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PARKING ON PRIVATE  
LAND APPEALS  
**ANNUAL REPORT**

**POPLA**

Parking on Private Land Appeals

20

22

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# WELCOME

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Ombudsman Services' seventh year of providing the POPLA appeal service has in many ways seen a return to normality. Appeals numbers returned to pre-covid levels and we haven't been disrupted by external events.

This year, we began the transition to a new group structure where a business unit called Flexible Resolution Services now incorporates our current parking operation (POPLA).

The group structure includes the Energy Ombudsman, Communications Ombudsman and The Internet Commission, a business focussed on helping organisations improve online safety it also includes Lumin, our software development company, who built a brand new POPLA platform – providing an easier-to-use service and increasing our efficiency. The new platform has seen improved customer satisfaction scores from both operators and motorists.

Working within a group structure provides us with significant operational flexibility and the ability to deal with increased appeal numbers. We have recruited more people, some of whom have come from within the Group.

Appeal outcomes are binary – motorists will either win or lose their appeals. We've worked hard on delivering our messages with more recognition of the motorist experience, even if we ultimately have to refuse appeals.

The year has seen us doing a lot of work with the British Parking Association on issues that go beyond individual appeals and parking operators have agreed to change practices as a result of our observations and feedback. In one instance, a parking operator identified motorists who hadn't been to POPLA and issued refunds of parking charges that they accepted were unfair. I talk more about this further in this report.

Externally, progress on the proposed Private Parking Code of Practice has slowed considerably. We hope that we will see more progress in 2023, to provide a fairer experience for motorists and more certainty for parking operators.

## JOHN GALLAGHER

Lead Adjudicator | POPLA



# POPLA'S YEAR IN NUMBERS

Between 1 October 2021 and 30 September 2022, we...

Handled 17,599 inbound calls with 97% of calls answered within 30 seconds



**+1,780** Compared to 2021

**11% Increase**

Received 84,474 appeals



**+29,237** Compared to 2021

**53% Increase**

Made a decision on 56,386 appeals



**+7,723** Compared to 2021

**16% Increase**

\*Allowed 14,729 Appeals

**+4,790**

Compared to 2021

\*\*Refused 41,657 Appeals

**+2,880**

Compared to 2021

In addition, parking operators decided not to contest 19,906 appeals



**+7,408** Compared to 2021

**59% Increase**

76,292 appeals completed the POPLA process



**+15,078** Compared to 2021

**25% Increase**

45% of appeals that completed the POPLA process resulted in the appellant's parking charge being cancelled



**34,635 out of 76,292**

Compared to 2021

**8% Increase**

We also referred 686 appeals back to the operator to ask them to cancel the parking charge as a goodwill gesture due to mitigating circumstances - and they agreed to do this 313 times.

**46% of appeals referred**

Compared to 2021

\*An allowed appeal is one where we found in the appellant's favour and allowed their appeal to stand - leading to the parking charge being cancelled.

\*\* A refused appeal is one where we didn't find in the appellant's favour - the parking charge stood.

## SECTION 1

# COMMENTARY ON APPEAL NUMBERS

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Receiving 85,000 appeals is close to our 2019 high, and shows a marked increase on 2020 and 2021; when fewer cars were on the road due to the pandemic. We're seeing the increase continue. We're now receiving over 2,000 appeals a week: a rate which would see us receive over 100,000 appeals this year. We're well equipped to deal with these numbers – having met all Key Performance Indicators despite a 53% uplift this year, and with the additional flexibility provided by our group structure.

Beyond the consideration of individual appeals, we also undertake work to help spot systemic issues with the ultimate aim that fewer motorists receive unfair parking charges. We're proud to be accessible to so many motorists and the data shows that it is often worthwhile for motorists to appeal to POPLA, with 45% of appeals resulting in overturned parking charges.

2022 saw parking operators decide not to contest around 23.5% of appeals. When this happens, the motorist 'wins' their appeal and the parking charge is cancelled. There are many legitimate reasons for a parking operator not to contest an appeal. POPLA asks motorists certain questions during the submission process that might give the parking operator a better perspective than they had previously. Motorists sometimes provide new information or evidence to POPLA that they didn't provide when appealing to the operator. Or the operator might decide not to contest an appeal as a goodwill gesture because of mitigating circumstances presented by the motorist.

We recognise that in some instances, a parking operator deciding not to contest an appeal might indicate a failure of their internal appeal handling processes. We continue to monitor high withdrawal numbers and report to the British Parking Association, who work with their members to ensure operator appeal handling processes are effective.

POPLA makes decisions based on the facts of the appeal, relevant law, and the expectations set out in the British Parking Association Code of Practice. There are some appeals we can't allow on that basis but we still think the circumstances feel unfair. An example might be where someone overstayed the maximum time in a car park because they were waylaid by a medical emergency. Where we see evidenced mitigating circumstances, we share this information and our view with the parking operators who do agree to cancel the charges in nearly half of these cases. But that leaves over 50% of cases where we cannot cancel charges we perceive to be unfair.

The Private Parking Code of Practice proposes some additional motorist protection in this regard, suggesting operators should be required to cancel parking charges where motorists present serious mitigating circumstances. We would welcome the introduction of these additional motorist protections.



## SECTION 2

# APPEAL THEMES AND WORK WITH THE BRITISH PARKING ASSOCIATION

The majority of appeals continue to result from motorists having a different understanding of the parking conditions to the parking operator, or from the motorist believing the parking operator hasn't followed the correct process to pursue them for the ticket.

However, this year we've received an influx of appeals resulting from new technologies and parking systems – in particular at airport drop-off zones. Many airports around the country charge motorists to drop off passengers. Some are barrier controlled – requiring motorists to pay the fee for the drop-off zone prior to exiting. At busier airports such as Heathrow and Gatwick, where there might be a need for traffic to flow more freely, the drop-off zones are not barrier controlled. Cameras capture vehicle registration marks (VRMs) and signs located within the drop-off zones explain that motorists should pay online or by phone by midnight the following night.

The majority of appeals we received were about Heathrow and the challenges we saw were twofold. The first was that many motorists had entered the drop-off zones in error. Large airports often have unfamiliar road layouts and multiple terminals. Motorists told us they'd either taken a wrong turn and ended up in a drop-off zone or entered a drop-off zone for the wrong terminal. They hadn't paid because they had not used the drop-off zone in question.

We allowed a lot of appeals for this reason. The motorists had not used the drop-off zones and the signs on the approach to the drop-off zones were not sufficiently clear about the consequences of merely entering the zones.

The second challenge related to the automated telephone payment line. This required motorists to confirm their vehicle registration mark by speaking letters using the phonetic alphabet. The service didn't always capture the registration as intended by the motorist. Sometimes this was due to a different understanding of the phonetic alphabet than that programmed into the system, other times, due to technology failures. This resulted in motorist payments being registered against incorrect vehicle registrations. Again, we allowed many appeals for this reason.

We thought that the setup at the site was causing unfair parking charges and recognised that there would be many more motorists who hadn't made the choice to come to POPLA. We worked with the British Parking Association, they worked with the operator, both in relation to the setup at the site, and appeal handling. The operator took the feedback on board, and agreed to make changes.

We've also seen appeals as a result of technology failures with third party payment providers. Motorists demonstrated to us that they had made payment through a third party (a permitted option), rather than direct with the operator, but the operator had no record of payment. We allowed the appeals and contacted the British Parking Association to highlight the systemic issue. After this referral, the operator proactively sought out motorists who might have been impacted but had paid the parking charges and issued refunds.

We've also seen some impact as a result of increased Electric Vehicle (EV) bays in car parks. EV charging providers understandably want to ensure that relevant spaces are only used for purpose of charging EVs. To support this, many put up signs in and around EV spaces indicating that motorists using those spaces for purposes other than charging EV vehicles would be subject to penalties.

This caused a problem because the conditions claimed by the EV operator didn't always align with the terms and conditions set out by the parking operator on the main signs within the car park. What's more - neither parking operators nor EV charging providers are able to issue a penalty to motorists. Parking operators can issue a parking charge for breach of contract if a motorist does not keep to the conditions set on their signs – but this is not a penalty. And the British Parking Association Code of Practice forbids parking operators from putting up signs or otherwise acting in ways that might overstate their authority.

Where motorists claimed that the two sets of conditions within a car park created sufficient confusion, we often saw this as grounds to allow an appeal and we reported the set up at such sites to the British Parking Association, so it could work with operators to provide improved clarity for motorists.



## SECTION 3

# INDUSTRY AFFAIRS

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### Private Parking Code of Practice

The long awaited Private Parking Code of Practice was published on 7 February 2022. It proposed strengthened motorist protection in several areas. We were excited about the proposals for additional fairness in dealing with appeals with mitigating circumstances.

The private parking industry showed no objection to the appeal handling clauses – but some participants were unhappy with the proposals to reduce the maximum amount of the parking charge, and the changes to debt recovery arrangements. They made the point that the impact of these changes hadn't been fully assessed – with some believing they would result in a rise in improper parking and more parking charges being pursued in the courts.

Consequently, a group of parking operators challenged these elements of the Private Parking Code of Practice. The Government withdrew the guidance on 7 June 2022, pending a review.

We are of the firm view that the single Code of Practice to cover all private parking remains a positive step for the industry. We hope for progress in the new year.

### Single appeals service

With the launch of the Private Parking Code of Practice came a renewed commitment from the Government to introduce a single appeals service.

To this end, we've been assisting the Department of Levelling Up, Housing and Communities and Local Government as part of its discovery process. Over the course of several meetings with the discovery team, we shared information on appeal data, themes, process, systems, quality assurance, customer satisfaction, driving up standards, and everything else that goes into running a high-volume parking appeal service.

The discovery team thanked us for our thoroughness and honesty and we hope the information we provided was helpful to the department in its quest to find the best solution for private parking appeals.

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