appellant sample. Probably a reflection of the respective age profiles, the non-appellant sample also included a somewhat higher proportion of people in full-time employment.

**Table 2. Demographics of the Overall Sample of Respondents**

<b>Age</b>	<b>Under 21</b>	<b>21-40</b>	<b>41-60</b>	<b>61 plus</b>	<b>Not stated</b>
	0%	28%	46%	24%	2%
<b>Gender</b>	<b>Female</b>	<b>Male</b>	<b>Not stated</b>		
	37%	62%	2%		
<b>Ethnicity</b>	<b>White British</b>	<b>Other white</b>	<b>Asian</b>	<b>African/Caribbean</b>	
	81%	7%	4%	1%	
<b>Employment</b>	<b>Unemployed</b>	<b>Retired</b>	<b>FT Employed</b>	<b>PT Employed</b>	<b>Other</b>
	4%	16%	53%	8%	19%

**Table 3 Demographics of the Sample of Appellants**

<b>Age</b>	<b>Under 21</b>	<b>21-40</b>	<b>41-60</b>	<b>61 plus</b>	<b>Not stated</b>
	0%	37.5%	31.3%	31.3%	0%
<b>Gender</b>	<b>Female</b>	<b>Male</b>	<b>Not stated</b>		
	18.7%	81.3%	0%		
<b>Ethnicity</b>	<b>White British</b>	<b>Other white</b>	<b>Asian</b>	<b>African/Caribbean</b>	
	81.2%	12.5%	0%	6.3%	
<b>Employment</b>	<b>Unemployed</b>	<b>Retired</b>	<b>FT Employed</b>	<b>PT Employed</b>	<b>Other</b>
	6.3%	31.3%	37.5%	12.5%	12.5%

<sup>4</sup> As well as the additional 16 responses received after the deadline and therefore, as indicated, excluded from the analysis, we received 12 others that related to traffic enforcement outside our selected seven participating councils (in London, and on the Dartford crossing). These, too, were excluded from the analysis for this research.

<sup>5</sup> As indicated, the third survey – of ‘non-completers’ – proved unsuccessful, with just two eligible respondents, and no further analysis has been undertaken.

**Table 4 Demographics of the Sample of Non-Appellants**

<b>Age</b>	<b>Under 21</b>	<b>21-40</b>	<b>41-60</b>	<b>61 plus</b>	<b>Not stated</b>
	0%	20.8%	51.4%	26.4%	1.4%
<b>Gender</b>	<b>Female</b>	<b>Male</b>	<b>Not stated</b>		
	40%	58.6%	1.4%		
<b>Ethnicity</b>	<b>White British</b>	<b>Other white</b>	<b>Asian</b>	<b>African/Caribbean</b>	
	75%	8.3%	11.1%	2.8%	
<b>Employment</b>	<b>Unemployed</b>	<b>Retired</b>	<b>FT Employed</b>	<b>PT Employed</b>	<b>Other</b>
	4.6%	19.7%	47.0%	7.6%	19.7%

More than two thirds of respondents (71.4%) agreed to be contacted subsequent to completing the surveys for follow-up telephone interviews with the researchers. As indicated, a total of 20 such interviews were conducted - each with a non-appellant as it was of particular interest to understand and validate the circumstances and reasons for their not pursuing their cases further. Each such telephone interview lasted between 10 and 60 minutes and achieved their objectives in providing clearer insights on the recollections of receiving the councils' 'Notice of Rejection of Representations' letter, their reactions to the letter and, particularly, their comprehension of the appeals process and their understanding of the options available to them. In the next two sections we will summarise in turn the insights gained from the surveys of appellants and non-appellants respectively (and in relation to the latter group, from the follow-up interviews as well).

#### **4. Experiences of the Traffic Penalty Tribunal: *The Appellants' Story.***

Responses from those who submitted appeals to the Tribunal to questions about their experiences in so doing were mostly positive in nature and suggest that the track-record of high quality user-centric service that was noted in the previous research (for NPAS), conducted in 2005, has not just been maintained but has been further enhanced over time. For example, as well as describing the ease of making an appeal on-line as 'fairly straight-forward' (45.1%) or 'very straight-forward' (29.2%), those who made contact with the administrative team supporting the Tribunal (some 18.7% of appellants) found the staff to be 'very helpful' (60.9%) or 'fairly helpful' (17.4%). The website was similarly described as 'good' by 53.4% and as 'excellent' by 12.8% (though 16.5% judged it as 'not very good' and 3.8% as 'very poor').

Of the 17.9% of appellants who chose a 'face-to-face' hearing before an adjudicator, some 35% summarised the overall experience as 'excellent', 25% as 'good', 15% as 'adequate', and 15% as 'poor'. The equivalent figures for those who chose a telephone hearing were only slightly less positive – with 29.4% citing their experience as 'excellent', 35.3% as 'good', 17.6% as 'adequate', and a further 17.9% as 'poor'. Then of those who chose to appeal in writing, 32.9% felt the process to be 'excellent', and a similar proportion (31.7%) to be 'good', while just 7.8% described it as 'fairly poor' and 12.2% as 'very poor'. Unsurprisingly, the decisions of the adjudicators (to uphold or dismiss appeals) appeared to have had a significant bearing on such patterns of responses – and most particularly in relation to appeals in writing (i.e. without the opportunity for vocal explanation or exchange on the reasons for the decisions). However, it should be noted that the sample of those who lost their cases was relatively small when compared with those who had won. In appeals in writing none of the

respondents (n = 23) who lost their appeals rated the experience as positive, compared with 30% (3 respondents) who held positive views about the experience despite losing their case. Evidently, actively taking part in a hearing (whether by telephone or in face-to-face) increases appellants' positive feelings about the process. Indeed, the results in Table 5 show how such active participation in a hearing and winning one's case is positively associated with positive views about the overall experience of taking a case to the Tribunal. More generally, and again probably quite unsurprisingly, it seems that winning one's case is also a strong determinant of whether the appellant enjoys, or has positive feelings about, the experience.

**Table 5: Respondent Views on Experience of Appeals**

<i>Format of Appeal</i>	<i>Result of Appeal</i>	<i>% Positive<sup>6</sup></i>	<i>n =</i>
In-writing	Council Won	0%	23
	Council Lost	93%	53
Telephone & Face-to-Face	Council Won	30%	10
	Council Lost	75%	24

#### **4.1 Perceptions of Adjudication by the Traffic Penalty Tribunal**

The research also highlighted some contrasts, among the sample of appellants – and particularly between those opting for 'face-to-face' hearings (n=22), those having a telephone hearing (n=19), and those appealing in writing (n=83) in the perceptions and understandings of the status of the Tribunal. As Table 5 shows, relatively few (just 15.3%) of the appellants in writing understood, for example, that the adjudicators were professional lawyers; whereas only a small percentage (13.0%) of face to face appellants indicated thinking them to be (local) government officials (or part of the same councils). Interestingly, proportions of appellants (correctly) understanding the status of the adjudicators were especially high for those opting for telephone hearings. This is perhaps because appellants, interacting with the adjudicators from their own homes, places of work or other such familiar settings, would be better able to concentrate on what the adjudicators were saying in introducing themselves and their role, and would be better able to absorb the information, without the inevitable distractions of strange surroundings and any feelings of deference when in the presence of the adjudicator in a face-to-face hearing. Appellants in writing, on the other hand, would have only the available published information from which to build their understandings of the adjudication process and the status of the adjudicators.

Overall, while some of these findings suggest rather better understanding about independent adjudication and the status of the adjudicators than was identified in the previous study of appellants in 2005, it seems there is still much scope for raising awareness and communicating appropriate information about the Tribunal.

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<sup>6</sup> Those answering 'very', or 'fairly', positive.

**Table 6. Perceptions and Understandings about the Adjudicators.**

Proportions believing the following statements to be true. - Adjudicators ...	Appeals In-writing N=83	Telephone Hearings N=19	Face-to-face hearings N=22
... are able to cancel a ticket if reasonable (mitigating) explanation was provided.	75.6%	68.4%	56.5%
...are just another part of the government system interested in revenue-raising.	22.1%	21.1%	13.0%
...are wholly independent of the councils.	51.7%	89.5%	47.8%
...are professional lawyers (solicitors or barristers).	15.3%	50.0%	65.2%
...are experts in parking law and regulations	50.0%	57.9%	52.2%
...are local authority officials (though separate from the parking department).	26.7%	21.0%	13.0%
...are most likely to support the citizen if the council evidence was inaccurate.	51.8%	73.7%	60.9%
...would be more likely to believe the council's evidence than the appellant's	31.4%	36.8%	17.4%

**4.2 Perceptions of Adjudication by the Traffic Penalty Tribunal: Does it matter whether you win or lose?**

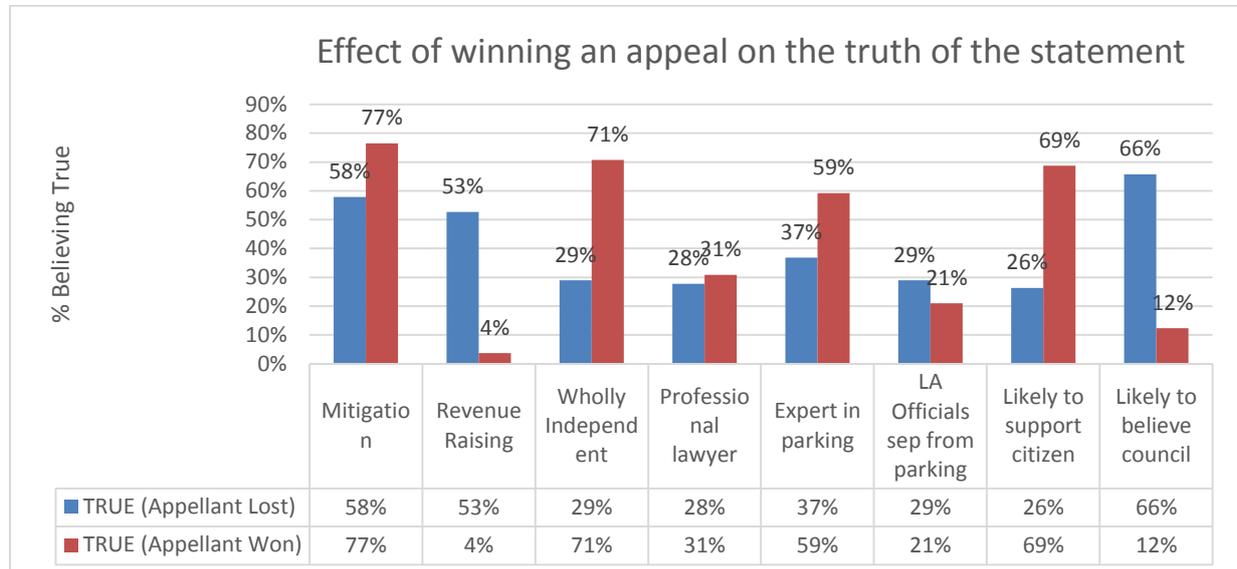
Again it was interesting to note the effect of losing one’s appeal can have on appellant perceptions and understanding of the role of adjudicator. We therefore asked each appellant to rate as ‘true’, ‘false’ or ‘unsure’ each of the statements listed in Table 6 above. The percentages answering ‘true’, ‘false’ or ‘unsure’ are presented in Table 7, where the two shaded rows represent questions for which ‘true’ indicated a negative view (about the status of the adjudicators).

**Table 7: Perceptions and Understandings of the Adjudicators by Outcome of Appeal**

	The Motorist Lost			The Motorist Won		
	TRUE (Appellant Lost)	FALSE (Appellant Lost)	UNSURE (Appellant Lost)	TRUE (Appellant Won)	FALSE (Appellant Won)	UNSURE (Appellant Won)
Mitigation	58%	18%	24%	77%	10%	14%
Revenue Raising	53%	32%	16%	4%	70%	26%
Wholly Independent	29%	37%	34%	71%	6%	23%
Professional lawyer	28%	33%	39%	31%	20%	49%
Expert in parking	37%	26%	37%	59%	11%	30%
LA Officials separate from parking	29%	47%	24%	21%	41%	38%
Likely to support citizen	26%	34%	39%	69%	6%	25%
Likely to believe council	66%	13%	21%	12%	64%	23%

As can be seen from the Table 7, and also in Figure 1, below, winning one’s case can have a very positive effect on appellants’ confidence in the Tribunal.

**Figure 2: The Effect of Winning and Losing Appeals on Perceptions of Adjudication**



Furthermore, it would appear that the inaccurate and more negative perceptions of adjudicators (e.g. that they are seen as ‘part of the revenue raising system’, are ‘not wholly independent of councils’, and are ‘unlikely to side with the motorist’) are found to be held far more strongly by those who have lost their appeals. Indeed, motorists in our sample who lost their appeals were significantly more negative in their viewpoints about the Tribunal – for example, regarding it to be part of a revenue raising system (by 49% more than those who had won their appeals), as linked with the councils (by some 42% more than winning motorists), and as likely to side with the council’s evidence (by 54% more than their winning counterparts).

The survey also asked respondents to state any reasons as to whether their experience of appealing had altered their perceptions of the Tribunal. Of those who had lost their appeals, 12 claimed the experience had indeed changed their perceptions negatively; 22 claimed it hadn’t; and the remaining 4 indicated being unsure. We then asked the 12 respondents how their views had changed, and this generated 13 more negative perceptions. These responses are listed in Table 8.

**Table 8: Comments from Those Who Lost their Appeals about the Adjudication Process**

Case Number	Response
1.	Suspicious of them since my claim.
2.	Not sure I would bother doing the appeal as I really felt it was not fair the ruling and was not taken into account how other people was affected, very unfair so just pay the fine, and not appeal to much effort and aggravation. I now cycle into Bristol all the arguing with traffic wardens and trying to pay for a ticket is just not worth the effort and high blood pressure that follows
3.	That it's a no win situation.
4.	Made me more aware of how corrupt they are.
5.	I thought a more reasonable argument would have been made as to why they are supporting the council I disputed the photography times
6.	In my case they asked for evidence that could not be easily provided. so the decision was one sided
7.	The council has a huge unfair advantage; they know they can lie and not be challenged - as this was my first and only appeal in many years of driving I felt totally let down - I firmly see the tribunal as a sop to the increasing revenue collection by councils. The adjudicator was institutionally biased.
8.	She misrepresented the facts pertaining to my individual circumstances and the adjudicator did not challenge crucial testimony nor ask to see material pertinent to case.
9.	Waste of their time - 2 people attended!!!! What a waste of time and money
10.	Reinforces my position that people are given jobs that they cannot do.
11.	You can't beat them. Pay £35 not £70 or £105
12.	They simply repeat what the council has already said, rendering them somewhat pointless.

We can see from the above examples how losing an appeal at the Tribunal can entrench and reinforce any negative perceptions of the enforcement system. Unfortunately, the evidence from this research also suggests that participation (whether by telephone or face-to-face) in appeals that fail doesn't necessarily enhance appellant comprehension of the process or their confidence in it – in some contrast with the experience of those who succeed in winning their cases. That said, this is not to imply that improving procedures and explaining them better is necessarily ineffective in transforming appellant confidence in the justice being dispensed. Indeed, research on procedural justice theory (e.g. Tyler, 2006) clearly indicates that efforts to emphasise and demonstrate fairness and impartiality are likely to improve the standing of courts, tribunals and other public agencies amongst the community.

Alongside the more negative comments as illustrated in Table 8, moreover, the research drew rather more positive comments from respondents who had won their appeals as to how their perceptions of the process had changed (as summarised in Table 9). In particular, there was increased recognition of the flexibility of adjudicators and of the Tribunal's independence – as evidenced in the following response.

*“The tone of the summary ending in the cancellation of my ticket highlighted to me that they really are independent of the council and would not benefit financially from withholding the ticket in any way”.*

**Table 9 Comments on why winning appellants felt positive about the outcome of the appeal**

<b>Case No.</b>	<b>Comment</b>
1.	I thought that the adjudicator's role was to refer the decision back to the council but she clearly told them to rescind the penalty.
2.	My experience showed me that they are not just concerned with the letter of the law; that sometimes parking regulations are not broken wilfully or through ignorance but for a pressing reason. That was recognised in my case after the council had refused to concede the mitigating factors, that I had only parked next to a dropped kerb for two minutes having been called to a care home where my father was dying.
3.	More aware
4.	Yes - there should be more of them for different areas of law
5.	It is clear that if there is a valid argument then Council or no Council the appellant as should be the case is given the benefit of the doubt
6.	I have no hope before my appeal. But now I'm happy.
7.	Understand that they can only make recommendation now
8.	Compared to Brighton council bullying (they told me I could be liable for Brighton council's costs to the tribunal) I thought they were fair. The adjudicator seemed really pissed off with Brighton council and I got the impression that mine was not unusual.
9.	I would appeal again and not be bullied by the council to pay a ticket I shouldn't have initially received.
10.	The tone of the summary ending in the cancellation of my ticket highlighted to me that they really are independent of the council and would not benefit financially from withholding the ticket in any way
11.	That the system does actually work!
12.	Really impressed how quickly they realised that I had told the truth, had evidence to show that what I was saying was true, and had made a decision that Council's hectoring was unwarranted and bordered on intimidation.
13.	My experience has been very positive and I thank the tribunal for their decision.
14.	As previous mentioned their approach seems unbiased.
15.	I was unsure as to just how independent they were but it now appears to me that they could be quite independent and not in hock to money grabbing Councils who even in the face of overwhelming evidence (as in my case) that they had no case to answer and were wholly in the wrong yet would not give in, in their quest to grab as much money from the Public!!
16.	I understood from the Tribunal that the appeal could only be granted if there was some specific flaw in the council's case. This is a slightly greater burden of proof (on the appellant) than just pleading mitigating circumstances.
17.	That if there is a technical fault they will apply it. They said they had no discretion. Only the council had discretion
18.	Didn't know about them before

### 4.3 Experiences of Appealing

Besides these findings about appellants' perceptions and understandings of independent adjudication, the survey gathered a considerable volume of data on various aspects of the experience of appealing and interacting with the Tribunal, the key aspects of which are captured and summarised in the following sections and tables.

#### Awareness of the Tribunal and the Right of Appeal

One of the key questions in the survey asked about respondents' recollections of seeing the 'boxed' information about the Tribunal in the Council's 'Notice of Rejection of Representations' letter, and another about its prominence and clarity. Most appellants in our sample (84%) did indeed recall the information but, interestingly, 15.2% did not; and when asked how they therefore learned about the Tribunal, the responses were various – from a council official, from previous experience, from a friend or family member, from web searches and from television programmes. Views regarding the clarity and prominence of the boxed information (among those who did recall seeing it) are captured in Table 10. Here it can be seen that just over half considered it to be 'fairly' or 'very' prominently displayed and 68.0% as 'fairly' or 'very' clear to follow.

**Table 10. Prominence and Clarity of Information in the Notice of Rejection of Representations**

Prominence	% response	Clarity	% response
Very prominent	6.8%	Very clear	9.7%
Fairly prominent	45.6%	Fairly clear	58.3%
Not very prominent	31.1%	Not very clear	19.4%
Not at all prominent	3.9%	Not at all clear	4.8%
Can't remember/don't know	12.6%	Can't remember/don't know	7.8%

Prior awareness and knowledge of the Traffic Penalty Tribunal among appellants was also found to be relatively low (and, interestingly, hardly different from those who did not appeal) with only a third indicating prior awareness and a further 22.6% only 'vague awareness' of its existence (Table 11).

**Table 11. Prior Awareness and Sources of Knowledge of the Tribunal among Appellants**

Prior Awareness/Knowledge	% response
Yes	34.3%
Vaguely	22.6%
No	39.4%
Can't remember	3.7%
Sources of Prior Knowledge	
Website	25.9%
Read about it somewhere (e.g. newspaper)	20.0%
Previous experience of an appeal	17.6%
Friend/family	11.8%
Can't remember/Don't know	11.8%
A Council official	7.1%
TV Programme	5.9%

[Appealing on-line](#)

Some 83.5% of appellants submitted their appeals on-line through the Tribunal’s website (the rest completing paper applications). Moreover, and no doubt a sign of today’s increasingly digital age, some 44.2% of appellants indicated being unaware of the option of an appeal via paper forms. Three out of four appellants also reported finding the on-line process ‘straightforward’ (i.e. 29.2% ‘very straightforward’ and 45.1% fairly straightforward) – (Table 12).

**Table 12. Experiences in making Appeals On-Line.**

How straightforward on-line?	% of appellants
Very straightforward	29.2%
Fairly straightforward	45.1%
No strong feelings	12.4%
Fairly complex	9.7%
Very complex	2.6%
Can’t remember/Don’t know	0.9%

Indeed, one respondent described the process as “*a shining example of an on-line process*” while several others suggested that the councils too, should introduce similarly easy-to-use on-line systems, particularly to accept representations on-line. That said, several others commented that they had found the on-line process difficult to use from their smart phones (stating that much of the text tended to be off-screen or to disappear) and that the layout of the portal should be improved to enable people to view larger text boxes into which they were being asked to write the substance of their appeals. Another respondent commented on the large amount of information requirements involved in submitting an appeal and the tendency for the system to ‘time-out’ before completion, thus leading to frustration at having to start again and retype their information. One further suggestion was for clarification of the option of registering an appeal on-line but then being able to add the evidence at a later occasion (rather than presuming all the information would have to be to hand before commencing inputting).

Nevertheless, overall, feedback was more positive than negative on the process for preparing and submitting appeals and on the value of the guidance provided to those appealing on-line and the staff support available if needed (Table 13).

**Table 13. Appellants’ Feedback on the Process of Preparing and Submitting Appeals.**

Clarity of the Process	% response	Quality of TPT Guidance	% response
Very clear	26.3%	Excellent	12.8%
Fairly clear	56.4%	Good	53.4%
Not very clear	13.5%	Not very good	16.5%
Not at all clear	3.0%	Very poor	3.8%
Can’t remember/Don’t Know	0.7%	Didn’t use	8.3%
		Can’t remember/Don’t Know	5.3%
Prior Consultation with a motoring advice website	% response	Type of Appeal chosen	% response
Yes	19.5%	In-writing	67.2%
No	78.2%	Telephone	14.9%
Can’t remember/Don’t Know	2.3%	Face-to-Face	17.9%

<b>Personal Contact with TPT prior to hearing</b>	<b>% response</b>	<b>Helpfulness of TPT</b>	<b>% response</b>
Yes	18.7%	Very helpful	60.9%
No	74.6%	Fairly helpful	17.4%
Can't remember/Don't Know	6.7%	No strong feelings	13.0%
		Fairly unhelpful	0%
		Very unhelpful	8.7%

Our sample of 124 appellants divided into three categories by 'type of appeal' – those simply submitting their appeals in writing (forming 67.2% of the responses); those having a telephone hearing (some 14.9%); and those who had a face-to-face hearing (17.9%). In the subsequent three sections we summarise the key findings from the research with regard to appellants from each of these categories in turn

#### [Appeals in writing](#)

The duration involved between appeal submission and receipt of the decision for those appealing in writing is shown in Table 14, while measures of how those compared with appellant expectations, follow in Table 15.

**Table 14. Time between Submission and Decision for Appeals in Writing**

<b>Duration</b>	<b>% response</b>
Within 1 week	8.1%
Between 1 week and 1 month	46.3%
1-3 months	19.8%
More than 3 months	3.5%
Still waiting	0%
Can't remember/Don't know	23.4%

**Table 15 Perceptions of Timeliness in receiving Decisions for Appeals in Writing**

<b>Compared with Expectations</b>	<b>% response</b>
Much quicker than expected	12.8%
A little quicker than expected	17.4%
About as expected	40.7%
A little too long	11.6%
Far too long	7.0%
Don't know	10.5%

Of those appeals in writing, 63.2% of respondents indicated that their appeals had been successful (with the adjudicator deciding the PCN should be cancelled), while 29.9% reported that they had lost (so that the Council decision was confirmed). Of the other respondents, some 5.7% indicated that their cases had been adjourned (and/or were still live)<sup>7</sup>.

<sup>7</sup> One respondent declined to state the outcome of their appeal.

Also, as indicated earlier, we took the opportunity to seek understanding of the perceptions held by appellants with regard to the Tribunal and the adjudicators – doing so by asking their beliefs in relation to the eight propositions introduced earlier (in Table 5), but now presented more fully for appellants in writing below in Table 16. Again, a key question that flowed from these responses was whether appellants’ perceptions had changed as a result of their experience of making their appeals to the Tribunal (or, in other words, whether their perceptions been different before they made their appeals?). In this regard, while some 48.3% of appellants in writing indicated that their views and understanding about the role and powers of adjudicators had not changed, some 37.9% said that theirs had – and that they now felt they had a better appreciation of the principles and practices underlying adjudication by the Tribunal<sup>8</sup>.

**Table 16. Understandings and Perceptions of Appellants in Writing about the Tribunal**

Statement about the Adjudicators	% believing it to be true	% believing it to be false	% Uncertain
Adjudicators... are able to cancel a ticket if reasonable (mitigating) explanation was provided.	75.6%	9.3%	15.1%
...are just another part of the government system interested in revenue-raising.	22.1%	53.5%	24.4%
...are wholly independent of the councils.	51.7%	18.4%	29.9%
...are professional lawyers (solicitors or barristers).	15.3%	30.6%	54.1%
...are experts in parking law and regulations.	50.0%	18.6%	31.4%
...are local authority officials (though separate from the parking department).	26.7%	33.7%	39.5%
...are most likely to support the citizen if the council evidence was inaccurate.	51.8%	16.5%	31.8%
...would be more likely to believe the council's evidence than the appellant's.	31.4%	51.2%	17.4%

It is important to remember the point made previously that losing one’s appeal can have a detrimental impact on the views of appellants towards the adjudication process. Thus while 37.9% claimed that their views had changed, within that percentage, many of those who had subsequently lost their appeals had formed more negative views about the adjudicators and tribunal. Indeed 53.9 percent of appellants who lost (after appealing in writing) claimed to have different views of the process afterwards. Judging by the comments left by those who lost (6 respondents) such change of viewpoint were overwhelmingly negative (Table 17).

<sup>8</sup> The remaining 13.8% could not remember or didn’t know whether their perceptions had changed or not.

**Table 17: Changing understandings of the Tribunal among Appellants who Lost their Appeals**

<i>Response No.</i>	<i>Statement</i>
1	Suspicious of them since my claim.
2	Not sure I would bother doing the appeal as I really felt it was not fair the ruling and was not taken into account how other people was affected, very unfair so just pay the fine, and not appeal to much effort and aggravation. I now cycle into Bristol all the arguing with traffic wardens and trying to pay for a ticket is just not worth the effort and high blood pressure that follows
3	That it's a 'no win' situation
4	Made me more aware of how corrupt they are.
5	I thought a more reasonable argument would have been made as to why they are supporting the council I disputed the photography times
6	In my case they asked for evidence that could not be easily provided. so the decision was one-sided

As Table 18 shows, the vast majority of appellants in writing were very clear about the decisions that they subsequently received from the adjudicators, and mostly spoke positively of their appeals experience – suggesting it be at least ‘as good as expected’ (Table 19).

**Table 18. Perceptions by Appellants in Writing about the Clarity of Decisions.**

<b>Clarity of Decision</b>	<b>% response</b>
Very clear	53.1%
Reasonably clear	29.6%
No strong feelings either way	6.2%
Somewhat unclear	6.2%
Very unclear	2.5%
Can't remember/Don't know	2.5%

**Table 19. Perceptions of the Overall Experience for Appellants in Writing.**

<b>Overall experience</b>	<b>% Response</b>	<b>Comparison with expectations</b>	<b>% response</b>
Very good experience	32.9%	Much better than expected	21.2%
Fairly good experience	31.7%	A little better	23.7%
No strong feelings	15.8%	As expected	27.5%
Fairly poor experience	7.3%	Somewhat worse	6.2%
Very poor experience	12.2%	A lot worse	10.0%
Can't remember/Don't know	0%	Can't remember/Don't know	10.0%

Once again, however, as Table 20 shows, none of the appellants who lost their cases rated their experience as ‘good’. Most, indeed, found the experience worse than expected (some 54.6%, suggesting it to have been ‘somewhat worse’ or ‘a lot worse’).

**Table 20. Perceptions of the Overall Experience for Appellants in Writing who Lost<sup>9</sup>**

Overall experience	% Response	Comparison with expectations	% response
Very good experience	0%	Much better than expected	0
Fairly good experience	0%	A little better	9.1%
No strong feelings	30.4%	As expected	27.3%
Fairly poor experience	26.1%	Somewhat worse	18.2%
Very poor experience	43.5%	A lot worse	36.4%
Can't remember/Don't know	0%	Can't remember/Don't know	9.1%

Telephone hearings

Turning to telephone hearings, similar questions were asked of appellants choosing this mode of hearing and the responses are presented below. Table 21 presents data on the duration between appeal submission and receipt of the decision (as verbally reported at the hearing and then confirmed in writing shortly afterwards). Then Table 22 focuses on experiences of the process, including appellants' self-preparedness and understanding of what to expect in their telephone hearings. This is followed in Table 23 by data on the participation or absence of council officials in the telephone hearings and perceptions of the role and manner of the adjudicator. Then in Table 24 perceptions of the status and powers of adjudicators are presented, based on the same eight propositions (and whether these had changed as a result of the experience of appealing), before turning to assessments of the overall experience of telephone hearings.

**Table 21. Time between Submission and Decision for Telephone Hearings**

(Figures in brackets – for comparison - are for appeals in writing)

Duration	% response	Compared with Expectations	% response
Within 1 week	0% (8.1%)	Much quicker than expected	15.0% (12.8%)
Between 1 week and 1 month	45.0% (46.3%)	A little quicker than expected	10.0% (17.4%)
1-3 months	35.0% (19.8%)	About as expected	45.0% (40.7%)
More than 3 months	0% (3.5%)	A little too long	25.0% (11.6%)
Still waiting	5.0% (0%)	Far too long	5.0% (7.0%)
Can't remember/Don't know	15.0% (23.4%)	Don't know	0% (10.5%)

**Table 22. Appellant 'Readiness' for, and 'Straightforwardness' of, Telephone Hearings**

Perceptions of Preparedness	% response	Perceptions of Straightforwardness	% response
I had all the information I needed	27.8%	Very straightforward	30.0%
I had about enough information	44.4%	Fairly straightforward	40.0%
I had insufficient information	22.2%	No strong feelings	10.0%
I had completely inadequate information	5.6%	Not very straightforward	0%
Can't remember/Don't know	0%	Very difficult	15.0%
		Can't remember/Don't know	5.0%

Some 55% of those opting for telephone hearings reported winning their appeals (and having their PCNs cancelled), while the remaining 45% indicated losing theirs and having to pay the penalty charge. Opinions on the fairness of decisions for telephone appeals were evenly divided – with 35% feeling the

<sup>9</sup> %'s may not add up to 100 due to rounding

decisions to be ‘very fair’, and 5% ‘reasonably fair’, while some 30% felt them ‘somewhat unfair and 25% ‘very unfair’ (the residual 5% indicating no strong feelings either way). Yet again, losing one’s appeal was found to have an impact on perceptions of fairness. In this respect a total of 9 appellants lost their cases at telephone hearings, and all had negative views about the fairness of the process (5 felt it had been ‘somewhat unfair’ and 4 suggested it to have been ‘very unfair’).

A particular issue of interest with telephone hearings concerned the presence of a council official simultaneously on the telephone line. This is something that has generally been viewed by the Tribunal as a potential advantage in so far as a three-way (phone) interaction between the parties and the adjudicator becomes more feasible than with face-to-face hearings (at which council officials do not routinely attend in person because of the time and cost involved).

Of our sample of appellants who had chosen a telephone hearing, some 60% reported the telephone presence of a council official<sup>10</sup>. But then, in response to a question about respondents’ feelings in ‘sharing’ the adjudication process with a council official, views were mixed – with as many regarding it as a hindrance as a help, although again those finding it a hindrance tended to have had their appeals dismissed. While, in some instances, appellants reported finding it helpful to be able to respond verbally to (and argue with) the councils’ claims, and to have the opportunity to pose questions to the council officers that they felt deserved answers, others suggested it had proved more of a hindrance overall, and mostly because they felt the officials had seemed unduly obstructive, making dialogue difficult (again these comments largely related to appellants who had subsequently lost their appeals). We also asked the appellants for telephone hearings about their perceptions of the preparedness and manner of the adjudicators and here the key responses are summarised in Table 23.

**Table 23. Perceptions of ‘Readiness’ and Adjudicator Manner in Telephone Hearings**

<b>Perceptions of Adjudicator Preparedness</b>	<b>% response</b>	<b>Perceptions of Adjudicator Courteousness</b>	<b>% response</b>	<b>Perception of Fair-Mindedness</b>	<b>% response</b>
Very well prepared	42.1%	Very courteous	47.4%	Very fair-minded	42.1%
Reasonably well prepared	47.4%	Reasonably courteous	36.8%	Reasonably fair-minded	31.6%
No strong feelings	5.3%	No strong feelings	10.5%	No strong feelings	15.8%
Not very well prepared	5.3%	Somewhat discourteous	5.3%	Somewhat unfair-minded	5.3%
Ill-prepared	0%	Very discourteous	0%	Very unfair-minded	5.3%
Can’t remember/Don’t know	0%	Can’t remember/Don’t know	0%	Can’t remember/Don’t know	0%

Interestingly, views on the preparedness of the adjudicators were little different between those who won and lost their appeals; a similar proportion (88%) feeling their adjudicator to have been ‘very well prepared’ or ‘reasonably well prepared’. 77% felt that the adjudicators were ‘courteous’ or ‘very courteous’, and 55% felt they were ‘very’, or ‘reasonably fair minded’.

<sup>10</sup> In the remaining 40% of cases, the appellants reported that no council official had been involved in their hearing, or did not recall one way or the other).

We then asked appellants choosing telephone hearings about their understandings and perceptions of the Tribunal and the adjudicators – doing so in the same manner as with appellants in writing according to the same eight propositions (Table 24).

**Table 24. Appellant Perceptions about the Adjudicators in Telephone Hearings**

(Figures in brackets – for comparison - are for appeals in writing)

Statement about the Adjudicators	% True	% False	% Uncertain
Adjudicators... are able to cancel a ticket if reasonable (mitigating) explanation was provided.	68.4% (75.6%)	15.8% (9.3%)	15.8% (15.1%)
...are just another part of the government system interested in revenue-raising.	21.1% (22.1%)	57.9% (53.5%)	21.0% (24.4%)
...are wholly independent of the councils.	89.5% (51.7%)	5.3% (18.4%)	5.2% (29.9%)
...are professional lawyers (solicitors or barristers).	50.0% (15.3%)	5.6% (30.6%)	44.4% (54.1%)
...are experts in parking law and regulations.	57.9% (50.0%)	10.5% (18.6%)	31.6% (31.4%)
...are local authority officials (though separate from the parking department).	21.0% (26.7%)	63.2% (33.7%)	15.8% (39.5%)
...are most likely to support the citizen if the council evidence was inaccurate.	73.7% (51.8%)	10.5% (16.5%)	15.8% (31.8%)
...would be more likely to believe the council's evidence than the appellant's.	36.8% (31.4%)	36.8% (51.2%)	26.3% (17.4%)

Here it can be seen that telephone hearings appeared to be significantly more successful (than for appellants in writing) in conveying the important messages about the status of adjudicators, and most notably about their independent status and legal expertise. On the other hand, it was interesting to find from the survey that rather less of those electing telephone hearings, when compared with appellants in writing, suggested that their perceptions had changed as a result of their experience. In this respect, just 26.2% of those who experienced a telephone hearing felt their perceptions had significantly changed as a result of their experience (compared with 37.9% for appellants in writing). Nevertheless, when asked about the advantages and disadvantages of telephone hearings, many more cited advantages than disadvantages – the key benefits that were cited being ‘convenience’ (and ‘cost savings’), and being able to state their case personally and respond to the claims of the councils. As one such appellant put it, *“the real benefit was being able to converse with someone who understands and is willing to talk it through”*. With regard to disadvantages, on the other hand, the comments mainly concerned the practical difficulties of three-way conversations and, because of being out of sight of one another, the tendency sometimes to talk at once or over one another.

Overall, the experiences of telephone hearings were more positive than negative, although, it should be said, hardly more so than for appellants in writing (Table 25). Indeed, a rather larger proportion of those opting for telephone hearings felt they had had a ‘poor experience’ and found it ‘worse than expected’ than for appellants in writing – a finding that, while perhaps influenced by the patterns of success and failure with their appeals, does tend to underline the potential challenges for many people in having to conduct themselves effectively through an appeal hearing via a telephone-line.

**Table 25. Perceptions of the Overall Experience of Telephone Hearings**

(Figures in brackets – for comparison - are for appeals in writing)

Overall experience	% Response	Comparison with expectations	% response
Very good experience	29.4% (32.9%)	Much better than expected	36.3% (21.2%)
Fairly good experience	35.3% (31.7%)	A little better	23.5% (23.7%)
No strong feelings	0% (15.8%)	As expected	17.6% (27.5%)
Fairly poor experience	17.6% (7.3%)	Somewhat worse	17.6% (6.2%)
Very poor experience	17.6% (12.2%)	A lot worse	5.9% (10.0%)
Can't remember/Don't know	0% (0%)	Can't remember/Don't know	0% (10.0%)

Finally on timeliness, Table 26 indicates generally very prompt decision-making in relation to telephone hearings (more so than for appeals in writing) and that, mostly, the decision letters that follow on from the hearings were perceived to be clear and understandable (though here we would presume that clarity and understanding would be heightened in most cases by the decision letter following on from what was said and explained verbally by the adjudicator at the end of the hearing).

**Table 26. Timeliness and Clarity of Decision Letters for Telephone Hearings**

Duration	% response	Clarity of Decision letter	% response
Within 1 week	52.6%	Very clear	57.9%
Within a fortnight	15.8%	Reasonably clear	26.3%
Within 1 month	21.0%	No strong feelings	5.3%
More than 1 months	0%	Somewhat unclear	5.3%
Still waiting	0%	Very unclear	0%
Can't remember/Don't know	10.5%	Can't remember/Don't know	5.3%

[Face-to-Face Appeals](#)

Compared with telephone hearings, the arrangement of face-to-face hearings often takes considerably more time, because the Tribunal needs to compile a reasonably sized list of appeals to be held at each local centre to justify the adjudicator's travel time and costs. As a result, it was hardly surprising that rather more negative comments were forthcoming from appellants about the timeliness of their face-to-face hearings - with 25% indicating that their cases 'took far too long' (Table 27).

**Table 27. Experience and Perceptions of Timeliness in Face-to-Face Hearings**

Duration	% response	Perceptions of Timeliness	% response
Within 1 week	0%	Much quicker than expected	4.2%
With a month	12.5%	A little quicker than expected	4.2%
With 3 months	33.3%	About as expected	45.8%
More than 3 months	8.3%	A little too long	8.3%
Still waiting	16.7%	Far too long	25.0%
Can't remember/Don't know	29.2%	Can't remember/Don't know	12.5%

Of the sample of such appellants for face-to-face hearings, some 70.8% reported winning their cases (and having their PCNs cancelled) while just 16.7% indicated losing and having to pay the penalty charge. In addition, 1 in 8 indicated that the councils had not, in the end, contested their cases, so they had won by default. More than half of the sample (54.2%) described the outcome of their hearings as

‘very fair’, and a further 4.2% as ‘reasonably fair’. Some 20.8% considered the results ‘unfair (with 12.5% describing it as ‘very unfair’) – unsurprisingly again, these all being individuals whose appeals were dismissed by the adjudicators. Meanwhile, the experience of face-to-face appeals was generally regarded as straightforward and positive, both in relation to the support and assistance available at the hearing centres and with regard to preparedness and manner of the adjudicators (see Tables 28, 29 and 30). A roughly equal number of appellants reported the presence of a council official for their face-to-face hearing as those indicating absence of council representation.

**Table 28. Appellants’ Perceptions of the Process of Face-to-Face Hearings**

Perceptions of the process	% response
Very straightforward	39.1%
Fairly straight forward	13.0%
No strong feelings	17.4%
Not very straightforward	0%
Very difficult	4.3%
Can’t remember/Don’t know	26.1%

**Table 29. Perceptions of Service and Assistance Available at Hearing Centres**

Level of service/assistance	% response
Excellent	22.1%
Good	36.4%
Neither good nor bad	4.5%
Not very good	0%
Poor	0%
Can’t remember/Don’t know	36.4%

**Table 30. Appellants’ Perceptions about Adjudicators in Face-to-Face Hearings**

How well prepared?	% response	How courteous?	% response	How fair-minded?	% response
Very well prepared	38.1%	Very courteous	30.1%	Very fair-minded	38.1%
Fairly well-prepared	9.5%	Fairly courteous	28.6%	Fairly fair-minded	9.5%
No strong views	19.0%	No strong views	4.8%	No strong views	14.3%
Not very well prepared	4.8%	Not very courteous	0%	Not very fair-minded	14.3%
Ill-prepared	0%	Discourteous	0%	Unfair-minded	0%
Can’t remember/Don’t know	28.6%	Can’t remember /Don’t know	28.6%	Can’t remember /Don’t know	23.8%

Turning then to appellants’ perceptions and understandings of the status of the Tribunal and the adjudicators, it was interesting to compare the reactions of those experiencing face-to-face hearings with those electing telephone hearings to consider the impact of ‘physical presence’ with the adjudicator in the hearing centre upon appellant understandings (Table 31).

**Table 31. Appellants' Perceptions of the Status of Adjudicators in Face-to-Face Hearings**

(Figures in brackets – for comparison - are for telephone appeals)

Statement about the Adjudicators	% True	% False	% Uncertain
Adjudicators... are able to cancel a ticket if reasonable (mitigating) explanation was provided.	56.5% (68.4%)	17.4% (15.8%)	26.1% (15.8%)
...are just another part of the government system interested in revenue-raising.	13.0% (21.1%)	69.6% (57.9%)	17.4% (21.0%)
...are wholly independent of the councils.	47.8 % (89.5%)	17.4% (5.3%)	31.8% (5.2%)
...are professional lawyers (solicitors or barristers).	65.2% (50.0%)	17.4% (5.6%)	17.4% (44.4%)
...are experts in parking law and regulations.	52.2% (57.9%)	13.0% (10.5%)	34.8% (31.6%)
...are local authority officials (though separate from the parking department).	13.0% (21.0%)	60.9% (63.27%)	26.1% (15.8%)
...are most likely to support the citizen if the council evidence was inaccurate.	60.9% (73.7%)	8.7% (10.5%)	30.4% (15.8%)
...would be more likely to believe the council's evidence than the appellant's.	17.4% (36.8%)	47.8% (36.8%)	34.8% (26.3%)

As hinted earlier in relation to telephone hearings, the data gathered here suggests no clearer understanding for those electing face-to-face hearings. In fact, in some respects, the perceptions of those experiencing telephone hearings appeared closest to reality, most notably in relation to the independence of the tribunal from local government. As with telephone hearings, however, experience of a face-to-face hearing seemed to have had relatively little impact in terms of altering perceptions of the Tribunal and the adjudication process – with only about 1 in 4 (26.1%) of respondents indicating that their understanding had changed as a result of the first-hand experience. In this respect the principal change that was cited was in relation to adjudicator independence.

When asked what they felt to be the main advantages of face-to-face hearings, appellants mostly referred to their *'ability to speak personally'*, *'to be able to articulate particular points'*, and to the idea that *'the adjudicator can gauge you are telling the truth'*. On the other hand the main disadvantages that were emphasised centred on the inconvenience of having to travel to attend (including having to take time off work), and *'having to think on your feet'*.

Overall perceptions about the experience of face-to-face hearings were not dissimilar from those for telephone appeals (Table 32) although slightly more respondents of face-to-face hearings regarded their experience as *'very good'*, and rather less considered it *'fairly poor'* or *'very poor'*. The fact that significantly more appellants in face-to-face hearings than telephone hearings considered their experience about *'as expected'* might perhaps suggest that it is somehow easier to be both prepared for, and undergo, a face-to-face hearing than one by telephone – and this is probably in part at least a reflection of the considerable care and attention provided at hearing centres by the assistants/ushers there in putting appellants at the ease before each hearing begins.

**Table 32. Appellants’ Perceptions of the Overall Experience of Face-to-Face Hearings**

(Figures in brackets – for comparison - are for telephone appeals)

Overall experience	% Response	Comparison with expectations	% response
Very good experience	35.0% (29.4%)	Much better than expected	25.0% (36.3%)
Fairly good experience	25.0% (35.3%)	A little better	5.0% (23.5%)
No strong feelings	15.0% (0%)	As expected/no expectations	55.0% (17.6%)
Fairly poor experience	7.5% (17.6%)	Somewhat worse	0% (17.6%)
Very poor experience	7.5% (17.6%)	A lot worse	5.0% (5.9%)
Can’t remember/Don’t know	10% (0%)	Can’t remember/Don’t know	10% (0%)

Similarly, perceptions about the clarity of decision letters, and indeed, about the duration of time before the receipt of decision letters, were closely comparable between the experiences of appellants in face-to-face hearings and those for telephone hearings (Table 33).

**Table 33. Timeliness and Perceived Clarity of Decision Letters after Face-to-Face Hearings**

(Figures in brackets – for comparison - are for telephone appeals)

Duration	% response	Clarity of Decision letter	% response
Within 1 week	60.9% (52.6%)	Very clear	65.2% (57.9%)
Within a fortnight	4.4% (15.8%)	Reasonably clear	21.7% (26.3%)
Within 1 month	17.4% (21.0%)	No strong feelings	4.3% (5.3%)
More than 1 months	0% (0%)	Somewhat unclear	0% (5.3%)
Still waiting	0% (0%)	Very unclear	4.4% (0%)
Can’t remember/Don’t know	17.4% (10.5%)	Can’t remember/Don’t know	4.4% (5.3%)

## 5. Acquiescence or Missed Opportunities? *The Non-Appellants’ Story.*

As stated at the outset of this report, a key question underpinning the commissioning of this research was the indication of a slight reduction in rates of appeal and particularly since the launch of the new arrangements for providing information to recipients of PCNs. Accordingly an important element of the design of the research was a survey specifically of those who had made representations to the seven participating councils against the issuance of PCNs but who, having received Notices of Rejection of Representations, did not pursue the matter further by appealing to the Traffic Penalty Tribunal.

There are a number of key issues and possibilities to be considered in seeking to understand why this might be the case – could it simply reflect acceptance by the particular motorists of the response and evidence provided by the councils that the alleged contraventions had indeed taken place and therefore that the penalty charges were therefore due? Or might it be that the motorists concerned felt they did not have the tenacity, the time, or perhaps the self-confidence, to pursue their grievance with the councils’ enforcement actions any further? Or might it perhaps be that they didn’t sufficiently trust or have confidence in the powers and expertise of the Tribunal to adjudicate their cases and give due consideration to arguments as to why the penalty should, in their view, be cancelled – and especially perhaps, if this were to mean risking losing the opportunity for a 50% reduction in the penalty in return for prompt settlement? Or might it be that the motorists concerned were simply unaware of, or did not understand, their right to have their cases further reviewed?

Among our sample of 73 non-appellants, the various reasons cited in the responses to our survey to a pre-coded question about why appeals were not made are summarised in Table 34 (respondents having been invited to tick as many options as appropriate).

**Table 34. Reasons Why Non-Appellants Did Not Submit Appeals to the Tribunal**

Reason	Percentage of all responses
I felt that the Tribunal would simply back the Council’s decision, and so be a waste of time.	50.0%
I accepted the Council’s evidence of the contravention and that I had to pay the penalty.	42.9%
I did not want to risk losing the 50% discount on the PCN charge by further delay if the appeal failed.	42.9%
I thought the process would be too time-consuming.	32.1%
I’d had enough of the whole thing (the PCN) and did not want any further hassle.	25.0%
I did not know I had any further right of appeal (to the Traffic Penalty Tribunal).	17.9%
I did not think my case met any of the eligible grounds for an appeal.	17.9%
I thought that the process involved would be too daunting.	14.3%
I didn’t understand what I had to do to make an appeal.	7.1%

It is not possible from this array of data to know what proportion of those who felt the Tribunal ‘would simply back Council’s decision’ were of the view that their cases were weak (and therefore unlikely to succeed) as opposed to those without confidence in the Tribunal to review their evidence impartially. However, insights on this issue were provided in the responses gathered in relation to other questions in the survey (that are considered below). Nevertheless, it is to be noted here that as many respondents cited ‘acceptance of the Council’s evidence’ as those indicating ‘not wanting to lose the discount on the PCN’ (4 out of 10 in each instance). Perceptions of a ‘time consuming process’, ‘having had enough of the whole thing’ and feeling ‘the process involved would be too daunting’ also feature significantly in Table 27. But perhaps most surprising and of potential concern were the significant proportions (nearly 1 in 5) who respectively responded by expressing, on the one hand, their perception of ‘ineligibility’ and their ‘unawareness of the right of appeal’ on the other.

This latter issue of *unawareness* of the right of appeal, and the related matter of *lack of understanding* of the process involved, were similarly identified in our earlier research (in 2005) and which was based on a series of telephone interviews with motorists who had received a PCN<sup>11</sup>. At that time, we found very limited prior awareness of the appeals process – with more than 8 out of 10 interviewees stating that they had first learned about the possibility of going to appeal when they received the Councils’ Notice of ‘Rejection of Representations’ letters (as indicated earlier, with a separate leaflet about NPAS having been included in the same envelope).

Since then, the work of the Traffic Penalty Tribunal has been frequently featured and profiled in various media – including the television series (‘Parking Mad’ and ‘Parking Wars’) and on a number of

<sup>11</sup> Raine J W & E Dunstan (2005) *User Perspectives on the National Parking Adjudication Service*. School of Public Policy: University of Birmingham.

radio magazine programmes, as well as in the print media. Accordingly it might well have been expected that general awareness levels would be significantly higher by now as a result. The findings from our survey for this current research, however, reveal a continuing high level of public unawareness of the Tribunal – with 57% of those who did not go to appeal and 39% of those who did, indicating that they had no prior knowledge of its existence. For sure, the data indicates that such public knowledge has grown over the past decade (even if only in vague terms). Nevertheless, it seems there is still much more to be done to raise levels of awareness and understanding in this respect.

Accordingly, it is surely important that efforts continue to grow such awareness among the motoring public of the processes involved in traffic enforcement, including those by which local authority penalty charge notices can be challenged and then, subsequently, taken to appeal before an independent adjudicator of the Traffic Penalty Tribunal. As indicated, however, our survey (and the follow-up telephone interviews) highlighted much continuing confusion and uncertainty about that process – a state of affairs undoubtedly not helped by the tendency (among many council personnel as well as motorists) to use the words ‘challenge’, ‘appeal’, and ‘representations’ interchangeably. At present, as our research findings have confirmed, most people who receive penalty charge notices are still insufficiently cognisant, if not completely unaware, of the process operated by the local authorities and of the option of appeal to the Tribunal.

### **5.1 Introducing the Right of Appeal in the Council’s ‘Notice of Rejection of Representations’**

As stated earlier, the Councils’ ‘Notice of Rejection of Representations’ letters (NoR) now include a short ‘boxed’ introductory statement from the Traffic Penalty Tribunal about the right of appeal to the independent adjudicators, providing directions to the Tribunal’s website. This has replaced the past practice of including the Tribunal’s appeals form within the councils’ envelopes.

One potential problem with this change in mode of communication that our research findings have highlighted is that, despite the boxed format, the Tribunal’s information is not always noticed nor its contents absorbed by the recipients of the NoR letters from the councils, for reasons discussed below.

Significantly, some 53.5% of those in our sample who did not appeal told us in their survey responses that they had not seen mention of the Tribunal in the Council’s NoR letter (while 46.5% did report seeing it). Indeed, it was also intriguing in this context to note that about 1 in 7 of those who *did* take their cases to appeal with the Tribunal also indicated not observing the boxed information about their rights in this respect (and instead, according to the respondents, had learned about the Tribunal from ‘previous experiences’, ‘friends and family’ or ‘other sources’).

The comments proffered in the survey, and reinforced by responses in the follow-up interviews, confirm, then, that one key reason why many motorists who had challenged a local authority imposed penalty charge, but who having had their representations rejected did not go to appeal, is that they are simply unaware of the appeal option. Indeed, many of the respondents stated that the first they knew of the option was when they read *our* letter of introduction to the research. Views from several of the interviewees reinforced this point:

*“I would definitely appeal then in future if I knew it was nothing to do with the council”.*

*"I didn't know this would go to a tribunal; you are suggesting they are an independent tribunal. Now that I know I would have gone there in person to explain. I would have said there were too many icons and you can't tell the left hand lane is an exclusive bus and taxi lane".*

*"I didn't even know there was one, the first time I knew of one was your letter for the survey. I'm sure I would have appealed. I would definitely do an online appeal but I would have liked the face to face hearing. With modern technology I know everything is online nowadays".*

In the latter statement the appellant felt certain they would have appealed had they known the process was independent of the council.

*"I've never heard about the tribunal before, because never having a parking ticket, you know, I have never come across anything like it, you know what I mean".*

*"No, it is completely new to me that is [the Tribunal]. So I think you are on to a good thing in the sense that it does need highlighting because knowledge is not great in this regard. The first time I heard anything about the organisation was in your survey".*

*"Yeah I remember the letter, but no, they didn't give me that option of appealing. They just said that my appeal was denied. I texted them saying I was disputing it, but they denied my dispute".*

Interviewer: Did they mention the Traffic Penalty Tribunal?

*"No. No they didn't. That was why I said on the survey form that I had never heard of them. Because I would have appealed".*

*"None, nothing. I knew absolutely nothing about it. The first time I knew about it was from your survey. To say I was flabbergasted when I read through your survey is an understatement. It was unbelievable; I couldn't believe it, and couldn't believe they hadn't told us".*

*"The nature of our business means that we often get tickets. We've just paid up in the past. Now that I know there's an independent tribunal I will definitely consider appealing in future".*

Some respondents did know about the existence of the TPT but indicated that their knowledge was very basic, i.e. that it existed.

*"They might have said in the letter that you could appeal but it didn't say there was a simple procedure. I thought it was going to be long and involved going to a court and all that".*

That said, the research also found that, among those who *did* see reference to the right of appeal to the Tribunal in their council letters, a small majority (55.1%) regarded the statements as 'prominent' or 'very prominent' (in terms of display) and a clear majority (62.1%) as 'clear' or 'very clear' (in terms of the information being provided). Seemingly, much would appear to depend on the amount of care taken by recipients of the council letters to read and absorb their contents in full, which in turn suggests the need for a format that is able to convey to all recipients the key messages in an accessible and engaging manner.

## 5.2 *The Notice of Rejection of Representations letter*

The findings from the survey and the many comments proffered in the follow-up interviews led us to review samples of the letters issued by the seven participating councils (and a number issued by other councils as well) to examine more closely the nature of, and possible reasons for, such awareness problems among so many respondents.

In this respect, our findings were mixed. On the one hand, we could readily see that the councils had all gone some way to make what is necessarily an official legal document reasonably reader-friendly and intelligible for lay recipients. Moreover, we also recognised that the Traffic Penalty Tribunal has similarly sought to develop an intelligible and prominent message (i.e. through the ‘boxed’ format) about the independent adjudicators and how to appeal. On the other hand, we also noted a number of respects in which the letters (NoR) were, to our way of thinking, deficient in some or other ways – deficiencies that we believe would be likely to contribute in no small way to the overall low proportion of respondents stating they had seen the relevant information from the Tribunal and understood the possibility of an appeal following the ‘rejection of representations’. A number of issues were highlighted in this respect, each possibly affecting visibility and/or comprehension of information about the right of appeal as follows:

### *The Traffic Penalty Tribunal or the Independent/Parking Adjudicator(s)?*

First, we noted inconsistent use of language within (as well as between) the letters issued by different councils – sometimes referring to ‘the Traffic Penalty Tribunal’, while at other times to the ‘Independent Adjudicators’ or to ‘Parking Adjudicators’. For example, in one such letter, we noted the statement “*You can appeal to the Parking Adjudicator*” yet further on in the same letter the language in the boxed information on ‘how to appeal’ uses different language – that of ‘*The Traffic Penalty Tribunal*’. We also noted inconsistencies in the use of the definite/indefinite article, i.e. referring to ‘an’ Independent Adjudicator in one paragraph of the letter but to ‘the’ Independent Adjudicators elsewhere (and to ‘the Parking Adjudicator who is independent’ at another point).

### *Presentation of Pay or Appeal Options*

All the Council NoR letters that we reviewed set out the options in terms of ‘*Pay or Appeal*’ (or in some instances, ‘*provide additional evidence*’) following the provision of a summary of reasons for rejection (of representations). This might seem logical enough – although we know from our research that many motorists regard the ‘representations’ they make in writing to the councils as ‘appeals’ and so are liable to be confused by a letter that purports to reject such representations (appeals) but then purports to offer the choice of paying or appealing (again).

Certainly the non-appellant interviews highlighted the scope for confusion and misunderstanding here.

*“Well it just said you can appeal against it and it didn’t explicate that. It didn’t make clear that you could appeal to an independent legal tribunal where you could go there in person and argue. They didn’t even tell you clearly enough what the citizens’ rights are”.*

*“I think they really should make it clearer in the letter, because if it would, and I felt I had a genuine case, as I did here, then I would appeal. I don’t think I have done anything wrong; it was a quick stop and that’s it”.*

In our assessment, further potential for confusion would be created by the fact that the boxed information from the Tribunal (which is typically presented towards the end of the letter – after the Council’s introduction of the choice between paying and appealing, ‘paying’, and after the instructions for paying the penalty) commences (on most of the versions that we saw) by repeating the line ‘*You must now decide to pay or appeal your penalty*’. Only one such letter that we saw had omitted this line from the boxed section, thus making the content and message flow more logically (in our view) to focus wholly on ‘how to appeal’.

#### *Incentivisation of Payment over the Appeal Option?*

The layout and language of the letters of ‘Rejection of Representations’ from all the Councils whose correspondence we reviewed also tended to prioritise ‘payment’ over ‘appeals’. Perhaps this is unsurprising given that, at this stage, the councils, having considered and rejected the representations, would, of course, be most likely to expect settlement of the penalty charges. But since an appeal to the Tribunal (if pursued) would always precede payment, it might be argued that a more reasonable form of phrasing would be “*you must now decide whether to appeal or pay the penalty charge*” (rather than “*you must decide whether to pay or whether to appeal*”). Moreover, the phrases “*the penalty charge is now payable*”, and “*This must be paid before the end of 28 days beginning with the date of service of this Notice*” immediately after statements of the reasons for rejection of the representations (in all the letters we reviewed) would potentially also cause some misunderstandings among motorists because they might seem to imply that payment was due in any event (and irrespective of any decision to appeal).

Similarly, the manner in which the letters tend to refer to the 50% discount for prompt payment (i.e. within 14 days, as the law allows), might also lend weight to the payment option over that of an appeal. In one case, we were particularly surprised by the choice of the following phraseology in a council NoR letter:

*“If you elect to appeal to the Traffic Penalty Tribunal the case will be heard at the original charge amount [£60]. However, on this occasion the Council is willing to offer the option to pay this charge at the discounted amount of £30. This offer is only available if payment of this discounted amount is received within 14 days of service of this Notice of Rejection”.*

[We have added the underlining to emphasise the point about the prioritisation of payment over appeals].

It was interesting to note that, while the letters provided to the researchers all contained information about the Traffic Penalty Tribunal and the right of appeal, a significant number of respondents to our survey, and our interviewees, stated with confidence that their letters contained no such information. It is suggested that the design of the letter, combined with general human fallibility, would likely be to blame, and indeed, it was acknowledged by some interviewees that they might not have paid attention to the full contents of the letters received.

*“No I actually pulled a lot of the information out when I got your letter [survey]. There was actually quite a lot of information there and there was information about how to appeal against it. Looking at it now, yeah they tell you everything but I’m sure a lot of people don’t even bother to read it, they are just bothered about the fees”.*

*“It could be possible because when you first read the letter and it says you have to pay I thought ‘Oh my God’. I don’t think you read further on really. I paid the £30 cheaper amount. I*

*just thought I'd pay it then because if you don't pay it quickly it goes up. So I had to pay it because I didn't want it to go any further".*

*"More to the point it was a case of if you don't pay, the money will go up".*

*"I knew about the independent Tribunal but I didn't want to risk having to pay the full amount".*

Of course, it is hardly surprising that many people, on receiving a two or three page letter headed 'Notice of Rejection of Representations', which states early on that 'the Penalty Charge is now Payable', and in which the boxed information about the right of appeal to the Tribunal comes towards the very end, many motorists fail to assimilate all the information. Indeed, it seems perfectly understandable to suppose that the issue of most pressing concern for recipients of such a letter would be whether or not the penalty has been cancelled and, if it hasn't, how much is owed to the council. Perhaps in anger, frustration, worry or self-reproach, it is, for sure, unsurprising that motorists do not read every line of their letters and that many miss or misinterpret the information about the option of an appeal to the Tribunal.

#### [The Terminology of 'Representations', 'Challenges' and 'Appeals'](#)

A source of confusion and misunderstanding, for as long as the process for disputing penalty charge notices issued by councils has been in existence, has been the language of 'representations', of 'challenges' and of 'appeals'. Thus while the law clearly differentiates between 'representations' (that may be made to the councils by those who choose to dispute a PCN) and 'appeals' (that may be made to the Traffic Penalty Tribunal' following the councils' rejection of those representations), many, perhaps most) motorists fail to appreciate this and are likely to use the words interchangeably and inconsistently. Any such public confusion is also likely to be compounded, however, if the councils themselves are inconsistent in their use of such terminology, as indeed was evident in this research. In this respect, for example, we noted the following phrase in one Notice of Rejection of Representations letter from one council that we reviewed: *"I note your comments and reasons for appealing against the issue of the PCN..."* but then, after explaining the decision to reject, continues by saying *"You must now pay or appeal"*. In light of such phraseology, we wonder just how many motorists might well disregard their opportunity to appeal to the Traffic Penalty Tribunal simply because they might assume they have already made their appeal and have lost.

This confusion over language was certainly apparent in the comments made both in the survey and follow-up interviews. In this respect the term 'appeal' was frequently used to refer to informal discussions with parking staff, to written representations made to the councils and, for those that did know of the existence of the Tribunal, to the appeals to the adjudicators. Moreover, as interviewers, we frequently had to interrupt our subjects to seek clarification from them as to what exactly they were meaning when they talked of 'challenges', 'appeals' and to 'making representations'.

As an example the following non-appellant presumed his 'challenge' to be his 'appeal':

*"I wrote to the council explaining everything, giving them all my mitigating circumstances and it was like they weren't interested. So anyway, they said no and I had no option but to pay. Really, they had rejected my appeal"*

*“I challenged and was told I had to pay. I appealed and it was refused. I had to pay”.* (On further probing, it transpired that this person had not taken her case beyond the council stage).

Indeed, one respondent also made the point that he (too) felt the language likely to mislead (and in his view, deliberately to do so).

*“They may have mentioned the appeal system, but it was written in such a way that, yeah, you have an appeal and you’ve just had it, and the answer is no; \*\*\*\* off!”*

#### The Matter of ‘Costs’

Reference by councils in the letters of ‘Rejection of Representations’ to the possible award of costs could also be regarded as a further problem – and although not one likely to affect either the comprehension or the ‘visibility’ of the right of appeal to the Tribunal, potentially one that would add to many motorists’ sense of confusion and uncertainty over the implications of the letter and thus with implications for appeals. In this respect, several of the NoR letters from councils that we reviewed said little about the issue of the award of ‘costs’ by the adjudicators – perhaps because the issue is covered within the Traffic Penalty Tribunal’s boxed paragraph of information, where the following words are to be found: *“There is no charge for appealing and costs are not normally awarded. The website gives full details”*.

However, we did see examples of letters from councils that also included their own references to ‘costs’ – and not always expressed entirely consistently with the Tribunal’s account. For example, in two council letters that we reviewed, the following wording was used: *“The Adjudicator can ask one side to pay costs if he or she believes, for example, that they have been wholly unreasonable. However, the Adjudicator rarely asks either side to pay costs”*. Such wording, we suspect, might be interpreted rather differently from the Tribunal’s wording, and perhaps act as a (further) disincentive to making an appeal.

#### SPAG and Other Presentational Problems

Spelling, punctuation and grammar- SPAG, as school-teachers often refer to it – was also found to be an issue in several of the council letters we reviewed. In this respect, shortcomings in spelling, punctuation and grammar are probably also not matters that would themselves necessarily lessen the impact and comprehension of the right of appeal (unless being so poor as to undermine clarity and damage readability). However, we certainly think it more than possible that typographical errors, sloppy use of English and poor formatting and presentation on the pages could serve to undermine respect for the Council and confidence in its competence to adjudge representations properly. Indeed, we wonder if it might cause more than a few aggrieved recipients enough further irritation to give up and commit the letter to the recycling bin rather than reading it all and absorbing the full information it contained – including information about the Traffic Penalty Tribunal.

This might be particularly so given the formal legal status of a Notice of Rejection of Representations letter. In such a context, it was indeed all the more surprising to us to find several SPAG errors - missing apostrophes (*“the Councils [sic] decision”*; *“the Tribunals [sic] website”*), and in one case, the job description of the authorised signatory presented as *“Principle [sic] Officer”*. We also noted an instance of the Tribunal’s boxed information referred to as such in the Council’s text, but then

presented at the end of the letter without the surrounding box. Moreover, in some of the letters we saw, the Tribunal's boxed information had been much reduced in size – to the extent that readability might well be difficult for those with less than good vision. In contrast, we were particularly impressed by the design of one such council letter that allocated a full page - in two equal halves – to the twin options of 'How to Appeal' (with the Tribunal's boxed information) and 'How to Pay' (with the payment options presented in a similar boxed format) – and appropriately, we felt, with the Tribunal's box at the top and so being likely to be read first.

### **5.3 Other reasons for not going to appeal**

All that said, it was also clear from the research findings that lack of awareness or understanding of the right of appeal, as presented in the Notice of Rejection of Representations letters, was not the only reason why so many of our sample did not go to appeal. In this respect, it will be recalled, the research found that some 45% of the non-appellants did not do so because they accepted the councils' reasons for rejection and a similar proportion indicated that they felt it would be a waste of time because they felt the Tribunal would simply back the councils' stance on the issues in question. As already intimated, it is difficult to know the extent to which such feelings reflected recognition of the weaknesses in their cases or lack of confidence in the Tribunal's independence. However, responses to other questions in the survey, and particularly the additional evidence derived from the follow-up interviews, revealed that, in different instances, both of these reasons held validity.

Another reason cited by many people for not going to appeal concerned the time and hassle they perceived would be involved. For many such people, the research confirmed that paying the discounted penalty was felt to be *'the lesser of two evils'*, and was openly acknowledged to have been the chosen option by several respondents even though they felt their penalties to have been undeserved or the case potentially winnable on appeal.

*"I thought well, I'm not going to win this one, so I paid up the second tranche of £30. I sent the first lot and they wrote back saying you are too late for that now; you have to pay the rest".*

*"No, no! There really wasn't any point as I was guilty. I had done what they said. They were correct both times. I didn't bother to read it all as I had done what they said, so I just paid".*

*"You know once you have got the second letter back saying you definitely are guilty, you don't really think you are going to appeal again; I think any way".*

*"I assumed it would just be a waste of time. It was on a technicality – no harm done. What's regulation for"?*

Not being *'bothered'* about the whole process was a frequent reason cited by non-appellants, particularly when it was juxtaposed with the possibility of paying a discounted penalty.

*"Well it was the wife. She just paid it while it was the £35 I believe; not much for a ticket. So we didn't want any more aggravation really".*

*“I couldn’t be bothered really. I didn’t think I would win again. I had lost once already and you know £30, for all the time and effort and you are probably not going to win anyway it’s just not worth it”.*

The combination of the penalty being doubled if it remained unpaid, and a general sense that appearing at the Tribunal would be ‘*too much of an aggravation*’ undoubtedly lay behind the decisions of quite a number of our sample not to submit appeals.

*“I think I was aware that I might have taken the appeal further to an independent body, but I just thought... they also said if you don’t pay within a certain amount of time then the amount you pay is going to increase so... and I’m very busy so I just thought no, I would pass the deadline and then the fine would increase and you pay even more, all the time I’m expending more energy and effort trying to explain. I also thought I would probably have to go to \*\*\*\* to represent myself, so I don’t have the time for that and you know waste another day and the expense of going to \*\*\*\*, so I decided to pay”.*

## **6. Conclusions**

As indicated, this research report was commissioned partly as a follow-up to a study of the user perspectives on parking adjudication conducted some eleven years earlier in 2005, to take stock of the progress made and achievements since the transition from the National Parking Appeals Service (NPAS) to the Traffic Penalty Tribunal (TPT). Among the recommendations of that previous report, was the piloting of telephone hearings; a move that was quickly followed up and indeed has gone on to prove to be one of the most popular modes of appeal. The previous report also recommended that steps be taken to improve understanding of the independent status of the adjudication process, and the switch of name to the Traffic Penalty Tribunal has been one such response – one that we are sure will have helped considerably. But this further research has highlighted that there is still much to be done to extend understanding and awareness of the Tribunal and to make the process as user-friendly and accessible as possible. In this respect, the findings have implications and lead to further recommendations both for those who would happen to know or learn about the option of an appeal to the Tribunal and to those who might not. In the two succeeding sections we highlight these implications and recommendations respectively under the two main headings used throughout this report – appellants and non-appellants.

### ***Conclusions and Recommendations Regarding Appellants’ Experience***

Mostly the user experience of independent adjudication identified in the 2005 research was positive, and, happily, this remains the case. In the current research, indeed, the vast majority of appellants indicated satisfaction with most aspects of their experience – including with the developments that have taken place since the previous study, such as the development of the web portal and the initiative of instituting an ‘online’ appeals process – which was much praised in this 2016 survey. Indeed, as discussed, and unsurprisingly, most of the more negative viewpoints on aspects of the experience with the Tribunal came from appellants who had had lost their appeals, and who were

therefore perhaps more inclined to vent their dissatisfaction through critical comments in response to the various questions posed in the survey.

More than this, however, the research has identified a number of respects which the Tribunal might perhaps wish to prioritise in its next phases of development. We suggest the following, in particular, as meriting special mention here.

*Recommendation 1. Ensure Optimal Efficiency for Online Appellants*

Ensure that prospective appellants are clear about the facility to create their case in stages, and that it is not necessary to complete their appeal in one sitting.

*Recommendation 2. Ensure Mobile Optimisation*

As smart phones and tablets increasingly become the preferred medium for online interactions, priority should be given to mobile optimisation of the online system to support users in navigating the web portal and making appeals.

*Recommendation 3. Pilot the Introduction of Pre-Hearing Introductions for Telephone Hearings.*

The research identified evidence that appellants in telephone hearings do not always feel as well prepared or ready for their hearings with the adjudicators (and council officials) as their face-to-face hearing counterparts. The findings here have highlighted the benefits for those choosing face-to-face hearings of having an usher at the hearing centre to meet and greet appellants, to introduce and explain the process briefly, and their being able and willing to respond to, and allay, any concerns and apprehensions. It is our understanding that no such equivalent service is automatically offered to those choosing telephone hearings, and we think it may be beneficial all round if a member of staff were to provide short pre-hearing introductions by telephone immediately in advance of each hearing, to help people understand the nature of the proceedings and the status of the adjudicator.

Finally, and related, an issue we touched upon in our 2005 report was the use of webcams or video-conferencing as part of telephone hearings, including from mobile devices. This may reduce the problem most commonly referred to in this research, namely the difficulties of knowing when to speak and how to avoid speaking inadvertently over one another in two and three-way interactions. This is something that the Tribunal may wish to consider, if they believe it would be beneficial.

***Conclusions and Recommendations Regarding Non-Appellants***

These matters aside, the dominant narrative from appellants in this research has, as indicated, been mostly positive. However, undoubtedly a very significant, and concerning, finding was that a considerable proportion of motorists whose representations about penalty charge notices were rejected by the councils were unaware of their right of appeal to the Traffic Penalty Tribunal. As discussed above, in the surveys for this research a slight majority (54%) of non-appellants indicated to us that they had failed to notice the information in the councils' letters about the Tribunal. Moreover, from many of the comments proffered in the follow-up interviews, it was clear that many more failed to absorb or comprehend their options sufficiently – and that this was a key reason why, despite their on-going discontent at the situation, they did not submit the appeals that many most certainly would have done, had they understood their options better. It will also be recalled that some 15% of those who *did* submit appeals also claimed not to recall the boxed information from the Tribunal about the

appeals process in their letters from the councils – instead having relied on other sources for knowledge of their right of appeal.

It was clear, then, from the research that a problem that was evident in the 2005 research findings about the lack of awareness of the right of appeal, continues to represent a considerable challenge. This challenge is one, we are sure, on which further creative energies and determination are called for in pursuit of the goal of ensuring that everyone who receives a penalty charge notice understands the process involved and the available options, whether from their wider public knowledge or from the particular documentation they receive in relation to their case.

We know that the Tribunal has worked hard on public communication issues over the past decade, and that that the profile has been raised through the various media initiatives that have been pursued. Moreover, we are aware that recently the Tribunal has created a new post of Communications and Public Affairs Manager to lead further work in this regard.

*Recommendation 4. Seek Out More Opportunities to Increase Public Awareness of the Tribunal.*

Our recommendation here, particularly in light of the findings from non-appellants, is to continue to work at growing public awareness. To this end, it is important that this challenge benefits from all the resourcefulness and inspiration it deserves and that all possible opportunities for spreading the messages are proactively sought out and exploited. We consider the recent appointment by the Tribunal of a Communications and Public Affairs Manager (in early 2016) to demonstrate real intent in this respect and it is reassuring that work has subsequently been undertaken to develop a Communications Strategy.

That said, we are sure that it will be important for the Tribunal to use all available communications channels, including digital content and social media, to promote understanding of the right of appeal and build public awareness of the independent status of the Tribunal.

*Recommendation 5. Agree a standard NOR design and format that the adjudicators can approve as compliant with the regulations*

Among the key findings of this research is that so many potential appellants have not realised they have a right to appeal, while others have not appreciated that adjudicators are lawyers, or that TPT is independent of the enforcement authority.

One trigger for the research was that, in the new online appeal process, motorists who have had their representations rejected are no longer sent a Tribunal appeal form with the NOR. Instead, as indicated earlier, the information explaining the right to appeal to the Tribunal is now conveyed in a text box, containing the instructions and the Tribunal's logo. That said, our research found that more than half the sample of non-appellants were unaware of the right to appeal and had not seen the text box in the Notice of Rejection.

Indeed, we identified a fundamental problem in that the right to appeal and the Tribunal text box is presented *after* all the other detailed information in the NOR (often appearing on page 3 or 4, and sometimes after a large photograph of the contravention).

From our follow-up interviews we recognised that a common reaction to disappointing news - in this case that the PCN has not been cancelled – is to 'switch off' from reading further explanations or

information, and we learned from our survey data just how many recipients of NORs had not read or absorbed the content of the NOR beyond the initial paragraphs.

We understand that, in the past, strict adherence to the words of the regulations was thought to be a legal requirement, based on a narrow interpretation of a 1998 High Court judgment. However, our recent interviews with the adjudicators revealed to us that now the courts take a purposive approach to legal interpretation, and that times have moved forward to recognition from the most senior judiciary of the advantages of, and justification for, cooperation between judges (adjudicators in the Traffic Penalty Tribunal) and public administrative departments in drafting documents and communications.

In such a context, we share the Chief Adjudicator's view of the importance for the Tribunal's work of a model NOR being developed that suitably and clearly conveys the legal requirements in plain language, and presents in a simple format the right to appeal to the Tribunal on the first page, and with equal prominence to the payment instructions.

This is indeed a key recommendation from the research, and we suggest that, once a new template has been agreed, that it will be useful to make an application for a 'Crystal Mark' (as awarded by the Campaign for Plain English) as a further test of suitability<sup>[1]</sup> before introducing the new format.

*Recommendation 6. Develop Training Materials and Consider Providing Workshops for Council Traffic Enforcement Teams to Ensure Best Practice and Consistency in the Provision of Advice about Appeals.*

We are aware that the Tribunal holds user groups and information workshops with local authority parking managers. However, we consider that the concept and practice of such events could usefully be further developed to promote more sharing of best practice in communicating with motorists and the public at large about both the enforcement and the adjudication process.

We wish such staff and those at the Traffic Penalty Tribunal well in taking these recommendations forward in light of the research presented in this report.

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May 2016

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<sup>[1]</sup> <http://www.plainenglish.co.uk/services/crystal-mark.html>