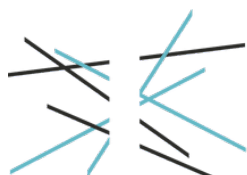


Paper submitted in response to:

Ministry of Justice

Dispute Resolution in England and Wales consultation



**Traffic Penalty
Tribunal**

England and Wales

Dispute resolution through the Fast Online Appeals Management (FOAM) system

31 October 2021

Traffic Penalty Tribunal

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1. Traffic Penalty Tribunal overview

The Traffic Penalty Tribunal (TPT) decides motorists' appeals against Penalty Charge Notices (PCNs), issued by local authorities and charging authorities in England (outside London) and Wales, for parking and traffic contraventions. It is not 'alternative', but a regulatory tribunal established by legislation and provided by local government.

This includes appeals against penalties issued by over 300 local authorities in England and Wales for parking, bus lanes, Clean Air Zones, littering from vehicles and (in Wales only, though soon in England) moving traffic contraventions.

The TPT Adjudicators also decide appeals against penalties from a number of other road user charging schemes in England, including the Dartford-Thurrock River Crossing ('Dart Charge') scheme, the Mersey Gateway Bridge Crossings ('Merseyflow') scheme and the Durham Road User Charge Zone ('Congestion Charge').

Appeals to the TPT are decided by 24 part-time Adjudicators: all wholly independent lawyers, whose appointments are subject to the consent of the Lord Chancellor. The Chief Adjudicator is Caroline Sheppard OBE. The Adjudicators are supported by a small team of administrative staff, working remotely, who provide customer support to appellants and help manage appeals.

- The TPT decides appeals against ~35,000 PCNs each year. More than 95% of all appeals submitted to the Tribunal are completed end-to-end through an online appeals management system.
- Appellants not able to get online receive Assisted Digital support from the TPT's support team by phone, Live Chat or post to complete appeals 'by proxy'.
- The online appeals system and associated business processes represent a 'digital-by-design' approach to dispute resolution, held up as an international exemplar by senior members of the judiciary, leading academics and legal commentators. Professor Richard Susskind, the world's most cited author on the future of legal services, has described the TPT as having 'the longest standing online public dispute resolution system.'
- The majority of cases are decided by Adjudicators on the basis of uploaded evidence, with Telephone and Video Hearings available if necessary, while instant messaging and Live Chat are available for communication by the parties throughout a case.
- Typically, more than half of cases submitted are completed within 14 days, with nearly three quarters within 28 days. As many as 12% are closed within a day.

The efficiency of the online system and transformed business processes, which resulted from an organisation-wide Digital Transformation, have inevitably also brought about significant savings for local authorities and the Tribunal, in terms of operational costs.

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

2. Fast Online Appeals Management (FOAM) System: Principles and key features

While the TPT's Fast Online Appeals Management (FOAM) system deals with parking and traffic appeals, the fundamental principles are the same as those of any dispute resolution system. The workflow is pretty much the same for any dispute, with the time limits capable of being varied and configured depending on the procedure and process.

- Appellant / claimant form and uploads.
- Respondent dashboard, where details of the claim / appeal are confirmed and evidence uploaded.
- Dashboards for the appellants (corporate appellants such as hire companies find this particularly useful), Adjudicators and the admin.
- Case progression through various statuses, such as 'awaiting evidence', 'awaiting decision', 'awaiting hearing', 'refer to adjudicator', etc.
- Filtering and sorting.
- Clear display of each party's evidence, with commenting facility for either party or the Adjudicator.
- Facility for 'proxy' appeals – for appellants unable or unwilling to use the online system to have their appeals completed for them by the admin team, with correspondence usually offline by phone or post.
- Messaging between the parties, the adjudicator and the admin.
- Notifications (in the case of TPT, email, but could be SMS).
- Online decision entering by the Adjudicator /judge / neutral.
- Decision viewed online, with PDF download.
- Review process (we have provision in our regulations for an internal review – it is applied for online, processed and determined within the case system).
- Automated archiving of evidence in accordance with GDPR.
- Full case history, showing every action by the parties, admin, the Adjudicator and the system itself.

The TPT's system is only traffic-specific insofar as vehicle registration numbers, authority prefixes and penalty charge reference numbers drive the workflow.

This specific, indicative type of data would form part of any processing system. For example, some time ago we ran a trial with representatives from the Government using some social security cases through our test system. We included dummy National Insurance Numbers instead of vehicle registration numbers and changed 'bus lane' to 'disability living allowance'. It worked well enough to see how it could clearly be adapted for such a use.

2.1. The enabling power of technology

The use of technology transforms dispute resolution in many ways. It doesn't just facilitate access: by removing the bureaucratic friction from the process, increasing the speed at which a case is progressed and incorporating communication channels that mirror the parties' day-to-day lives, the focus shifts to the matter of the dispute, without the frustration and exasperation of delay and form-filling.

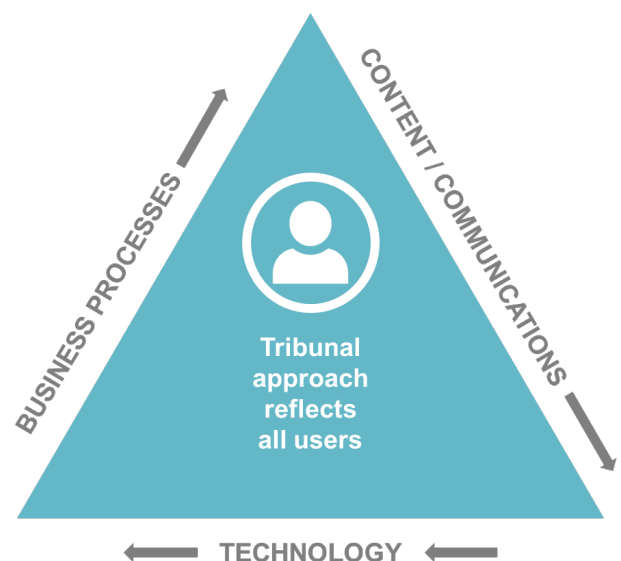
It is essential that the processes are well-designed using up-to-date user/customer experience (UX and CX) methods and research. Lawyers and courts are notoriously bad at technical design, but they need to work side by side with systems architects through a cooperative and responsive approach to ensure the process is designed and delivered to meet the needs of all users.

The Traffic Penalty Tribunal is a regulatory tribunal, so not 'alternative', but the parties engage with the Tribunal online through their browser, using a variety of devices, including smartphones. In submitting an appeal, the appellant can dictate what they want to say and can upload screenshots and photographs (of documents, for example), directly into their case. They can see the other side's evidence and comment on each item. The parties can send messages, as can the Adjudicator, contributing, again, to the enabling approach of technology that focuses on the issue being decided.

All cases are decided by the Adjudicator, who writes short reasons designed to be read on screen. The decision screen is headed *'You have won your appeal'* or *'You have lost your appeal'*. The only automated outcome is where the respondent authority decides not to contest the case, in which case they give a short explanation and press a 'no contest' button. The system then sends a notification to the appellant explaining they have won their appeal and the case is closed. This usually happens the same day the appeal is submitted.

2.2. Going 'Digital' is not all about technology

Despite the advances digital transformation has brought to the service offering of the TPT, at the heart of the organisation's culture has always been the belief that that embracing new technologies must be accompanied by a thorough review of business processes, always keeping the end user at the centre and keeping customer service and transparent communication at the forefront.



Content / communications

All content and communications must explain how appellants can correctly engage with the process. Signposting ensures appellants appeal initially to the local authority and understand that TPT is always the last resort. This in turn frees up time for administrative staff to assist appellants who have already exhausted the local authority appeals process.

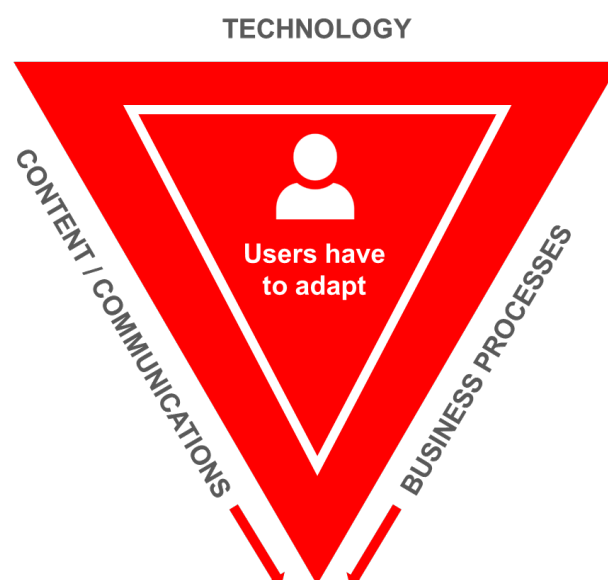
Business processes

Understanding the needs of appellants and respondents, and how these needs can be matched by a clear, transparent, and expedited appeals process is vital to avoid frustration and further unnecessary complaints.

Technology

Underpinning content, communications and business processes is the digital platform itself, serving as the bedrock of the appeals process. The platform brings together the communications and business processes into a transformed holistic user experience.

Don't fall for the 'Techies Triangle'...!



2.3. Keeping on top of a 'Supply Chain' key

Online digital case management is crucial for all disputes, however serious or complex. The ability to communicate with parties and obtain a swift outcome promotes trust and confidence in the process and enhances respect for the decision. When the parties are aggravated by delay and complex processes, they lose faith in the system and the authority of the resolution process.

Even where lengthy hearings are needed, a digital processing system and channels of communication mean that the procedural details can be resolved in advance and the dispute triaged so that the hearing focuses efficiently on the matters that cannot be dealt with through messaging and directions.

One of the key triumphs of the TPT's FOAM system is the way in which its workflow aligns with the system processes of the respondent enforcement authorities, which are party to the appeals. This is the result of continual engagement and synchronisation with these authorities throughout the development process.

This engagement included a series of pathfinder workshops with a number of 'early adopter' authorities, which included critical buy-in and commitment from their IT teams to ensure the system would be implemented and deployed effectively. Regular workshops and training with authorities continued right through the eventual roll-out of the FOAM system. At a more granular level, engagement throughout the development process helped to ensure specific functionality of the system dovetailed with authorities' practice and processes:

Shared PIN code: To register an appeal through the FOAM system, appellants are provided with a unique PIN code. This is mapped to the Penalty Charge Notice (PCN) number originally issued by the authority and provided in the Notice of Rejection (NoR) of Representations issued following initial unsuccessful representations to the authority. The NoR letter introduces the TPT and provides instructions on how to appeal online using the PIN code. Once an appellant has registered an appeal, the authority is notified automatically and provides authentication for the case to proceed. The authority retains visibility of the appeal, responding through a bespoke case management dashboard.

Digital Traffic Regulation Order (TRO) Library: TRO documents – each local authority's traffic bylaws – are provided by authorities and hosted online by the TPT. The library is synced into FOAM for quick reference and document linking throughout the evidence submission and decision making process.

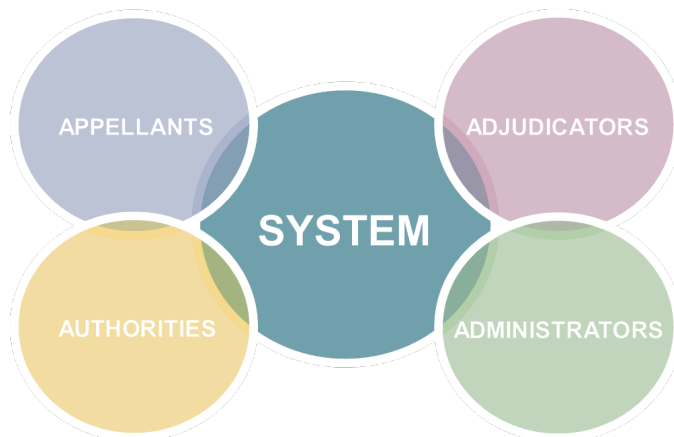
'Triage questioning': For appellants during the appeal registration process, developed through insight into enforcement authority processes.

A further critical strand of the pathfinder workshops conducted with the 'early adopter' local authorities was to clearly outline an end-to-end process of the civil enforcement journey at an early stage. The establishment of an accurate end-to-end journey would define the development of FOAM, allowing for the creation of a system that takes its users through the civil enforcement process seamlessly, most notably in terms of interactions with local authority systems and processes.

Consequently, there was no requirement to make assumptions at earlier stages of development and the FOAM system could be rolled-out in a phased Agile approach, but with the crucial difference that each phase constituted a step in the end-to-end journey. When the 'beta' system was available, it was also invaluable to have authorities involved in the project to road-test the system. Development of the FOAM system was then continued in response to user experience.

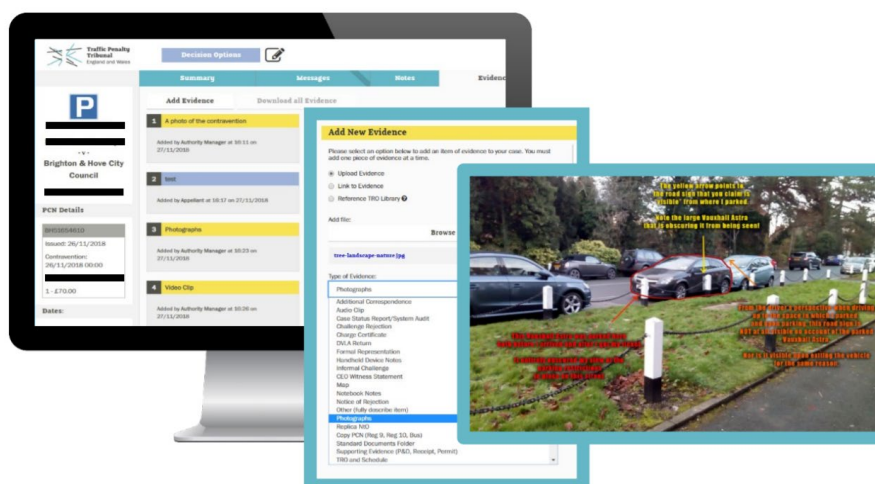
2.4. Resolution through a continuous, 'virtual hearing'

FOAM allows both parties (appellant and authority), together with TPT Adjudicators and administrative staff, to have full visibility of each other's actions as an appeal progresses. Distinct colours within the system represent the different users within a case (see below).



The FOAM system then allows both parties to the appeal to easily make and present their case to the other, including:

- Written statements on appeal submission.
- Authorities are provided with a bespoke dashboard to manage cases.
- Upload of evidence, from photographs and video, to PDFs of documents, to screen captures of WhatsApp messages.
 - Evidence can be annotated and explanatory notes provide (see below).
- Review and comment functionality on evidence provided.



During the progression of a case, both parties are able to use a series of communication channels to ask questions of each other, provide comments or get in touch with TPT administrative staff for help and support through the process.

Adjudicators may also communicate with the parties for clarification, and to provide updates when the time comes to review the evidence provided and decide the appeal.

Judge John Aitken, Social Entitlement Chamber President, discussed the 'continuous online hearing' process of the TPT as the 'holy grail' of administrative justice reform – at the Administrative Justice Council Academic Panel in February 2019. He described it as '*...quicker and less expensive inquisitorial process that provides better feedback to departments on improving decision-making behaviour*'.

Leading legal commentator, Professor Richard Susskind, said in 2018: '*...the Traffic Penalty Tribunal is a pioneer of online judging, using a form of continuous hearing that is planned to lie at the heart of tribunal work.*'

The communication channels provided within FOAM further broaden and enrich the functionality of the system as a live, real-time dispute resolution platform. They include:

- **Messaging**
 - Similar functionality to popular instant messaging platforms.
 - Files can be attached to messages.
 - Clarification and updates to evidence can be dealt with swiftly.

- **Live Chat**
 - Available both within FOAM and on the TPT website prior to appeal submission. Transcripts can be attached to the case file of an appeal.

A number of example cases that have involved the use of messaging either to resolve issues within, or to come to a final decision on an appeal, are included below:

- **BM00342-2108:** Asking focused questions, leading to the council not contesting the appeal.

- **TW00004-2107:** Asking the parties about an apparent dispute of fact between them. In their replies, they clarified their case and this resolved the issue of fact. The Adjudicator then applied the resolved fact to decide the case.

- **YD00003-2101:** Message sent to the authority with two questions relevant to deciding if the contravention was proved; and if so, if they would agree to the appellant's request to have another chance to pay the reduced 50% penalty. This case was subsequently resolved by consent.

- **LQ00202-2108:** Detailed directions attached by message to the authority, inviting them to use their discretion to cancel the PCN, given the introduction of a new bus lane barring access to a vehicle gate at the rear of the appellant's business premises. The authority agreed to cancel the PCN and provided information to the appellant about applying for an exemption. This case was subsequently resolved by consent.

- **Clean Air Zone cases**

The messaging facility has enabled the parties, guided by the Adjudicator, to clarify misunderstandings – by either party – and for the charging authority to give clear instructions for payment of the charge to settle the case. The case is closed when payment has been confirmed, thereby bringing finality as well as understanding and acceptance of the new scheme.

2.5. Telephone and Video Hearings

Hearings – where both parties to an appeal have an opportunity to put forward their case to an Adjudicator – have historically been a crucial element of general tribunal dispute-resolution practice.

Such is the impact of the accessibility, functionality and efficiency delivered by the FOAM system, however, ~90% of all decisions made require no hearing at all.

Once both parties have submitted the evidence in a case to FOAM and the case has progressed to the point of a decision being made, Appellants have the option to select either:

- **e-Decision:** A TPT Adjudicator will decide the appeal without a hearing or talking to the parties, often asking questions in a message and the parties replying promptly.
- **Telephone or Video Hearing:** Once the authority evidence is submitted, the motorist can ask for tele- or video-conference with the Adjudicator, with an authority representative usually taking part. Telephone / Video Hearings have replaced Face-to-Face Hearings as the primary TPT hearing method (Face-to-Face is still an option, where circumstances necessitate it), requiring no travel or related costs by either party or the TPT, and a decision often given during a call.

Video hearings are now the most satisfactory form of hearing because the adjudicator can share their screen showing the particular item of evidence being discussed from the FOAM case; for example, the CCTV of a bus lane contravention.

The table below shows a breakdown of the decision methods that were selected by appellants between 1 April and 31 August 2021/22. Figures for the same period in 2020/21 are shown for comparison.

Breakdown of decision method				
	TOTAL Cases	e-Decision	Telephone Hearing	Video Hearing
2021/22 (Apr-Aug)	5,831	5,036 (86.4% of total)	595 (10.2% of total)	200 (3.4% of total)
2020/21 (Apr-Aug)	13,307	11,918 (89.6% of total)	1,343 (10.1% of total)	46 (0.3% of total)

Enabling users to self-connect to hearings

During the pandemic lockdowns, the TPT undertook a wholesale review of the processes around hearings. It became apparent that an unexpected consequence of the COVID restrictions was that families became used to communicating by video technology, often in groups for, say, a quiz. The review set the objectives of:

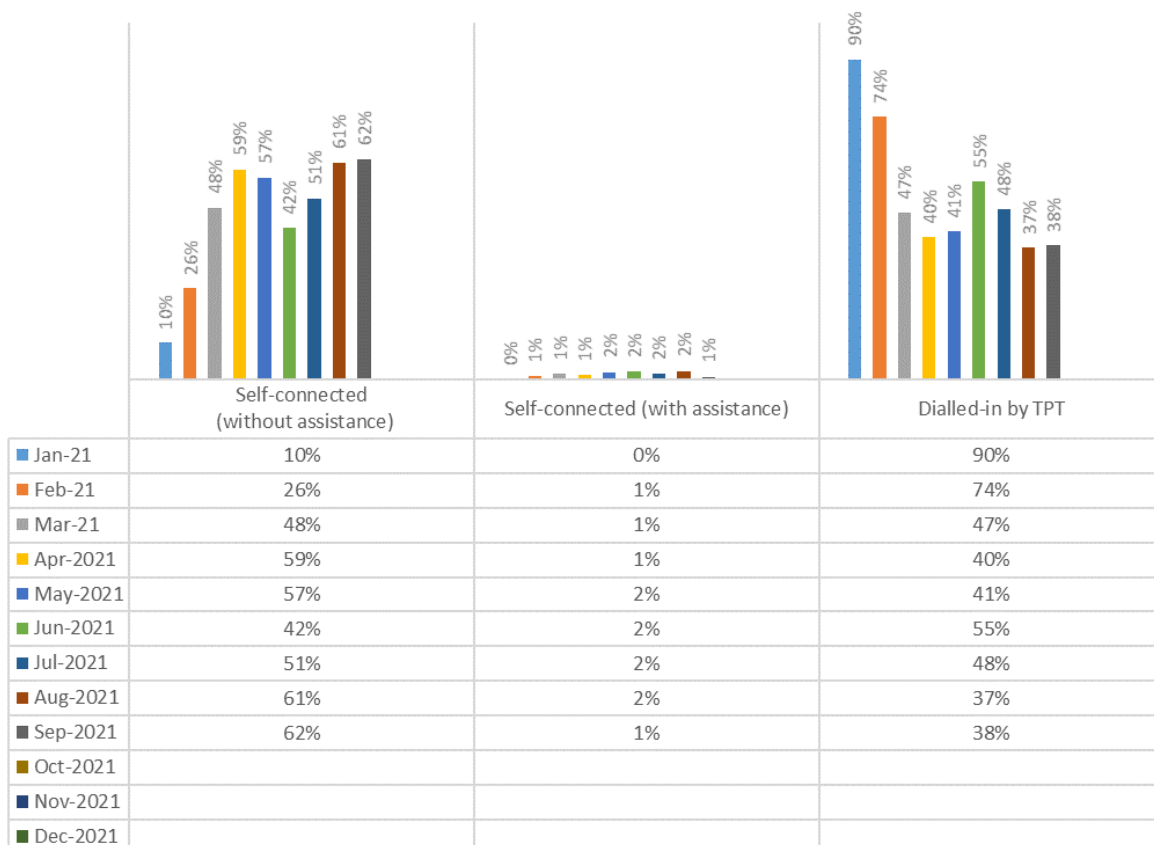
- allowing those appellants and authorities who are able and wish to connect themselves to hearings to do so

- improving the appellant and authority user experience and communications for hearings scheduling
- streamlining TPT administrative procedures for scheduling, booking and connecting hearings.

The project was started with a particular eye on the likely increased caseloads to come from appeals from Clean Air Zone schemes, which launched in March 2021, and local authorities in England (outside London) being granted moving traffic enforcement powers (expected from December 2021). New processes as a result of the hearings project include:

- a move to all hearings taking place over the Microsoft Teams video-conferencing platform. Appellants and authorities are able to connect via a web link to the hearing (choosing to have their video on or off) – either through the Teams app or standard internet browser – or simply ‘call in’ via a telephone
- a completely revised suite of communications, including emails from the TPT online appeals system, a new email calendar appointment and ‘How-to’ guide, as well as new internal administrative processes
- establishing a survey for appellants who have had a hearing (sent two days after their hearing has taken place), with questions focused on understanding more about their experience of the arrangements, as well as the connection process and other audio / visual aspects
- a new online availability tool for Adjudicators to inform the Customer Liaison team when scheduling hearings.

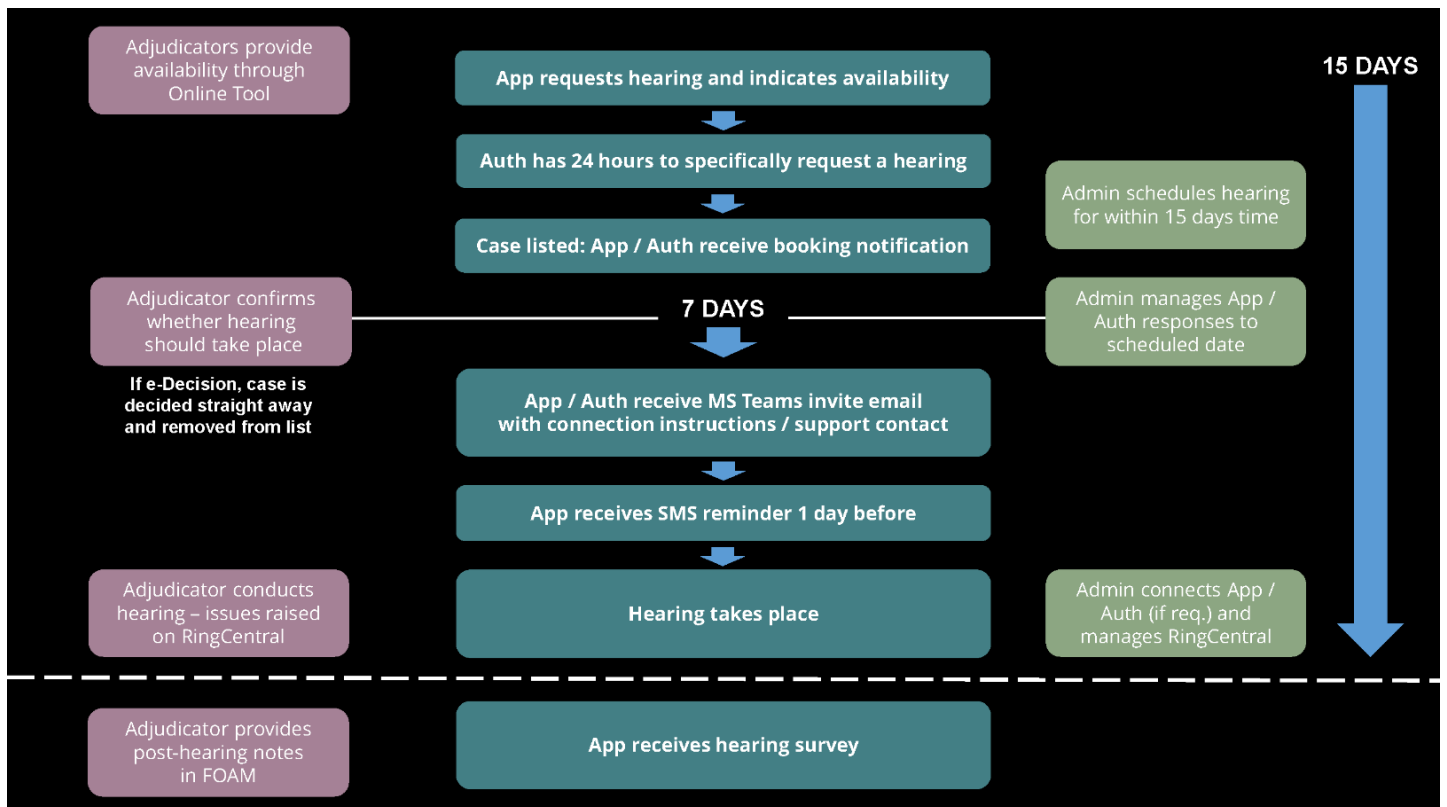
Following implementation of the new processes in March 2021, over 60% of Appellants are now self-connecting to their hearings (see below).



The timescales for scheduling hearings have also reduced significantly. As of the end of September 2021:

- a hearing date is being scheduled within seven days of request in 96% of cases.
 - in the month immediately prior to the new processes being implemented (April 2021), hearings were being arranged within seven days in only 53% of cases (this figure was 70% of cases throughout 2019 – the last ‘normal’ operating year before COVID disruption).
- hearings are taking place within 28 days of the request being made in 82% of cases.
 - in the month immediately prior to the new processes being implemented (April 2021), hearings were being arranged and held within 28 days in only 56% of cases (this figure was 70% of cases throughout 2019 – the last ‘normal’ operating year before COVID disruption).

Revised TPT Hearings booking process



563 responses to the post-hearing survey have been received since May 2021, with an average response rate of 25% – this is significantly higher than the 10-15% average expected of an external survey. The team continues to assess feedback and insights from the survey, in order to continue improving the service.

2.6. 'Proxy' (offline appellant) cases

While over 95% of all appeals to the TPT are submitted online, the TPT Customer Liaison team supports appellants who cannot or prefer not to.

For the small percentage of people who do find it initially difficult to go online, the TPT provides 'Assisted Digital' support. Assisted Digital at the TPT provides an active form of customer engagement with appellants to 'walk through' the online appeal submission process and / or complete it on their behalf (by 'proxy'). Contact with the TPT team remains available throughout the process should it be required, including through instant messaging and Live Chat functionality within FOAM.

This support has taken on a greater significance during the COVID-19 period. With TPT staff now working entirely remotely, efforts have been made to help those not appealing online still further, with cases being registered over the phone, rather than by post (in order to restrict the level of incoming and outgoing mail).

The average number of cases dealt with by proxy per month is currently just 4.47%.

Postcode areas with the highest number of TPT proxy appellants are located in some of the most 'digitally excluded' regions in the UK according to ONS data (see below).

Postcodes with highest number of TPT proxy appeals (all-time data)

- NG5, NG7, NG8, NG11 (Nottingham) – 312 appeals.
- MK10, MK14 (Milton Keynes) – 173 appeals.
- BN2, BN3 (Brighton) – 145 appeals.
- GU11 (Aldershot) – 122 appeals.
- CF5 (Cardiff) – 103 appeals.
- PE1 (Peterborough) – 84 appeals.
- BD9 (Bradford) – 79 appeals.
- LE2 (Leicester) – 75 appeals.

Following initial contact with the TPT Customer Liaison team, an average of 5% of new proxy cases are actually converted into true online cases – i.e. the appellant takes on the management of their own case online through to completion.

This consultative approach to offline appellants demonstrates that it is not the technology that creates barriers. In all processes there are barriers, such as language and literacy; the failure comes instead from organisations not providing alternative channels of communication, sufficient helplines and trained personnel to deal with queries and guide 'offline' users through the process.

It is crucial that every case is processed in a digital system to enable the other party and the decision-makers to deal with the case, but this cannot take place without sufficient personnel and channels for those who cannot or prefer not to manage their case themselves online.

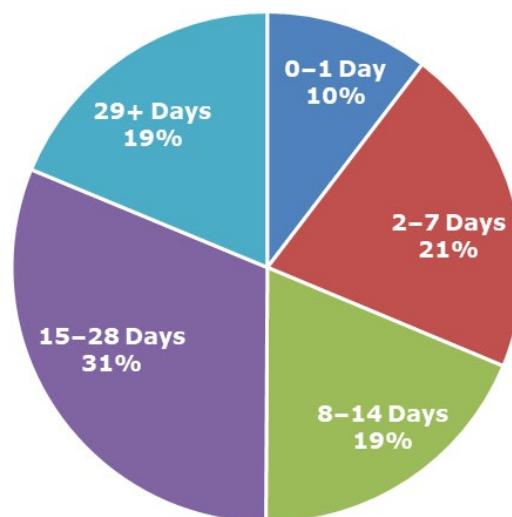
We recognise that we do not have data on people who would like to appeal but are daunted, see no point, or have not realised that help is at hand. In the past, Professor John Raine of the

University of Birmingham has conducted two surveys of people who received a Notice of Rejection of Representations from a local authority after challenging a penalty, but did not go on to appeal to the Traffic Penalty Tribunal. These, however, were before the TPT adopted the online FOAM system (the findings of the second survey were used in designing the system). It is now time to commission some up-to-date research.

2.7. Case closure

Appealing to the Traffic Penalty Tribunal is a judicial process, and while it is not appropriate to set rigid timescales, the TPT's objective is to provide a Tribunal service that is user focused, efficient, timely, helpful and readily accessible. Case resolution times provide a window on the efficiency and usability of the online appeals system, as well as the associated improved business processes.

The pie chart below shows case closure times from 1 April to 31 August (2021/22).



10.38% of cases were resolved in 0-1 day; **20.95%** within 2-7 days; **18.81%** in 8-14 days; **31.19%** in 15-28 days, and **18.76%** in 29 days+.

Decisions and Reviews

Following the appellant deciding on an e-Decision or Hearing, the TPT Adjudicator makes their decision directly within the FOAM system. The appellant and authority are both notified instantly and can log-on to read the decision and explanation provided.

Both parties then have the opportunity to review the decision, with the resulting process completed end-to-end within directly within the FOAM system. Reviews can only be made in exceptional circumstances, where one of the following four grounds applies:

- A Hearing was requested, but the case was decided before a hearing was arranged.
- The TPT made an administrative error in processing the case.
- New evidence has become available since the decision that could not have been anticipated.
- There was an error in the law applied to the decision.

Less than 3% of cases decided by the TPT result in a review application, and only 0.2% of cases result in a different outcome, following a review

This efficiency has had a significant impact on the ability of the TPT to increase its workload while also being able to reduce its variable costs since the launch of the FOAM system.

The adoption of online systems since the digital transformation first began, culminating in FOAM, has allowed the TPT to regularly absorb and scale to the workload associated with the arrival of new traffic enforcement schemes and consequential appeals. This has been achieved without the need for additional staff or resources.

Meanwhile, increasing numbers of the motoring public are benefitting from the swift, simple straight-forward appeals process, which fosters trust in the civil enforcement schemes.

This year, for example, the TPT has taken on appeals resulting from the roll-out of Clean Air Zones (CAZs) in cities in England (outside London). These schemes have already seen significant numbers of penalty charge notices issued. Because CAZs are new and novel schemes, the oversight from Adjudicators by engaging the parties through the FOAM system messaging facility has resulted in a predominance of consent orders, where the charging authority and the motorist have gained early insight into the process and impact of the new scheme.

The transformed TPT business processes have resulted in significant financial savings for local authorities and the TPT, in terms of operational costs.

2.8. Lessons learned and ongoing evaluation

Despite the clear positive impact to the user experience, operational efficiency and costs associated with the processing of parking and traffic penalty appeals, the TPT is not standing still in its journey to refine and improve its service offering. Taking forward the lessons learned throughout its continuous digital transformation, the TPT continues to engage with its stakeholders – primarily the appellants who have come through the online appeals process and the enforcement authorities – but also looking internally to the experiences of administrative staff and Adjudicators.

Projects focused on refining the user experience of the FOAM system and related touchpoints of the appeals process are continuing. We also continually ‘boundary span’ for best practice in the private sector. For example, we participate in events at the Henley Business School Centre for Customer Excellence to learn what new features are being developed in the commercial world that could be adopted to improve the TPT user experience.

Professor Moira Clarke at Henley is currently undergoing research into the difficulties vulnerable and disadvantaged people experience with online processes. Research into consumer experiences is invaluable in designing service provision for dispute resolution.

Key lessons learned to date

- Technology must be accompanied by a thorough review of business processes and content / communications. Processes need to be efficient and designed to complement a digitised approach.

- Do not underestimate the 'human touch'. Technology should be used to free-up more time to provide human customer service, where required. In this way, both online appellants and those less comfortable with technology can receive a high quality service.
- Avoid data migration. Cases are finite, so old systems can be closed off and archived (like the legal registers of old). Not having to migrate data removes one of the most popular obstacles of new IT systems and retaining multiple systems can feed positively into the ongoing change process.
- An end-to-end process must be established before launch: dispute resolution is an interactive process between two parties. Development can then continue in response to user experience.
- Select committed stakeholders who share the vision. Close alignment and synchronisation with key stakeholders, particularly enforcement authorities, was critical to the nuanced functionality of the FOAM system.