

Response to:

Department for Transport

Consultation on a review of the Highway Code

Submitted by:

PATROL

PATROL (Parking and Traffic Regulations Outside London)

Joint Committee

www.patrol-uk.info



Traffic Penalty Tribunal

www.trafficpenaltytribunal.gov.uk

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About PATROL

The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises over 300 local authorities in England (outside London) and Wales.

The principal function of the Joint Committee is to make provision for independent adjudication in respect of appeals against penalties issued for traffic contraventions by local authorities and charging authorities in England (outside London) and Wales.

Adjudication is delivered through the **Traffic Penalty Tribunal (TPT)**. TPT Adjudicators are wholly independent lawyers, appointed with the consent of the Lord Chancellor, and are supported by a small team of administrative staff, who provide customer support. The TPT is the UK's first fully online tribunal and decides ~37,000 appeals a year.

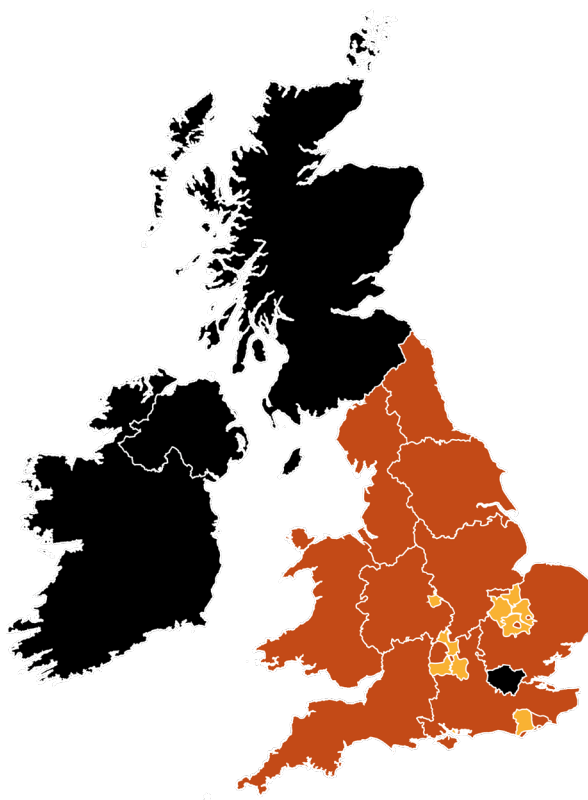
The Adjudicators decide appeals against civil enforcement penalties issued by authorities for parking, bus lane, littering from vehicles and (in Wales only) moving traffic contraventions, as well as appeals arising from road user charging enforcement (including from the Dartford-Thurrock River Crossing, Mersey Gateway Bridge Crossings and the Durham Road User Charge Zone). It is anticipated that from 2021, road user charging appeals arising from charging Clean Air Zones will be determined by the TPT Adjudicators

PATROL represents its member authorities on traffic management issues of mutual interest, whilst also taking into account the motorist's perspective – as seen through appeals to the TPT.

PATROL also promotes best practice in public information to increase understanding of traffic management objectives. This includes the annual PARC (Parking Annual Reports by Councils) Awards held at the House of Commons.

PATROL member authorities comprise each type of local authority and a spectrum of political allegiances – a representative voice on civil traffic enforcement outside London, through the sharing of issues, insight, evaluation and best practice from a broad and diverse geographic area.

(Right) Authority coverage in orange; lighter shade reflects authorities where civil enforcement is not in operation.



About the Traffic Penalty Tribunal

The Traffic Penalty Tribunal (TPT) decides motorists' appeals against Penalty Charge Notices (PCNs), issued by local authorities and charging authorities in England (outside London) and Wales, for parking and traffic contraventions.

This includes appeals against penalties issued by over 300 local authorities in England and Wales for parking – both on-street and off-street – bus lanes, littering from vehicles and (in Wales only) moving traffic contraventions.

The TPT Adjudicators also decide appeals against penalties from a number of road user charging schemes in England, including:

- the Dartford-Thurrock River Crossing ('Dart Charge') scheme, where the charging authority is the Secretary of State for Transport;
- the Mersey Gateway Bridge Crossings ('Merseyflow') scheme, where the charging authority is Halton Borough Council;
- the Durham Road User Charge Zone, where the charging authority is Durham County Council; and
- from mid-2021, appeals against penalties issued by authorities introducing Clean Air Zone charging scheme contraventions in England and Wales.

Appeals to the TPT are decided by part-time Adjudicators: all wholly independent lawyers, whose appointments are subject to the consent of the Lord Chancellor. The Adjudicators are supported by administrative staff, who provide customer support to appellants and help manage appeals.

- In 2018/19, the TPT decided appeals against ~31,000 PCNs. 79% of cases resulted in appellants not having to pay the PCN.
- 97% of all appeals submitted to the Tribunal are completed fully online through an online appeals management system.
- The online appeals system and associated business processes represent a 'digital-by-design' approach to dispute resolution, which has been described as an international exemplar.
- The majority of cases are decided by Adjudicators on the basis of uploaded evidence, with Telephone and Video Hearings available if necessary, while instant messaging and Live Chat are available for communication by the parties throughout a case.
- Typically, more than half of cases submitted are completed within 14 days, with nearly three quarters within 28 days. As many as 12% are closed within just a day.

The efficiency of the online system and transformed business processes have inevitably also brought about significant savings for local authorities and the Tribunal, in terms of operational costs.

The independent TPT is funded by a Joint Committee of 300+ local authorities and charging authorities in England (outside London) and Wales fulfilling a statutory duty to create a Joint Committee to make provision for independent adjudication. This Joint Committee is known as PATROL (Parking and Traffic Regulations Outside London).

Consultation Response (selected questions)

Rule H1

Do you agree with the introduction of new Rule H1 (hierarchy of road users)?

Agree. The hierarchy of road users will assist understanding for all road users.

As alluded to in the introduction to the consultation, further updates will be required following trials of e-scooters, in terms of where users of this mode of transport will fall within the hierarchy?

Is the proposed wording easy to understand?

The change of wording proposed on the second paragraph is more opaque, whereas the text that is subject to deletion is clearer.

Will everyone understand 'supporting a healthy, sustainable and efficient transport system'? Perhaps the hierarchy of road users should feature nearer the beginning of the introduction?

Consideration should also be given to how to actively promote any changes to the Highway Code targeting *experienced* rather than just learner drivers, as well as directly to other different road users featured within the hierarchy.

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Waiting and parking

Do you agree with the proposed change to Rule 239 (Dutch Reach)?

Agree.

Is the proposed wording easy to understand?

There are challenges, generally, in presenting some of the information contained within the Highway Code in a form or format that is accessible and meets the needs of a broad audience; for example, those with differing reading ages or for whom English is not a first language. Visual representations and graphics would assist in this respect – visualising the action of the 'Dutch Reach' would be a perfect example.

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Annexes and final comments: Any other comments?

Recommended changes to 'Waiting and Parking' Rules

PATROL and the Traffic Penalty Tribunal recommend a number of further changes to the rules covering 'Waiting and Parking (238 to 252)', in the light of the recent announcement by the Welsh Government on efforts to tackle pavement parking, as well as the Department for Transport's own ongoing consultation on the same issue in England.

Earlier in October, the [Welsh Government announced](#) that it had accepted all of the recommendations made by the Welsh Pavement Parking Task Force Group, which had been asked to examine ways to tackle pavement parking in towns and cities across Wales. The group includes Caroline Sheppard OBE, Chief Adjudicator of the Traffic Penalty Tribunal, and PATROL Director Louise Hutchinson, alongside officers from Welsh local authorities and the Welsh Local Government Association and the British Parking Association.

The recommendations for Wales included the passing of secondary legislation to add the existing offence of 'Obstruction' – under Regulation 103 of the *Road Vehicles (Construction and Use) Regulations 1986* – in so far as it applies to footways, to the list of enforceable contraventions to enable local authorities to carry out civil enforcement of parking on footways (including pavements).

In England, the Department for Transport's live consultation puts forward the option to allow local authorities in England (outside London) to enforce against 'Unnecessary obstruction of the pavement'. This would be achieved by splitting the 'pavement' from 'road' in regulation 103 of the *Road Vehicles (Construction and Use) Regulations 1986* – which makes unnecessary obstruction of the road an offence – and adding it to the list of contraventions subject to civil enforcement under the *Traffic Management Act 2004*.

- **Rule 239**
We propose adding 'do not park on the footway (including pavements)' to the list included with this rule. This is likely to deter a significant number of motorists from parking unnecessarily on the pavement, ahead of the more nuanced changes that should come in time in both Wales and England.
- **Rule 242**
We propose extending this rule to '...where it causes any unnecessary obstruction of the road **or footway (including pavements)**.'
- **Rule 244**
We propose extending this rule to all locations, not just in London. Again, this is likely to be a deterrent against unnecessary pavement parking for the time being.

For any future representations or appeals relating to penalty charges arising from parking on the footway (including pavements), Highway Code compliance will be a critical evidential component for authorities and the Adjudicators of the Traffic Penalty Tribunal. The Highway Code is also citable in the courts, and while infringing it is not an offence per se, it is persuasive evidence. The Adjudicators of the Traffic Penalty Tribunal frequently refer to the requirements of the Highway Code in their decisions, as do the Magistrates, and the County Court in road traffic accident cases.

A note on changes to the 'Traffic signs' section

The Adjudicators of the Traffic Penalty Tribunal are consistently dismayed that the section of the Highway Code covering traffic signs is not up to date, as far as those signs that are prescribed in the *Traffic Signs Regulations and General Directions 2016* (TSRGD) and *Traffic Signs Manual* (TSM) for the creation of Bus Lane restrictions by local authorities are concerned.

We recommend a comprehensive review of this section alongside the TSRGD and TSM.