

Decision Maker: Environment Portfolio Holder

For Pre-Decision Scrutiny by the Environment PDS Committee on:

Date: 2nd February 2016

Decision Type: Non-Urgent Executive Non-Key

Title: PARKING APPEALS POLICY

Contact Officer: Chloe Wenbourne, Parking Appeals and Processing Manager
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Chief Officer: Nigel Davies, Executive Director of Environment & Community Services

Ward: All

1. Reason for report

This report asks Portfolio Holder to note the current parking appeal guidance document (Appendix 1) and to agree the two amendments to existing guidance. Specifically:

- Cases where the motorist states they never received the Penalty Charge Notice (PCN) on the windscreen, and
 - Cases where a motorist parks outside of their property on a restriction designed to prevent commuter parking and received a PCN.
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2. **RECOMMENDATIONS**

That the Environment Portfolio holder agrees:

(i) to review and authorise the outline guidance set out in Appendix 1 and to consider the two new policy changes;

(ii) the amendment where the motorist states they never received the PCN on the windscreen to be allowed to pay at the discounted amount;

(iii) the amendment where a motorist parks outside their property on a restriction designed to prevent commuter parking and receive a PCN, to have the PCN to be written off on the first occasion; and

(iv) to delegate to the Executive Director and Portfolio Holder for Environment authority to make policy guidance amendments in the future that have minor financial and/or service implications.

Corporate Policy

1. Policy Status: New Policy:
 2. BBB Priority: Vibrant, Thriving Town Centres:
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Financial

1. Cost of proposal: Potential loss of income of £23k per annum which may be offset by a reduction in costs
 2. Ongoing costs Potential loss of income of up to £23k
 3. Budget head/performance centre: Parking
 4. Total current budget for this head: Cr £1.9m
 5. Source of funding: Existing revenue budget 2015/16
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Staff

1. Number of staff (current and additional): current 14, no additional needed.
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Non-Statutory - Government Guidance:
 2. Call-in: Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 180
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 Penalty Charge Notices (PCNs) are issued by the Council's parking contractor, Indigo (previously known as Vinci Park) under the Traffic Management Act 2004. If a member of the public disagrees to a PCN being issued to their vehicle, they have a statutory right to appeal their PCN directly to Parking Services. If they are dissatisfied with the Council's decision the motorist also has the right to appeal to the Environment Traffic Adjudicators at the London Tribunals Service (formally the Parking and Traffic Appeals Service, PATAS).
- 3.2 The current appeal guidance document (Appendix 1) was agreed by Members in April 2012 and has proved to be a robust document allowing Parking Service to resolve all appeals as quickly, consistently and as early in the process as possible whilst remaining fair and reasonable at all times.
- 3.3 Appendix 1 is a document used by Officers. A similar document designed for customers use is available on the Parking Web page, (Appendix 2). In addition an interactive web interface known as Response Master - Self Serve (RM-SS) gives a real time reply stating the Council's policy and the likely outcome of an appeal. RM-SS will also advise motorist of the type evidence which is required to support their appeal.
- 3.4 The policies have mostly been recognised as a good and fair approach with motorists generally accepting the decisions. The two policies set out below have been identified as specific matters where there is an increased level of dissatisfaction, and Officers are seeking clarification/scrutiny from Members.

If Motorist does not receive a PCN on their windscreen – reoffer the discounted amount

- 3.5 At present, Parking Services do reoffer the discount amount when 'mitigating circumstances' can be reasonably demonstrated.
For example,
- adverse weather that day,
 - the motorist was away on holiday when the ticket was issued, or
 - if the vehicle was parked outside a busy pub overnight
- 3.6 However if 'mitigating circumstances' cannot be reasonably demonstrated the motorist would have to pay the full amount. Although it is an offence for a third party to remove a PCN from a vehicle, it does sometimes happen. Officers will sometimes receive tickets in the post that have been found in a garden, or on another car. This information is recorded on the parking system. In these cases the discounted amount is reoffered to the motorists.
- 3.7 The Traffic Management Act does not specify that local authorities should reduce the charge back to the discounted amount in these circumstances.
- 3.8 Finally there are occasions, small in number where a motorists claims simply to have never received the PCN. For those it affects it can cause a high level of dissatisfaction and a feeling of being treated unfairly by the Council. It can lead to complaints against the service or further appeals being lodged with the adjudicator and may result in a cost to the Council.
- 3.9 The Council only has a duty to serve the PCN correctly to the vehicle (not to ensure the motorist receives it) however even if the adjudicators find in favour of the authority, there is a cost to the council for any cases which reach this stage of the appeal process.

- 3.10 Officers believe that re-offering the discount will have a positive impact on the reputation of the service for motorists. In preparation for this report, Parking Services contacted other London Councils and asked on their internal policy. Of those who responded, the majority of them do reset the discount period in these circumstances (Appendix 3).

A motorist parks outside their property on a restriction designed to prevent commuter parking and received a PCN

- 3.11 Officers also recommend, if a resident parks on a restriction outside their property, which is only in place to prevent commuters parking, they may have one ticket written off in any rolling 12 month period.
- 3.12 This only impacts a small number of residents, however on the few occasions these types of appeal are received, it is usually in situations where the resident has taken a day's leave and has forgotten it's a CPZ day, not the weekend. In many cases the resident has already purchased a resident parking permit at a minimum cost of £40 per year, but parked on the yellow line after returning home from work after the yellow line restriction finished, and was unable to move their car for some reason, resulting in the resident having to pay the Penalty as well.
- 3.13 Officers believe a change to this policy would have little financial impact on the service but would help mitigate the often very strong sense of frustration of residents.

4. POLICY IMPLICATIONS

- 4.1 The proposals in this report are consistent with agreed Parking Appeals Policy dated 17th April 2012.

5. FINANCIAL IMPLICATIONS

- 5.1 In order to assess how many PCNs will be affected by the proposed changes in policy, Parking Services have completed some sample checks from the existing representations received.
- 5.2 The estimated number of PCNs per annum that are reported as not having been received on the windscreen is approximately 800. Should the policy be changed in line with other Boroughs, to reoffer the discounted rate, there could be a potential reduction in income of around £20k.
- 5.3 However, Parking Services believe that by agreeing to reoffer the discount amount it will lead to payments being received earlier from the customer, a reduction in administrative time dealing with phone calls and written communications as well a reduction in costs for postage and the £40 fee when registering any cases with the Environment Traffic Adjudicators (ETA).
- 5.4 The estimated number of PCNs per annum that relate to when a motorist parks outside their property on a restriction designed to prevent commuter parking and receives a PCN is 60. Should the policy be agreed to write off one ticket in any 12 month rolling period, the net loss of income would be less than £3k.

6. LEGAL IMPLICATIONS

- 6.1 There are no legal implications. The Traffic Management Act 2004, instructs that the local authority has discretionary powers to cancel a PCN at any time throughout the PCN process. Authorities have a duty to act fairly and proportionately and are encouraged to exercise discretion sensibly and reasonably and with due regard to public interest.

Non-Applicable Sections:	Personnel Implications
Background Documents: (Access via Contact Officer)	<p>Appendix One – Outline Guidance on Waiving Penalty Charge Notices 2012 http://cds.bromley.gov.uk/mgAi.aspx?ID=16215</p> <p>Appendix Two How we consider your appeal http://www.bromley.gov.uk/downloads/file/756/parking-how we consider your appeal</p> <p>Appendix Three London Councils Findings X:\Word\PCU\Appeals & Debt Recovery Team\Appendix 3</p>