



Norman Baker MP
Parliamentary Under Secretary for the
Department for Transport
Great Minster House
76 Marsham Street
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May 2012

Dear Minister

Independent Appeals Service

Thank you for your letter dated 24th May 2012.

I am pleased to note that you are confident the Appeals Service will operate in a way which delivers higher standards in the parking profession. As you know the BPA has long called for an Independent Appeals Service to deliver exactly that so our primary aim is to ensure that standards are raised across the private parking sector as a result of the Freedoms Act and the establishment of an Independent Appeals Service.

I am pleased to say that, after a competitive tender, we intend to appoint London Councils to deliver the solution for an Independent Appeals Service. As you know London Councils currently deliver and run the Parking and Traffic Appeals Service (PATAS) for the London authorities and it is their intention that the service for the private parking sector will be delivered in a similar though not identical way with the establishment of a new service called POPLA (Parking on Private Land Appeals). We will be finalising our agreement with them shortly but I am pleased to enclose their tender submission which sets out how they intend to provide the service. Although some minor detail in the submission will be amended as part of our discussions and agreement, you will find that for ease of reference, we believe that this submission meets comprehensively your 5 principles which you set out for the establishment of the service. For the record these principles and how we intend to comply with them are as follows:

- 1) That the service must be free to the motorist.
The IAS will be funded entirely by members of the BPA's Approved Operator Scheme. The service will therefore be free to the motorist. We plan to make the right to appeal available to the motorist once the Operator has considered their initial representation and where they reject that representation. This procedure is the same as that which applies under the Traffic Management Act for local authorities.
- 2) The decisions by adjudicators must be binding on the Operator.
We will amend the Code of Practice to require AOS members to comply with the adjudicator's direction.
- 3) The service must be fully funded by the sector.
The service is being funded entirely by BPA members.
- 4) All tickets issued by a BPA member shall be required to offer the Appeals Service.

As stated above it will be a condition of membership of the AOS that the Appeals Service is offered to the motorist once an initial rejection of representation is made.

- 5) The service must be independent and be seen to be independent.

One of the prime reasons for deciding to tender this service to the two existing statutory services is to guarantee the independence of the adjudicating and decision making. The independence of PATAS is well understood, well respected and accepted by the motoring public and local authorities alike. We anticipate POPLA being seen in the same light. However, I have recognised that it will be important to demonstrate to the public that the service is not just independent but is seen to be independent. We propose therefore to transfer management of the service to an independent board of trustees who will oversee the service. This board will typically consist of representatives of the consumer, the motorist and the operator. However, given the inevitable unknown quantities of appeals and less stable environment in the early months of the service we do not anticipate this happening immediately. We will move though to a position where an independent board is established as soon as is practically possible.

With regard to points raised in your recent letter, I am pleased to confirm that the service will rule on the law just as the statutory service does under the Traffic Management Act. This law will include contract law, consumer protection law and trespass law as appropriate and of course will also cover the new Protection of Freedoms Act. Therefore signage and levels of charge will be covered by the service as signage is essential to the establishment of a contract between the landowner and the motorist under contract law and unreasonable levels of charge could invalidate the contract under the same law.

I should explain that the IAS will not specifically adjudicate on the Code of Practice which as you say we are updating at present. This is because the Code is not the law and cannot be subject to a judicial process in the same way. The Code will continue to be enforced by the BPA as Code owners with sanctions applying where breaches are identified. Information on the current schedule of sanctions applying to AOS members can be found at <http://www.britishparking.co.uk/AOS-Sanctions> and you will know that some 5 Operators have now been expelled from the scheme for major breaches. We believe that having the dual controls of an Independent Appeals Service and the enforcement of the Code of Practice creates the ideal checks and balance in the system to ensure that Operators act fairly and reasonably. We believe this solution is more powerful and protects the consumer far more robustly.

It is important to understand that decisions by the adjudicator will result only in the relevant ticket being cancelled or upheld. Decisions will not have any direct impact on operators (other than having to cancel a single ticket). However, if adjudicators reveal a wider failure or potential breach of the Code then we will be taking action as we do now to deal with that failure.

Thank you for your support for my suggestion that the adjudicator should have the power to refer cases of unreasonableness in considering mitigation to the Chief Executive or Managing Director of the Operator concerned (which mimics the statutory process under TMA). I believe this to be a sensible compromise because I think to ask the adjudicator to adjudicate on mitigating circumstances would not only be involving the adjudicator in decisions which are not based on law but it could create significant inconsistencies in the way that individual adjudicators or assessors make decisions which could in turn lead to criticism of the service and loss of credibility. Moreover, allowing the adjudicator to consider mitigation directly would provide a perverse incentive for operators not to do so in the first instance because any driver who's plea for mitigation was not accepted by the operator would automatically appeal in any case.

However, I completely agree it would be appropriate to review the service on an annual basis initially and will ensure this happens. We will also ensure an annual report is produced.

On a general note I believe we must be careful for the BPA not to have liberal sway to vary the powers of the adjudicator. One of your overriding principles is that the service should be independent and be seen to be independent and this cannot be the case if the BPA is seen to be varying the powers or interfering in any other way with how the adjudicator makes decisions. Indeed, as stated above, it is our intention at some point to transfer the responsibility of the service to an independent board.

I should conclude by saying that the nature of the agreement between London Councils and the BPA exposes the BPA to significant financial risk. We are putting in place protection for that risk which will guarantee financial security for the service. However, this has lengthened the lead time to establish the service beyond what was originally envisaged. Nevertheless, we and London Councils are confident that we can deliver the Independent Appeals Service by October. Before further cost is incurred though we need your assurance that the Commencement Order for Schedule 4 will be made at the earliest opportunity to ensure that we can establish the service by October as originally envisaged. Your confirmation of this will be gratefully received.

I hope the above is sufficient to reassure you that the Appeals Service will deliver a step change to the way the private parking sector currently operates but if I can provide any further information or reassurance please do let me know.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

Patrick Troy,
Chief Executive



**RESPONSE TO THE PROJECT BRIEF
FOR THE PROVISION OF AN
INDEPENDENT APPEALS SERVICE FOR
PARKING ON UNREGULATED PRIVATE
LAND IN ENGLAND AND WALES**

Submitted by London Councils

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Our
reference:
Your
reference:
Date: 03 April 2012

Dear Sir/Madam

**Provision of An Independent Appeals Service For Parking On Private Land In
England And Wales**

Thank you for inviting London Councils to respond to the Project Brief for the provision of this proposed appeals service.

Please find attached our response and see below our suggestions for taking forward this project:

- a joint BPA/London Councils team is set up to take forward the project jointly rather than a client/contractor relationship
- a 'costs plus' contract with an open book approach and joint approval of expenditure in advance.
- the contracts must be with the BPA and they will need to provide funding in advance.
- BPA must be responsible for collecting payments from AOS members
- London Councils will consider making officer time available from existing staff to set up the project without up-front funding on the understanding that this expense is fully reimbursed once the service is running.
- the proposed structure is indicative as it will need to be flexible to change over time as knowledge and experience of the IAS increases and volumes of appeals are known
- proposed name POPLA (Parking on Private Land Appeals)

We look forward to meeting with you to discuss our approach to the range of issues which need to be considered.

Yours sincerely

[REDACTED]
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Programme Director Transport and Mobility

1. IMPLEMENTATION

1. London Councils will operate and administer the Service from our existing offices at Angel Square, London with back-office support services provided through a combination of in-house and sub-contracts through our current contractors.

Annex A: Implementation plan (See attached Annex)

2. Resource requirements:
 - a. Recruitment of Staff: The Adjudicator and Assessors plus Principal Tribunal Assistant and Tribunal Assistants (All costs pre-go live and recruitment, training, salaries and on-costs will need to be met)
 - b. Back-office support services
 - c. Desk tops
 - d. Stationary
 - e. Support documentation
 - f. Training requirements
 - g. Website
3. The initial set up investment will need to be identified and paid up-front as part of the proposed 'costs plus' contract with an open book approach and joint approval of expenditure up front.
4. The main tasks in setting up the Service are:
 - a. recruitment, induction and training of adjudicators, assessors and administrative staff;
 - b. developing the IT system to meet the requirements of the Specification including on-line appeals;
 - c. setting up both front and back-office processes to meet the requirements of the Specification including developing forms and templates;
 - d. development of the website and other communications tools.
5. Main risks:
 - a. Difficulty in predicting the volumes of appeals in terms of size or by timing may lead to major fluctuations and increased costs

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- b. Impact on volumes of appeals in terms of size or by timing from difficulty in parking companies who are not members of Accredited Trade Association (ATA) accessing information from DVLA about vehicle keeper
 - c. Uncertainty caused by the lack of a defined structure and governance model for the IAS and lack of clarity on the new body
 - d. AOS members unwilling to pay the necessary costs to operate an independent appeals service
 - e. Contracting with BPA ' a private company'

6. Input from third parties:

- a. Back-office support services provided through our current contractors
- b. BPA to set up new structures and governance model for the IAS and IAS Board

2. PROVISION OF PROFESSIONAL SERVICE

1. Our approach and procedures to delivering the professional IAS service are described below. The key elements in making our service consistent, fair and robust are a standard approach to documentation and clear communication; a bespoke documented process for dealing with appeals and the decision making; on-going training of the adjudicators/assessors and peer review; auditing of the decisions made; clear guidance for appellants.
2. Decisions on appeals would be made by independent people from a legal background. The judicial approach would be led by The Adjudicator. This would be an existing adjudicator, whose appointment as a parking adjudicator has been approved by the Lord Chancellor and who has knowledge of parking adjudication arrangements, principles and procedures. While The Adjudicator would have an oversight of all decisions and would be directly responsible for making key decisions, the majority of judicial decisions would be made by assessors. Assessors would not have the same legal standing as The Adjudicator and could be legal executives or senior, post graduate law students. This level of competence recognises both the level of legal decision making needed and the fact that any decisions made are not binding.
3. The assessors would be primarily a panel of part time members whose hours could be adjusted to suit the workload. We would expect to have, probably 2 full time senior assessors (initially we would appoint one) to act as team leaders and who would be available to ensure consistency in decision making and to respond to immediate queries as well as providing a base-load capacity for appeals.
4. We would suggest that the appeal procedure itself be kept straight forward and as easy for the Operators and appellants to use and understand as possible. The appeal will be received, either electronically or via the post, and entered into our Case Management System. It would then be scheduled for consideration on a specific date, both parties are given the opportunity to file additional evidence and a decision issued would be issued on, or as near as possible to, that date.

5. An overview of the appeals process can be seen in Annex B: "Professional Service Flow Diagram."
6. In order to ensure that the appeals process runs smoothly, there are a number of things that need to be in place before an appeal even reaches the IAS:
 - a. Only disputes against a Notice that cannot be resolved between the Operator and Keeper should be considered by the IAS, so it should be a requirement that the Keeper makes representations to the Operator before having the right to appeal to the IAS. This would need to be made clear to the Operator in advance (preferably in the Code of Conduct) and would need to be made clear in the information sent to the Keeper with their Notice. Only if these representations are rejected would an appeal to the IAS be possible.
 - b. So that the system utilised by the IAS is able to cope with appeals in relation to all 140 different Operators, and so that it is immediately evident which Operator has issued a Notice, we would have to insist that a standard number format would be adopted by all of the Operators for its ticket references. Each Operator would be issued with a 2 or 3 digit alphanumeric code that identifies the individual Operator. The operator would then allocate a unique number to identify the individual ticket.
 - c. A standard form on which to appeal to the IAS would be distributed to each Operator. The form would either be sent to the Keeper when their challenge is rejected or would form part of the notice of rejection itself, and any Keeper that opts to appeal would be encouraged to use the form to ensure that their appeal was dealt with by the IAS as swiftly as possible. Each Operator would either be required to include details of the contravention on the form before sending it out, identifying the essential ticket details (e.g. penalty number, date that the challenge was rejected etc) OR a method of generating a unique reference number will be provided. The form would clearly show that the keeper had already been through the Operators complaints procedure, and would also provide the details that allow the IAS to identify the ticket being challenged.
 - d. If all of the required details are present, when the appeal is received by the IAS our case management system would allocate a case

reference number and schedule a date for consideration of the case. The case management system would also inform the Operator and the appellant of that date. The Operator would also be sent a copy of the appellant's appeal and supporting evidence for consideration.

- e. The consideration date would be 35 days after the date it was accepted for scheduling to allow for a number of things to take place before the case is considered.
 - f. The Operator will need to consider the appeal and file with the IAS any evidence that they wish to file in response. The Operator would also be required to send a copy of their evidence to the appellant for consideration.
 - g. The appellant will also be able to file further evidence in response to the Operators evidence. A copy of this evidence would be sent by the IAS to the Operator for consideration.
 - h. The Operator may choose not to contest the appeal and notify the IAS accordingly. This would allow the case to be administratively allowed rather than go before an Assessor/Adjudicator.
 - i. The appellant may choose to withdraw their appeal. Again, this would allow the case to be closed administratively rather than go before an Assessor/Adjudicator.
 - j. Once the date for consideration arrives, the case will be passed to an Assessor. Where possible, the Assessor will consider the case on the date that the case becomes available for consideration, and a decision will be issued on the same day.
 - k. At times when there are a lot of cases pending, it may be that cases are not heard on the date they are scheduled, but will fall into a queue to be heard as soon as possible after the scheduled date.
 - l. In cases where the issue in question is more complicated, the decision could actually be delayed for further evidence to be obtained from either party. Alternatively, the drafting of the decision may take more time than available and could be made on a subsequent day.
7. Any appeal submitted in Welsh would be considered by a Welsh Assessor and the response also made in Welsh.
8. Although we would not intend to offer personal or telephone hearings as standard, they would be available in special circumstances, we would

envisage that there would not be personal or telephone appeals unless the Adjudicator decides that the case turns on such matters of such significant principle as to require consideration of oral arguments but this could be added to our services at a later date.

9. Although the decision would be binding on the Operators, we would still expect correspondence post-decision from both the appellant and the Operator querying or challenging the decision. As there would still be a right to challenge the decision in the County Court, we would not intend entering into correspondence post-decision. However, we do recognise that it would not be in the interests of either the BPA or the IAS to disregard any correspondence that may identify an administrative error in the decision or a blatant error in applying the law.
10. As such, any correspondence post-decision would be considered by the administrative staff and any obvious administrative errors would be corrected.
11. See Annex B: Professional Service Flow Diagram.
12. The Project Brief asks for an explanation of how the IAS will deal with malicious complaints i.e. vexatious, frivolous or unreasonable complaints from either party.
13. In the case of vexatious keepers we could get to the point where we would refuse to deal with that keeper.
14. In the case of Operators who were vexatious or acted wholly unreasonably we could refer the Operator back to the BPA for consideration against the Code of Conduct.

3. OPERATIONAL AND INFRASTRUCTURE ISSUES

1. London Councils will operate and administer the IAS from our existing offices at Angel Square in London. For Business Continuity purposes in the event of an emergency at Angel Square we have our main site in the London borough of Southwark to where staff can relocate. Induction and training for the IAS staff will take place at Angel Square.
2. The IAS back-office support services will be provided partly in-house and with call taking by a sub-contractor under a schedule to our existing contract. Subject to costs we also have the option to sub-contract services for developing and maintaining the IT systems; dealing with all in-coming and out-going post including scanning of all documents.
3. The work will be structured in such a way that in addition to the PATAS site at Angel Square the Adjudicator and assessors will be able to work remotely to complete the appeals using a secure log-on ID to access the electronic version of the appeal. The call centre staff could also be given access to the database.
4. Financial model – In view of the high levels of uncertainty about the service, both in terms of its nature and volumes, we do not think it is helpful to offer a detailed financial model at this stage. Instead we propose that the project is managed by a joint BPA/PATAS team who would take decisions on the nature of the service as experience is developed. We would propose a 'costs plus' contract combined with open book accounts to enable the BPA to be confident about any costs before decisions are taken. Initial investment costs will need to be paid by the BPA in advance. In operational mode we would expect the BPA to pay a fixed monthly sum to cover all fixed and unavoidable costs and a unit charge per appeal to cover variable/avoidable costs.
5. Procedures for invoicing and cash collection – London Councils has stated that it is neither desirable nor practical for it to collect money from AOS members. It is undesirable in that this will undermine the independence of the appeals service by making a very clear link between the operators paying and the provision of the service and assessors/adjudicator. In practical

terms, London Councils would not be in any position to address any challenges in principle about apportionment of costs between Operators nor to verify any information about their respective sizes or levels of activity. There would, therefore, be a very high likelihood that there would be delays in payment and disputes. London Councils could only respond to these by refusing to register appeals related to these operators and this approach could easily lead the IAS into disrepute. London Councils believes that the only realistic option is for the BPA to collect the necessary revenue from AOS members on whatever basis it believes to be appropriate. London Councils will provide BPA with sufficient information about numbers of appeals to inform this process.

6. We would expect to work against KPIs related to:
 - a. average number of days taken to first consider cases
 - b. average number of days taken to close cases
 - c. number of complaints about the service (excluding complaints about judicial style decisions)

7. Resourcing the service – see Annex C Structure Chart. Our indicative costs for the additional staff salaries and on-costs (national insurance and pension) based on the lowest point on the London Councils grading structure and 2012/13 budget figures are:
 - a. The Adjudicator – Grade E £57,272 full time equivalent (fte) per annum
 - b. Senior Assessor – Grade C £39,566 fte per annum
 - c. Assessors – Grade B £31,370 fte per annum
 - d. Principal Tribunal Assistant – Grade C £39,566 fte per annum
 - e. Tribunal Assistants - Grade A £24,998 fte per annum

8. Volume levels and unexpected issues - In order to deliver an efficient and cost effective IAS and to cope with fluctuations in volume levels we suggest having a staff group working a flexible range of full and part time hours. This will enable us to take advantage of the existing knowledge and expertise within London Councils, PATAS and Road User Charging; manage the peaks and troughs in service volume levels and avoid the overhead costs of

recruiting additional staff at busy times and when the volume levels are uncertain in the longer term.

9. As far as decision makers are concerned we would expect to have one full time adjudicator and, initially, one full time assessor. There would also be a panel of part time assessors which would allow for cover for holidays and sickness as well as being able to address peaks and troughs of demand. The high-lighted text in structure chart indicates which roles are full or part-time.

10. The type of service we currently provide at PATAS whilst very similar to the IAS has the addition of being a personal hearing centre therefore both London Councils and We have contingency plans to cope with fluctuating volume levels and unexpected issues at PATAS. We will work with the Client to develop bespoke contingency plans based on our current PATAS business continuity plans to deal with unexpected issues at the IAS. As stated above, we both have multi-sites and contingency plans for business continuity in the event of unexpected issues that render a site unavailable.

11. The Communication Systems will be the PATAS/London Councils systems with call taking provided by a sub-contractor through an existing contract.

12. IT hardware will be provided through London Councils.

13. An important question is the degree of automation. We would suggest that in the short term we implement an essentially manual system based on an in-house access database. This would minimise both the degree of investment needed and the time taken to establish a service.

14. In the longer term, in the light of experience of volumes, we could consider alternative approaches. These might include:
 - a). continuing a postal appeals service using an in-house Access database
 - b). a bespoke IT system using an application such as Share Point with the advantage of being more robust to deal with higher volumes of appeals but higher development costs.

15. We would expect to see a 'bow wave' of appeals once the service is first established as keepers look to test the system and before decisions work through into established operator practice. It will be important not to over specify the service simply based on this 'bow-wave' effect.

4. SERVICE STRUCTURE AND PROCESSES

1. London Councils has experience in setting up governance structures for example for the PATAS and Road User Charging judicial appeals processes as well as wider governance processes within local government, however our suggested governance structure for IAS reflects the fact that it is for administrative appeals rather than a judicial appeals processes.
2. Our suggested IAS governance structure is as follows:
 - a. London Councils, as an established local government entity would take responsibility for the administration of the IAS under the following structure:
 - i. Corporate Director Services (supported by The Adjudicator, Head of Appeals Administration and Chief Contracts Officer).
 - ii. The Adjudicator – (supported by a deputy/team leaders and 5 assessors) overseeing adjudication and assessment service delivery and management of assessors.
 - iii. Tribunal Manager - (supported by the Principal Tribunal Assistant and 2/3 staff).
 - iv. Chief Contracts Officer – (supported by the Contracts Officer) overseeing contract delivery and management including sub-contractor contract management.
3. In order to deliver an efficient and cost effective IAS and to cope with fluctuations in demand we suggest having a staff group working a flexible range of full and part time hours. This will enable us to take advantage of the existing knowledge and expertise within London Councils and PATAS and manage the peaks and troughs in demand for the service and avoid the overhead costs of taking on more staff at busy times. The structure chart indicates which roles are full or part-time.
4. The judicial team will be independent and report to London Councils purely for disciplinary, pay and conditions purposes. London Councils will appoint these and this will provide both independence from the operators and a link to the established strengths of the tribunals administered by PATAS.

5. London Councils will operate under a contract to the BPA. If, in due course, the BPA establishes the IAS as an independent charity the question as to whether the contract should novate to the IAS will depend on the financial structures established. London Councils will not be prepared to undertake a contract without some assurance of continued payments.
6. Demonstrating and reassuring the public that the IAS is genuinely independent of the Client and operators, fair and transparent are very important factors in encouraging a positive public perception of the IAS. The marketing of the IAS is fundamental to demonstrate reassurance. London Councils already has experience of operating independent, fair and transparent tribunals for parking appeals and Road User Charging. The Parking and Traffic Appeals Service administers the independent tribunals established to hear appeals against Penalty Charge Notices issued by the London Local Authorities and Transport for London. We will use our knowledge and experience of marketing these two existing tribunals to work with the Client on marketing the IAS.
7. We suggest on-going initiatives to communicate and market the service to the public through website links and in hard copy by the BPA, parking operators, consumer groups, CAB, local authorities, Trading Standards, DVLA, DfT, MoJ and other organisations to be agreed with the client (BPA). We also suggest marketing of the service using on-line video case studies and developing a parking appeals App.
8. Another initiative to demonstrate transparency will be to enable the appellant to track the progress of their appeal on line. We will also develop a user guide, a quarterly newsletter and publish up-to-date statistics on our website for the numbers of appeals processed.

5. QUALITY

1. London Councils through its Transport and Environment Committee, TEC, provides a range of high quality operational services such as parking and traffic appeals, the London night-time and weekend lorry ban, the Freedom Pass and Taxicard schemes. TEC aims to ensure that London boroughs' concerns and best practice are taken fully into account in the development and implementation of the whole range of transport and environment policies generated by Government departments, the European Union, and the Mayor of London. The committee deals with a wide array of issues, including congestion charging, CCTV camera traffic enforcement, waste, air quality, and public protection.
2. Quality is embedded within London Councils through our Organisational Performance Development strategy, Service Level Agreements and contracts. The quality of our in-house and outsourced service provision and contracts with third party suppliers are measured at multiple levels and stages within our organisation. Our employees performance is monitored and managed using a personal development framework (developed to Investors in People standards) and operational service delivery is reported and monitored monthly against service levels and key performance indicators. We report on both our internal performance and that of our third party contractors. The service levels and key performance indicators for our third party contractors are established within the terms of the contract. We provide both written and verbal reports monthly to our management boards and the London boroughs on both our internal and third party contractor performance.
3. We will define a quality IAS service as one which provides accessible, timely and cost-effective systems and processes to register, process and deliver a response to appeals for the appellant and parking operators. We will measure how well a delivered service matches the customers' expectations through monitoring performance against agreed service levels and outcomes. We will continuously review the outcomes and improve the service using quality practices in:

- a. Understanding and improving of operational processes
 - b. Identifying problems quickly and systematically
 - c. Establishing valid and reliable service performance measures
 - d. Measuring customer satisfaction and other performance outcomes
4. We will ensure that the quality of the electronic service we provided via the specific IAS website service provision was maintained using our established and robust business continuity plans which are already in place for PATAS.
5. We will ensure that the quality in terms of continuity of services of the postal appeals service was maintained using our established and robust business continuity plans which are already in place for PATAS including diverting the PO Box address to an alternative site if necessary.
6. We will maintain the quality of the responsiveness of the management of the appeals process on a basis and timescales specified by the IAS Code of Practice using key performance indicators with our adjudicator/assessors such as:
 - a. Average number of days taken to decide on-line cases
 - b. Average number of days taken to decide postal cases
7. We will apply the processes and standards in the London Councils Financial regulations to maintain the quality of the financial, cash and billing management for the IAS service.
8. We will ensure the quality of a suitably trained and consistent team of staff by appointing legally trained adjudicators and assessors and implementing a programme of on-going staff development. We will use the existing London Councils recruitment and retention policies and personal development framework for assessors, adjudication and admin staff employed by London Councils to work in the IAS. The standards we apply include regular team meetings, peer review and one to one meetings with the line manager. We will have a "trial period" before the implementation date in order to test out the practical application of the IAS on actual examples. This period will also be used for peer review and staff training purposes during which levels of consistency in the quality of appeals decisions will be measured and any inconsistencies

addressed. This will be followed by on-going training for IAS staff to ensure consistency in the quality of decisions and compliance with legislative change. We will also implement a quality assurance process of random sampling by The Adjudicator of one in five appeal decisions to ensure quality in the decision making process. A similar process is used in assessing quality in the independent Road User Charging appeals service.

9. The quality of the back-office staff if provided by a sub-contractor will be monitored against the service levels and key performance indicators in the sub-contract agreement with London Councils. There will also be a user manual for IAS staff which includes sample appeals case studies and decisions.

10. To ensure the quality and efficiency of the IAS during potential future volume shifts in the appeals received a flexible appeals process will be adopted based on London Councils first-hand knowledge and experience of running PATAS. In terms of on-line and postal appeals the back office systems will have built in capacity and capability to increase and decrease as the number of appeals fluctuates. London Councils will recruit a team of assessors on a variety of contracted hours in order to provide a flexible work force. Admin staff employed in PATAS will also be trained on IAS work to provide additional capacity.

11. Our proposals for working in partnership with the client to provide a quality and continuously improving service are as follows:
 - a. A joint BPA/PATAS management team to implement and monitor operations both during implementation and subsequently.
 - b. 'Open book' arrangements to allow the BPA to have complete assurance about costs incurred.
 - c. Liaising with the Client throughout the course of the contract including providing monthly written reports on the quality of the service delivered against agreed service levels and key performance indicators.
 - d. Holding regular meetings, we suggest that for the first twelve months (following contract award) these will be monthly then become quarterly.

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- e. Working together to develop the service as follows:
12. During the life of the contract we will investigate using new technology such as voice recognition software, for example Dragon Dictate. A number of PATAS Adjudicators use it in their other work and at least one is currently using it, in its cut down format, for parking appeals. We will undertake a cost benefit analysis of the cost of purchase and implementation versus time saved.

6. INDEPENDENCE

1. London Councils already has experience of operating independent, fair and transparent tribunals for parking appeals and Road User Charging. The Parking and Traffic Appeals Service administers the independent tribunals established to hear appeals against Penalty Charge Notices issued by the London Local Authorities and Transport for London. The Road User Charging Adjudicators Tribunal is independent from Transport for London and decides appeals against Congestion Charging penalties and Low Emission Zone penalties in London.
2. Cases are decided by an independent adjudicator, each of whom is qualified either as a barrister or a solicitor and is directly appointed by the Lord Chancellor. They decide each case impartially, applying the law to the facts of the case.
3. In the case of the IAS the Assessor/adjudicators will act fairly between the Operator and the vehicle keeper and will carry out the adjudication by reference to the ATA code of practice, relevant contract and consumer protection legislation and will judge the evidence before making a final decision on the appeal.
4. We will maintain the independence, fairness and transparency of the IAS in the service provision and ensure that this and the appeals procedure is clearly communicated to the customer by explaining that:
 - a. Their appeal will be decided by a trained, professional, independent parking and traffic assessor/adjudicator.
 - b. The Adjudicator is independent of the Operators and all of the enforcement authorities.
 - c. The hearing is kept as informal as possible.
 - d. The Adjudicator will reference to the ATA code of practice, relevant contract and consumer protection legislation and will judge the evidence before making a final decision on the appeal

5. The handling of complaints will be set in the context of the need to protect independence. For example, Parking and Traffic Adjudicators are not accountable to London Councils Transport and Environment Committee (TEC), the Lord Chancellor or the Chief Adjudicator for the decisions they take. The interests of justice require that, in their work, Parking and Traffic Adjudicators are independent of the views of the Local Authorities and London Councils TEC and are not subject to their control. Their decisions, including procedural decisions about the handling of cases can only be challenged through the legal process.
6. Under the terms of the 1991 Road Traffic Act, the Parking Adjudicators are required to produce an annual report for the Committee on the discharge of their functions. In turn, the Committee is required to produce a report for the Secretary of State on the performance by the Adjudicators of their functions. We would produce an annual report on the work of the IAS.
7. There will be segregation of duties between the Adjudicator/assessors and London Councils administration staff. The latter will aim to provide a fast, efficient and quality service, offering case management support to the panel of independent IAS Adjudicator and assessors.
8. To ensure the independence is clear to the customer we will brand the IAS separately to our other services and it will be accessible through its own website. The branding will be made clear to customers when using the IAS website and call centre; completing the appeal documentation and receiving correspondence from the IAS.
9. We propose to name it POPLA (Parking on Private Land Appeals) and produce a Customer Charter and Mission Statement. For example,
 - a. To provide all parties to Parking on Private Land Appeals with independent, impartial and well-considered decisions based on clear findings of fact and proper application of law.
 - b. To have appropriate knowledge, skills and integrity to make those decisions

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- c. To ensure that all parties to Parking on Private Land Appeals are treated equally and fairly, regardless of ethnic origin, gender, marital status, sexual orientation, political affiliation, religion, age or disability.
 - d. To enhance the quality and integrity of the Parking on Private Land Appeals process

10. The website and IAS on-line appeals facility will both be bespoke systems designed, developed and branded specifically for the IAS. The documentation will also be branded for the IAS and the call centre will have its own unique number which will be answered by call takers who will reply in the brand name of the IAS.

11. It may be appropriate to involve a consumer action group through the AOS to monitor the operation of the IAS for independence, fairness and transparency. Although the IAS itself is not subject to the Freedom of Information Act (FOIA), London Councils is and we are experienced in dealing with and responding appropriately to the types of enquiries which are received in relation to the work of an independent tribunal which is not subject to the FOIA.

7. SERVICE ACCESSIBILITY

1. The service will be accessible to the public as both a web-based portal and a postal service with documents available in large print and Braille. There will also be a call centre with a non-geographical 0845 number so that calls are charged at local rate regardless of where in England and Wales the caller is ringing from. The call centre will operate Monday to Friday, 9am to 5pm. Whilst primarily business will be conducted in English, provision will be made to allow Welsh speakers to communicate by phone. Similarly we plan to cater for people who are deaf or hard of hearing by offering a minicom service or equivalent.
2. On receipt, documents received by post will be scanned and made visible to the adjudicators and assessors. The appellant and parking operator will be able to track the progress of the appeal on-line for all appeals including postal appeals once they have been scanned onto the system.
3. The key elements in making our service accessible are clear documentation and communications; a bespoke user friendly documented process and user guide for dealing with appeals and the decision making which will be available on-line and in hard copy on request from the call centre, BPA and parking operators. A set of frequently asked questions and answers on the IAS will be available. The on-going training of the IAS staff will include equalities and accessibility awareness. Appellants will be invited to give feedback on the IAS including accessibility; the clarity of the application guidance documentation and appeals process. The IAS website, hard copy guidance and call centre will provide clear information and instructions for the public on how to appeal and what evidence they need. For example:

4. What evidence do I need?

- a. Evidence can include written documents such as a receipt for the sale of a vehicle, witness statements or written evidence.
- b. Evidence which might be relevant to your case will depend upon the facts but may include:
- c. Photographs

- d. Letter from DVLA regarding ownership
 - e. Bank/credit card statement as evidence that a charge was paid to the operator
 - f. Telephone statement as evidence that you contacted the operators call centre
 - g. Receipt as evidence that you purchased a parking Ticket for the correct date and the correct vehicle
5. Evidence might also include a signed and dated written statement from someone who was a witness.
 6. You should send your evidence to the adjudicator and keep copies of any evidence you send.
 7. If you wish to submit in evidence photographs in electronic format or moving images, please do so on CD, DVD or videotape (not Super VHS). Please note that we will retain it as we require a complete record of the evidence.
 8. In view of the significant security issues associated with their use, we cannot accept evidence on a USB flash drive.
 9. Please also note that, if you present evidence that we cannot retain the adjudicator may need to adjourn the decision for you to provide the evidence in a suitable form.
 10. If you are intending to fax photographs or images to the tribunal the quality on receipt is likely to be poor. Please send clear copies to us by email or post.
 11. Please remember that neither the adjudicator nor their staff can contact witness or gather evidence on behalf of any party.
 12. If the appellant has requested a postal decisions, the procedure is as follows:
 13. a letter will be sent to the appellant which explains the date after which the appeal will be decided, and a date by which time they should submit any further evidence;

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14. The assessor will consider all the documentary evidence produced by both parties (the appellant and the parking operator, the respondent) and will then make a decision based on the evidence before them;
 15. If, when considering the evidence, the assessor needs either party to provide further details before making a decision, they can adjourn the appeal to a later date;
 16. The assessor will then post the decision to the appellant.
 17. London Councils provides information on our website in a format which is designed to be accessible to all, regardless of ability or disability. We recognise that there are many different ways people access information on the web and we try to allow for the many personal preferences which provide maximum ease of use for individual visitors to the site.
 18. Our websites are all thoroughly and regularly tested for accessibility and achieve Web Content Accessibility Guidelines (WCAG) AA standard. They contains guidance on the following to help with specific requirements and preferences:
 - a. Adjusting the text size
 - b. Magnifying the whole screen
 - c. Using a screen reader
 - d. If you would like to listen to the site
 - e. Using access keys to jump to pages
 - f. Other useful keyboard shortcuts
 - g. Using the tab key to jump to links
 - h. Alternative descriptive image text
 - i. If you find images distracting or are connecting at a very slow speed
 - j. Adjusting colour schemes and fonts
 19. The service will communicate and inter relate with the public using email, the website, postal services and the call centre as described above for the appeals service. An IAS user guide containing clear guidance on how to access and use the service will be developed and available on-line and in

hard copy from the call centre (see below for other suggested outlets for the hard copy information to be available).

20. Our view on different methods of access are:

- a. we can offer personal hearings by telephone and potentially face to face over the internet e.g. using Skype
- b. we anticipate that postal appeals will account for a substantial number of the appeals where the applicant does not have internet access
- c. electronic access will include the ability to download the appeals forms for completion and submission as postal appeals in addition to completion and submission of on-line appeals
- d. access by people with disabilities will be enabled by the availability of large print and Braille versions of the appeals forms which can be submitted by post; telephonic and electronic modes of personal hearings will be available to people unable to submit postal appeals.

21. We note that the Client would expect to work closely with the Service Provider on marketing and publicity and that the Client is not seeking for them to include in their tender any costs for marketing. However we suggest on-going communications and marketing of the service to the public by promoting the service through website links and in hard copy to the BPA, parking operators, consumer groups, CAB, local authorities, Trading Standards, DVLA, DfT, MoJ and other organisations to be agreed with the client (BPA). We also suggest marketing of the service using on-line video case studies and developing a parking appeals app.

8. PRE-REQUISITE FOR SERVICE

1. We suggest adopting similar provisions to the Parking legislation as described below:

2. Under the current Parking legislation, the discount rules are different depending on whether a ticket is placed on the vehicle or not. These 2 situations are also defined in the Protection of Freedom's Bill.

1. If a ticket is placed on the vehicle, the Driver of the vehicle has 14 days to pay the discount or 28 days to pay the full amount. After the 28 days, a Notice is sent to the Registered Keeper informing them of the ticket. There is no discount given to the keeper.

2.

(a) If a ticket is issued on the basis of CCTV evidence and served only by post, directly to the registered keeper, then the registered keeper is able to take advantage of the discounted rate. The discount is payable within 21 days of the date of service.

(b) If a ticket was to be issued at the scene but for some reason could not be, the PCN may be served by post (as above) but the discounted amount has to be paid within 14 days. The 2 circumstances specified by the current legislation for this are where:

(i) the ticket issuer was prevented by someone from serving it at the scene; or

(ii) the ticket issuer had begun to prepare a PCN but the vehicle was driven away before it was finished and issued.

3. It is suggested the discount should be 50 % as it is with parking.

4. On the question of standardised forms this is covered in our response under Section (ii) Provision of Professional Services, as is the requirement for a standard numbering format to be adopted by each of the Operators for its ticket references. Each Operator would be issued with a 2 or 3 digit alphanumeric code that identifies the individual Operator. A unique number would then be added to identify the individual ticket.

ANNEX A Implementation Plan



Access A
Implementation Plan

ANNEX B Professional Service Flow Diagram



Annex B Professional
Service Flow Diagram

ANNEX C POPLA Structure Chart



