

Challenging Civil Penalties for Carrying Illegal Immigrants

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What are Civil Penalties?

As a haulier, if one of your loads is stopped entering the UK and migrants are found on board, you can expect to receive a heavy fine (Civil Penalty) unless you can demonstrate that:

- 1) you were unaware of the migrants, and
- 2) you had proper systems in place to prevent them accessing the vehicle, and
- 3) the system was working effectively at the time your vehicle was stopped.

Be warned, this is not easy.

For every illegal immigrant found, the UK Border Force can issue the haulier with a fine of up to £2,000. They can also issue the driver of the truck with a further fine of up to £2,000. If the driver does not pay, the haulier will have to pay both his own and his driver's fine.

This means that a haulier can pay up to £4,000 for each illegal immigrant found in their truck.

Challenging Your Civil Penalty

You have the right to appeal against both the imposition of your Civil Penalty, and its amount. The appeal process consists of two routes:

- 1) **A Notice of Objection to the Border Force.** This involves submitting detailed written representations and supporting evidence to the Border Force. If these representations are prepared properly it is often possible to cancel or dramatically reduce the amount of penalty payable, without the need to go to court. We are often approached by hauliers seeking expert legal assistance in preparing these submissions. This is often the most cost-effective route.
- 2) **An Appeal to the County Court.** This consists of a court hearing at which the Judge will consider all of the evidence including whether the penalty should have been imposed at all and, if so, whether it was too high.

Be warned however, whichever route is taken strict time limits apply. Hauliers who receive a Civil Penalty should seek expert help straight away.

At Smith Bowyer Clarke, our road transport lawyers regularly conduct appeals both through the review process and in the County Court and have an impressive track record of achieving cancelled or reduced penalties.