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A REPORT PREPARED PURSUANT TO SCHEDULE 5 OF THE  
ALTERNATIVE DISPUTE RESOLUTION FOR CONSUMER DISPUTES  
(COMPETENT AUTHORITIES AND INFORMATION) REGULATIONS  
2015.

His Honour Bryn Holloway  
LEAD ADJUDICATOR | THE INDEPENDENT APPEALS SERVICE (IAS)



# Independent Appeals Service

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# Foreword by the Lead Adjudicator, His Honour Bryn Holloway

## Introduction

This is my seventh report as the Lead Adjudicator of the Independent Appeals Service (IAS) and covers the activity of the IAS between the 1<sup>st</sup> of October 2021 and the 31<sup>st</sup> of September 2022, the *Relevant Period*.

While authoring an annual report on the activities of an independent appeals body serving the UK private parking industry, it would be immodest to suggest that the attention of the UK private parking industry was concerned with anything much beyond the impact of the Private Parking Code of Practice.

While originally published on 7<sup>th</sup> February 2022, the much-anticipated Private Parking Code of Practice did not address the establishment of a single appeals service as promised by the Parking (Code of Practice) Act 2019. As the government subsequently withdrew the 'Code of Practice on 7<sup>th</sup> June 2022, pending a review of parking charge levels and additional fees, the IAS has continued fulfil its work as a free and independent adjudication service for a motorist who wishing to appeal a parking charge administered by a parking operator who is a member of The International Parking Community's Accredited Operator Scheme (AOS).

I am also pleased to see the IAS maintain its position as the only private parking appeals service that is a Chartered Trading Standards Institute (CTSI) Alternative Dispute Resolution (ADR) Approved Body.

As the latest statistics covering the *Relevant Period* will illustrate, the IAS had to cope with a 10% increase in the number of appeals received. Despite this substantial increase in numbers, the IAS was able to cope admirably without any increase in the time taken to process appeals compared with the previous year's report.

This is surely testament to the robustness of the IAS methodology and operational model to be able to embrace a significant increase in numbers without sacrificing speed or efficiency. Similarly, there was nothing to report regarding new developments in relevant case law, legislation, or new situations that required intervention in my capacity as Lead Adjudicator.

Just to recap, the IAS appeals procedure allows a motorist to initiate an appeal to the IAS 21 days after the parking charge was issued and *only* after having their appeal rejected by the parking operator's internal appeals service. Provided that a motorist appeals to the IAS within 21 days of having their appeal rejected by a parking operator, an appeal to the IAS will be offered free of charge via the Standard Appeals service.

While Standard Appeals account for the majority of appeals to the IAS, the prescribed timeframes - for both a parking operator's internal appeals service and

IAS Standard Appeals - also provide a degree of flexibility where a motorist can demonstrate exceptional circumstances that led them to being unable to meet the prescribed timeframes.

A Non-Standard Appeals service is also available to motorists as a safeguard and procedural safety net where a motorist cannot meet the Standard Appeal's prescribed timeframe for reasons or circumstances that cannot be defined as "exceptional." A detailed account of both IAS appeals pathways will be considered later in this report.

As alluded to above, the IAS was able to process all appeals on an average of 9 and 14 days for Standard and Non-Standard Appeals respectively. These processing times repeat the previous year and fall well below the 21-day maximum duration despite a 10% increase in appeal numbers.

### **Private Parking Code of Practice and a Single Appeals Service**

As mentioned earlier, there is little to add regarding progress on the Private Parking Code of Practice since its June withdrawal by government, pending a review of parking charge levels and additional fees. Similarly, there is no update to report regarding a single appeals service at the time of writing.

I have argued vigorously in the past regarding the importance of retaining the element of competition amongst adjudication bodies serving the UK private parking industry.<sup>1</sup> While the government will likely proceed with a single appeals body, it is my fervent hope that the lessons learnt from the competitive environment that was created by the appearance of the Independent Appeals Service will not have been in vain.

A before and after snapshot of the UK private parking appeals apparatus makes it abundantly clear that the appearance of the IAS yielded manifold advantages for motorists and produced greater efficiencies at a much lower cost for the private parking industry – higher costs would invariably be passed on to motorists.

When the IAS introduced an online appeals option for motorists, the speed and convenience afforded to motorists necessitated all parking appeals services to follow suit and to try and offer similar levels of service. This is just one of numerous changes and innovations that competition has yielded for the benefit of motorists. This is further ratified by the IAS's seamless ability to handle higher volumes of work, seen during the *Relevant Period*, without a reduction of speed or quality of adjudication.

It is my fervent hope that the adoption of a single appeals service in the UK private parking industry will not simply lead to a replication of the local authority appeals

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<sup>1</sup> The Independent Appeals Service (IAS) Annual Report 2019-2020, pp2-4.

system. While the reasons are many, the role of the County Court is, arguably, one of the crucial defining differences between the IAS and the local authority parking appeals systems.

While it is a forcing function in the local authority system, the County Court is a motorist's safety net in the IAS system. As I shall detail presently, having the judicial system function as the motorist's appellate backstop is one of the critical differences between the private and local authority parking appeals systems as they currently stand. It is a fact that once a motorist loses their appeal in the local authority system, a motorist has limited options for redress to avoid enforcement action if they do not pay.

From this point, a local authority merely must register a Charge Certificate at a cost of £8.00, which essentially eliminates a motorist's ability to contest the decision, provide additional evidence, and mostly lose the right to make further representations – unless they have a good reason for not appealing within 28 days.

In addition, once a local authority obtains a Charge Certificate it increases the penalty charge owed by 50% and gives a motorist 14 days to pay or receive an Order for Recovery.<sup>2</sup> Once a motorist receives an Order for Recovery from the Traffic Enforcement Centre at the Northampton County Court, enforcement action could result, including a visit from a bailiff to recover monies owed or even the seizure of goods, assuming the motorist does not act.

A motorist's only redress from here is to submit a *Witness Statement – unpaid penalty charge*<sup>3</sup> and demonstrate that the Order for Recovery should not have been issued based on one of four criteria. Assuming that threshold is attained a motorist then has 21 days to apply to the Traffic Enforcement Centre at the Northampton County Court to either have a further 21 days to pay or to challenge the penalty charge. The process does not end there if the motorist elects to contest the penalty charge further or require more time to do so, in which case an application must be accompanied by a statutory declaration if they are applying out of time.

When compared to the private parking appeals process, outlined in full later in this report, the local authority appeals model places more of an onus on the motorist. Under the IAS protocol, if a motorist is unsuccessful with their appeal, they *do not have to anything* at all. Post-IAS appeal, it is only incumbent on the parking operator to pursue the parking charge, albeit without any additional powers to enforce. If the motorist does not pay the parking charge, they can still engage and even provide further information to the parking operator even at this late stage.

It is only at this stage that a parking operator may issue proceedings in the County Court - if a motorist still elects not to pay the parking charge. This step alone costs a parking operator £35.00, a significantly higher amount than the mere £8.00 it costs a

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<sup>2</sup> <https://www.trafficpenaltytribunal.gov.uk/charge-certificates-and-orders-for-recovery/>

<sup>3</sup> Form TE9

local authority to issue a Charge Certificate! Proceedings of this type are commonly dealt with in the Small Claims Track which allows for the exchange of evidence, further opportunities for mediation, and the further safety-net of conducting a hearing before a District Court judge – failing a prior resolution of the matter to the satisfaction of both parties.

In establishing a single point of appellate redress for motorists to contest a UK private parking charge, government needs to ensure that they retain the agility of the IAS system borne of the competitive context in which it was created and refined. Creating a procedural ‘sledgehammer’ to crack an appellate ‘nut’ doesn’t help anyone, especially motorists and would surely undermine the definition of “good practice” defined in the Parking (Code of Practice) Act 2019.<sup>4</sup>

## **Afterword**

As always, I invite interested parties to contact me directly. While I am never at liberty to discuss or comment on individual appeals to the IAS, I always invite constructive criticism from motorists on how the IAS can provide a better service for the UK motoring public.

While access to the IAS is *gratis* for motorists, there is nothing free about a service that is suboptimal and fails to offer clarity regarding the application of law within the UK private parking industry.

Submissions can be made via my email: [leadadjudicator@theias.org.uk](mailto:leadadjudicator@theias.org.uk).

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<sup>4</sup> Parking (Code of Practice) Act 2019 S.1 (3)

## **ADR Officials**

Appeals to the Independent Appeals Service are considered by independent adjudicators, known as ADR Officials. There are six ADR Officials who adjudicate appeals which are all overseen by a Lead Adjudicator whose role it is to maintain the integrity of the service.

All ADR Officials are qualified solicitors or barristers who are appointed under a contract of self-employment of open duration. Apart the Lead Adjudicator, the identities of IAS ADR Official are not disclosed to the public to uphold security, avoid undue influence, and maintain impartiality.

### **Lead Adjudicator**

There is one Lead Adjudicator: His Honour Bryn Holloway, Barrister. The role of the Lead Adjudicator is to oversee independence and to promote consistency.

### **Adjudicators**

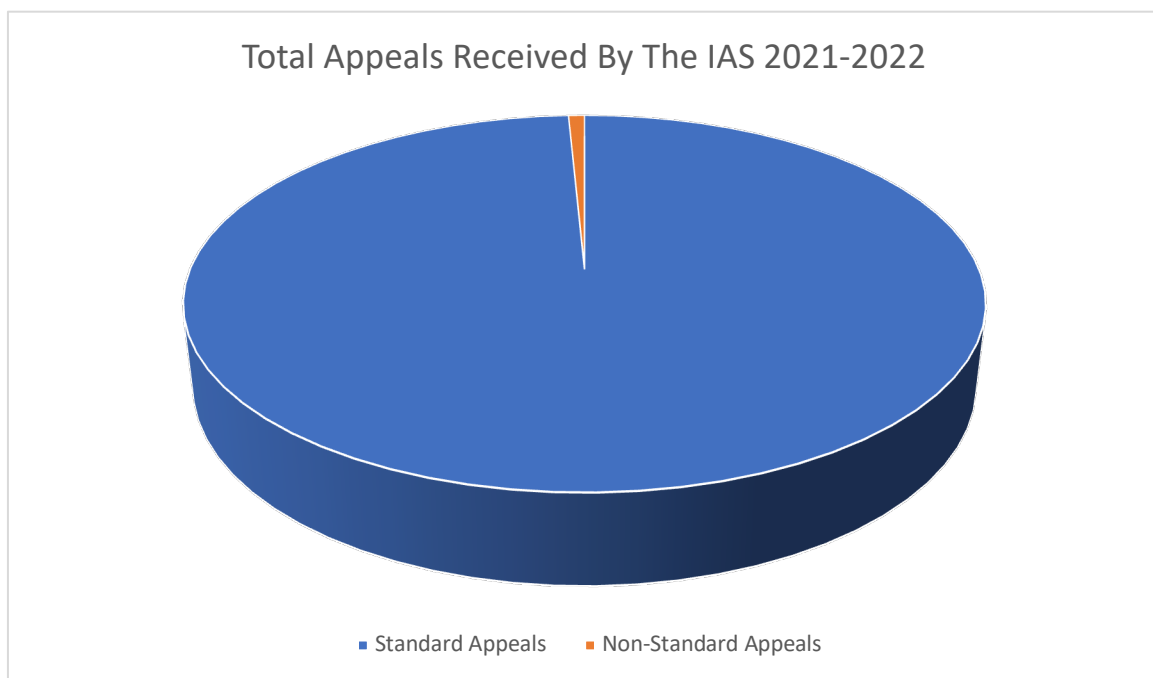
There are currently seven adjudicators.

## Total IAS Appeals Numbers

It is interesting to note that the volume of appeals received by the IAS has continued to grow even without factoring in the corrective effects of a post-pandemic return to normal parking and traffic activity in the UK. This is clearly accounted for by The International Parking Community's (IPC) continued growth in membership numbers of its Accredited Operator Scheme (AOS).

Between 1<sup>st</sup> of October 2021 and the 30<sup>th</sup> of September 2022, the *Relevant Period*, the IAS received a total of 20,460 appeals. Compared with the previous year's total of 18,319 which represents an increase of 10% overall.

Delving deeper, a breakdown of all appeals received by the IAS reveals 20,303 Standard Appeals (99%) and 157 Non-Standard Appeals (1%) respectively. These numbers confirm, yet again, that the vast majority of motorists are able to adhere to the timeframe laid out under the IAS Standard Appeals pathway, while the Non-Standard Appeals process is available to guard against the assorted lacunae that occur from day-to-day that prevent a motorist from appealing within the Standard Appeal timeframe.





## **The Role of the Independent Appeals Service Within the Private Parking Sector**

Parking operators who are members of The IPC's Accredited Operator Scheme (AOS) are required to give the motorist the opportunity to contest a PCN. This is mandated by The IPC's Code of Practice. If the motorist feels that the PCN has not been resolved to their satisfaction, the parking operator needs to provide access to a free and independent appeals process – this role is carried out by the Independent Appeals Service (IAS).

Since the 1<sup>st</sup> of October 2012, any parking operator who is a member of a DVLA Accredited Trade Association (ATA) must offer the motorist access to an independent free appeals service. For parking operators who are members of the IPC's Accredited Operator Scheme (AOS), this means access to the Independent Appeals Service (IAS).

The IAS is a free and complimentary appeals service for the benefit of motorists and IPC AOS members respectively to resolve disputes regarding the the administration of a parking charge quickly and cheaply. When a parking operator is not a member of an ATA, and a motorist is unable to resolve a PCN informally, the only further appellate stage is to take the matter to court with the associated financial costs.

When a motorist receives a PCN from an IPC AOS member, they have 21 days to make any representations if they wish to appeal the PCN, otherwise the outstanding charge *may* be escalated to debt recovery or taken to court. Any PCN issued by an IPC AOS member must fully inform the motorist about how to appeal and what procedure to follow.

## **The IAS's Legislative Mandate as an Alternative Dispute Resolution (ADR) Body**

The Independent Appeals Service (IAS) is an Alternative Dispute Resolution (ADR) body approved by Government under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. The IAS is legally competent to adjudicate on disputes between parking operators and motorists within the UK parking services industry. The IAS is the UK parking industry's only parking appeals service approved under The Regulations.

The IAS is also one of only 29 approved ADR bodies sanctioned by the CTSI in the UK. Other ADR bodies include Ombudsmen Services-The Consumer Ombudsmen, the Federation of Master Builders (FMB) and The Royal Institution of Chartered Surveyors (RICS), to name just a few.

It is important to note that both sets of Alternative Dispute Resolution for Consumer Disputes Regulations are statutory instruments dedicated to the protection of consumer rights through ADR. The IAS is legally competent to adjudicate on any consumer dispute initiated by a consumer against a trader in the UK, not only within the confines of the parking industry.

Parking operators, who are members of The International Parking Community's Accredited Operator Scheme (AOS), are compelled to engage with the IAS in disputes pertaining to Parking Charge Notices (PCNs), and as AOS members, are bound by any decision handed down by the IAS.

The consumer is not automatically bound by any decision of the IAS and is still at liberty to seek redress in court if they see fit. The one exception to this is with a Non-Standard Appeal where a motorist elects to relinquish their rights of redress through the court system.

Oversight of the IAS is provided by the CTSI through the IAS's adherence to the CTSI Code of Conduct. Any malfeasance by the IAS will come under scrutiny from the CTSI's Professional Conduct Committee. The CTSI's Professional Conduct Committee, along with a mandate firmly established by UK legislation, constitutes a more than adequate level of oversight on the operations of the IAS.

The IAS entry on the CTSI website can be accessed here:

<https://www.tradingstandards.uk/commercial-services/adr-approved-bodies/independent-appeals-service>

# **The IAS Appeals Process**

## **The Standard Appeals Procedure**

A motorist may use the Standard Appeals procedure *free of charge* and the result will *not* be binding on the motorist if:

1. the motorist appeals to the parking operator that issued the parking charge in accordance with the operator's own internal appeals procedure
2. the motorist registers their appeal to the IAS within 21 days of that appeal being rejected by them

NB: where the motorist appeals to the parking operator, or the IAS, outside of the normal time frame, and where there are exceptional circumstances for doing so, they are still able to use the Standard Appeal procedure.

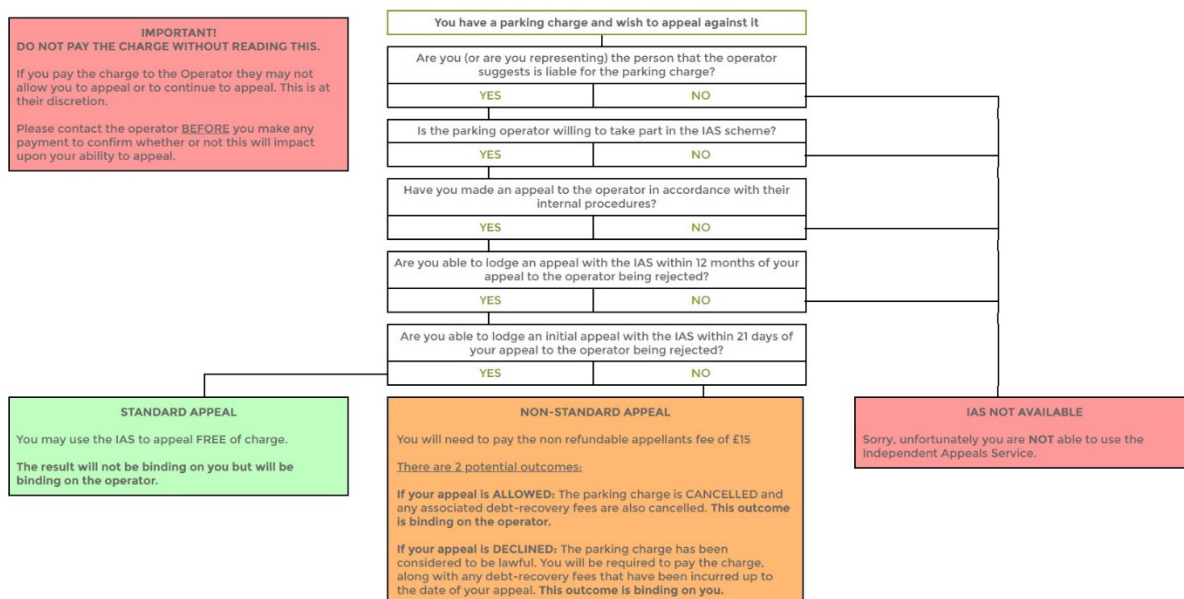
## **The Non-Standard Appeals Procedure**

The motorist may use the Non-Standard Appeals procedure if:

1. they have not, and are not able to, use the Standard Appeals procedure
2. the operator has advised the motorist that they will engage with the Non-Standard Appeals procedure
3. the motorist pays a nominal charge of £15 towards the cost of the appeal, which is non-refundable whether the appeal is successful or not, and
4. the motorist agrees to be bound by the decision of the IAS

## Can I Appeal Flow Chart

You may use the following flowchart to check whether you're able to appeal using the Independent Appeals Service.



## The IAS will not consider appeals in the following circumstances:

1. Where the motorist has not attempted to resolve the dispute directly with the Parking Operator
2. Where another ADR entity or a court has already begun to deal with the matter
3. Where an appeal is viewed as vexatious
4. Where dealing with such a type of dispute would seriously impair the effective operation of the IAS

Appeals (at all stages) will only be conducted in writing and in the English language.

## The Terms of Reference of the Appeals procedure

Both Standard and Non-Standard Appeals apply the same considerations. The Adjudicators only role is to determine whether the parking charge is lawful or not. Adjudicators will only have regard to the legal principles that apply in any matter and *not* to any other feature.

Features that amount purely to mitigation (i.e. something that amounts to a reason for incurring the charge, but that does not remove your legal liability for it) cannot be considered as a ground to cancel a charge, nor can the simple fact that there has been a breach of a provision of the Code of Conduct that the parking operator may subscribe to. IAS adjudicators will apply the civil standard of proof: the balance of probabilities. Otherwise, the normal civil rules of evidence do not apply.

Once a motorist has registered an appeal with the IAS, it is for the parking operator to provide a prima facie case that the charge is payable by the motorist. This means

that they must provide sufficient information or evidence to show that, on the face of it, the charge is lawful according to the canons of contract law in the UK.

Once a parking operator has uploaded their prima facie case, it is incumbent on the motorist to show that the PCN charge is not lawful by providing evidential proof.

Before a motorist can use the IAS, they must register their details. Once an appeal has been initiated, the motorist cannot withdraw from the process. If the motorist stops engaging with the process, then it will continue without the input that the motorist may otherwise have provided, and it is possible that if the evidence is insufficient the motorist would still have the charge cancelled.

## **Representation**

It is imperative that every motorist has access to a free and independent appeals service to adjudicate on the lawfulness of a parking charge. Furthermore, no motorist should ever be marginalised is a concept that the IAS feels should not just apply to accessible parking facilities, but to the appeals system as well.

To ensure that this always happens in practice, a motorist may appoint a third-party to assist them at any stage of an appeal to the IAS. Where a motorist elects to appoint a representative, the third-party must register their details as a representative, and provide evidence that the motorist has given their consent for them to act on their behalf.

The IAS is very proud to offer this facility and we are extremely pleased that the option of third-party representation has been so actively embraced by appellants.

866 Standard Appeals (4%) and 11 Non-Standard Appeals (0.01%) were adjudicated by the IAS where appellants were represented by a third-party between the 1<sup>st</sup> of October 2021 and the 30<sup>th</sup> of September 2022 - the *Relevant Period*.

## **Length of Procedure**

Because the parties to an appeal are each given set periods of time within which to upload their case; the overall length of the ADR procedure contains some inherent delay to accommodate this. However, once all the parties to an appeal have submitted their evidence, the IAS endeavours to deal with all appeals within 21 days.

The total maximum time from an initial appeal is as follows:

1. 5 working days for the operator to upload prima facie case
2. 5 working days for the appellant to upload appeal
3. 5 working days for the operator to respond
4. Steps 2 and 3 above are repeated until all evidence has been submitted
5. 21 working days for adjudication

The average completion time for IAS appeals during the *Relevant Period* is laid out below:

Standard Appeals: 9 days

Non-Standard Appeals: 14 days

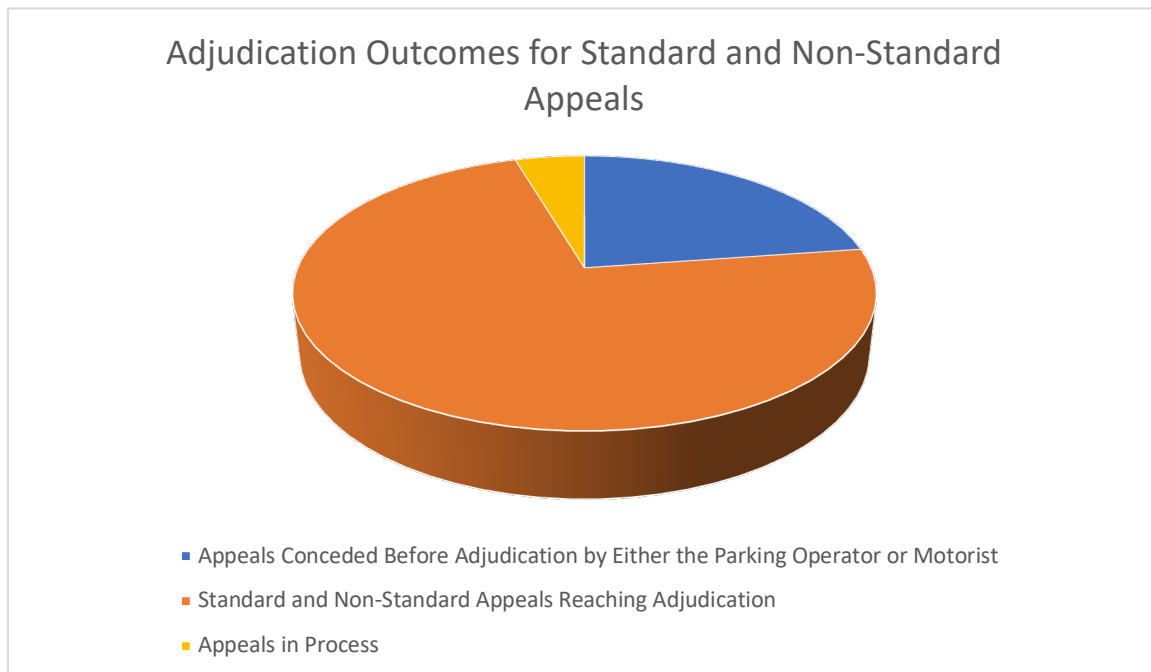
Even though the IAS has experienced a 10% increase in appeal numbers since the 2020-2021 Annual Report, it is gratifying to note that IAS adjudication completion times have remained the same as last year's report. Clearly the IAS adjudication process is sufficiently streamlined and efficient to cope with a substantial increase in adjudication volumes.

Another point to note, albeit retrospectively, is the effect of the coronavirus pandemic had on the IAS adjudication process. The *2019-2020 IAS Annual Report* noted that adjudication completion times were 13 days and 25 days for Standard and Non-Standard Appeals respectively.

With consecutive annual reports now citing identical adjudication times for both Standard and Non-Standard Appeals, we can safely say that things have returned to normal. As with our last annual report, the adjudication of all appeals to the IAS was completed well below the 21-day maximum: 9 and 14 days for Standard and Non-Standard Appeals respectively. Just to reiterate, Non-Standard Appeals only account for 1% of all appeals received by the IAS.

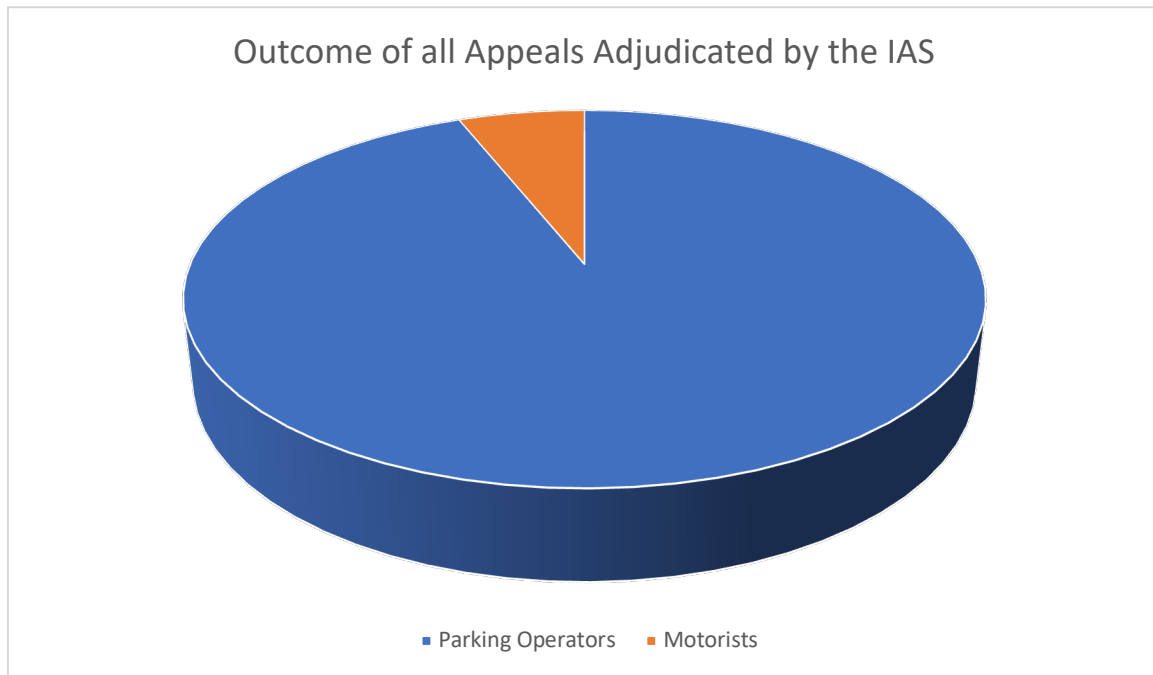
## Adjudication Outcomes for Standard and Non-Standard Appeals

The IAS received a total of 20,460 appeals during the Relevant Period, however not all appeals reached adjudication with 4,644 (23%) being resolved prior to reaching the adjudication stage of the IAS process.



A total of 14,877 appeals reached adjudication at the IAS during the *Relevant Period*. This number represents 73% of the 20,460 total appeals received by the IAS, with the difference consisting of either appeals still being in process at the conclusion of the Relevant Period or achieved resolution prior to adjudication.

With 14,877 reaching adjudication, 13,973 (94%) appeals were found in favour of the parking operator, while 904 (6%) appeals were found in favour of the motorist. A reflexive response to these numbers might view that the IAS is biased towards favouring parking operators: such an interpretation would be incorrect.



As the remit of the IAS is to adjudicate the lawfulness of a parking charge, and the veracity of any evidence to prove a breach of contractual terms and conditions, these numbers instead reflect the strength of The International Parking Community's (IPC) sign auditing process. As discussed in the Foreword of the 2019-2020 IAS Annual Report<sup>5</sup>, the pre-auditing of parking sites and signage is what has differentiated The IPC from other stakeholders in the UK private parking industry.

This measure alone accounts for consistency and certainty craved by all parking stakeholders and will be ratified in the Private Parking Code of Practice when it is finally enacted.

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<sup>5</sup> *The Independent Appeals Service (IAS) Annual Report 2019-2020*, pp 6-7.



## **Appendix 1:**

### **Schedule 5**

#### **The Independent Appeals Service (IAS)**

**1<sup>st</sup> October 2021 – 30<sup>th</sup> September 2022**

**(a) the number of domestic disputes the ADR entity has received;**

No. enquiries received (domestic)	No. enquiries received (cross-border)	No. disputes received (domestic)	No. disputes received (cross-border)	No. disputes accepted (continued to case) (domestic)	No. disputes accepted (continued to case) (cross-border)
4,636	Nil/Not Applicable	20,460	Nil/Not Applicable	15,816	Nil/Not Applicable

**(b) the types of complaints to which the domestic disputes and cross-border disputes relate**

All disputes submitted to, and dealt with by, the Independent Appeals Service (IAS) related to the lawfulness, or otherwise, of the administration of a parking charge on private land and the liability of the Consumer to pay the same.

**(c) a description of any systematic or significant problems that occur frequently and lead to disputes between consumers and traders of which the ADR entity has become aware due to its operations as an ADR entity;**

The IAS did not encounter any “systematic or significant” problems between motorists and parking operators. The only exception were isolated instances that are best characterised as “one-off” situations and were dealt with promptly at the time.

**(d) any recommendations the ADR entity may have as to how the problems referred to in paragraph (c) could be avoided or resolved in future, in order to raise traders’ standards and to facilitate the exchange of information and best practices;**

While The IAS did not encounter any issues that could be defined as “systemic or significant”, the Lead Adjudicator is easily contactable by email and actively encourages members of the motoring public to contact him if there are any issues that are of concern or where they feel the IAS’s service could be improved.

Similarly, the IAS is also cognisant of the ongoing requirement to be vigilant on all matters regarding cybersecurity. While the IAS was the first UK parking appeals body to offer an online service, the offer of greater convenience must be accompanied with a dedication to cybersecurity.

**(e) the number of disputes which the ADR entity has refused to deal with, and the percentage share of the grounds set in paragraph 13 of Schedule 3 on which the ADR entity has declined to consider such disputes;**

Total no. of disputes rejected	0
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Reason	No. rejected	Percentage of rejected
a) the consumer has not attempted to contact the trader first	Anecdotal evidence suggests this does occur occasionally, but data is not available.	
b) the dispute was frivolous or vexatious	0	
c) the dispute had been previously considered by another ADR body or the court	0	
d) the value fell below the monetary value	Not applicable as the IAS is free for motorists	
e) the consumer did not submit the disputes within the time period specified	0	
f) dealing with the dispute would have impaired the operation of the ADR body	0	
g) other (enquired too early, not yet complained to trader, trader not member, advice call etc...	Not applicable	

**(f) the percentage of alternative dispute resolution procedures which were discontinued for operational reasons and, if known, the reasons for discontinuation;**

	No. discontinued	Percentage of discontinued
Discontinued for operational reasons	4,644	22.69%

#### **Reasons for discontinuation:**

3,967 appeals to the IAS were conceded prior to adjudication by the parking operator and 677 appeals were conceded by motorists during the *Relevant Period*. In the latter instance, a conceded appeal by a motorist means that they have decided to pay the parking charge.

The 4,644 combined total of discontinued appeals equates to 22.69% of all appeals received by the IAS during the *Relevant Period*.

(g) the average time taken to resolve domestic disputes and cross-border disputes;

	<b>Domestic</b>	<b>Cross-border</b>
Average time taken to resolve disputes (from receipt of complaint)	9 days	Not applicable
Average time taken to resolve disputes (from 'complete complaint file')	14 days	Not applicable

Total average time taken to resolve disputes	9 and 14 days respectively
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**(h) the rate of compliance, if known, with the outcomes the alternative dispute resolution procedures (amongst your members, or those you provide ADR for)**

Parking operators must agree to be bound by decisions of the IAS as a condition of their membership to The IPC's Accredited Operator Scheme (AOS). It is unknown how many disputes are continued in the court system after a motorist's appeal to the IAS is unsuccessful, and still refuse to pay the parking charge.

### **IAS Adjudication Outcomes**

IAS adjudication decisions for Standard Appeals are only binding on the parking operator and not the motorist who is still able to obtain redress in the courts if their IAS appeal is unsuccessful. The only exception is with a large majority of Non-Standard Appeals where decisions are binding on both parties.

In considering the adjudication outcomes of all IAS appeals based on whose favour they are decided, consideration must be given to the stage of the IAS appeals process this is assessed. Specifically, whether the motorist or parking operator chooses to concede the appeal prior to adjudication as well as considering the adjudication outcomes themselves.

This does not consider the number of appeals found to be in the motorist's favour as part of a parking operator's internal appeals process. While these numbers are

outside the remit of the current report, anecdotal evidence suggests that this number is significant.

It is also worth remembering that it is only at this stage that mitigation can be considered as the IAS only adjudicates whether the parking charge was lawful along with the veracity of evidence.

**All appeals found in favour of the parking operator: 72%**

**All appeals found in favour of the motorist: 24%**

**Appeals still in process at the conclusion of the *Relevant Period*: 4%**