

IMPORTANT NOTE

The note below is to be read in conjunction with the Royal Borough of Greenwich's Parking Enforcement Investigation dated 16th February 2015 and Legal Advice dated 3rd June 2015.

"Recommendations 4.1-4.3 Inclusive recommended that legal advice be sought to establish whether certain PCNs issued were complaint with the provisions of the Traffic Management Act 2004 and if not whether LBB should refund any money paid. The advice of David Lock QC is attached which confirms that the PCNs were lawfully issued and that there is no obligation to refund. The report and the advice must be read together to get a full understanding of the situation."

- 1) Advice from Counsel - 3rd June 2015
- 2) Royal Borough of Greenwich Report – 16th February 2015

In the matter of the London Borough of Bromley
And in the matter of the Traffic Management Act 2004

ADVICE

1. I have been asked to advise the London Borough of Bromley ("the Council") concerning a number of issues which have arisen as a result of malpractice by employees of Vinci Parking Services UK Ltd ("VPS") who were working under a contract to provide parking enforcement services to the Council.
2. There are 2 primary areas where employees at VPS appear to have been at fault. First, some of the employees do not appear to have had an immigration status under which they were permitted to work in the United Kingdom at the time that they were employed by VPS as Civil Enforcement Officers ("CEOs"). Thus the Council, acting through VPS, was discharging its parking enforcement functions through individuals who were acting as CEOs but who were not entitled lawfully to work in the UK.
3. Secondly, it appears that some VPS employees arranged for other VPS employees to issue parking tickets on their behalf. Thus the identity number which should have shown the CEO who issued the ticket (and which was generated by the handheld computer on the parking ticket) was incorrect.
4. There is, as far as I am aware, no suggestion that parking tickets were issued to vehicles which were not contravening the parking regulations operative at the time and place when the violation was recorded. Equally there is no suggestion that parking tickets were issued to individuals who were not (assumed to be) responsible for the parking violation. Thus I assume for the purposes of this advice that:

- a. There is no evidence that parking tickets were issued to vehicles that were not parked in locations or in circumstances (such as where a parking ticket had expired) which constituted an offence; and
 - b. There is no evidence that parking tickets were issued to individuals who were not responsible for vehicles that were parked in locations or in circumstances which constituted an offence.
5. Parking tickets are issued by a local authority by exercising its powers under Part 6 of the Traffic Management Act 2004 ("TMA"). Section 76(1) to (3) of the TMA provides:
- "(1) A local authority may provide for the enforcement of road traffic contraventions for which it is the enforcement authority by individuals to be known as civil enforcement officers.
- (2) A civil enforcement officer must be—
- (a) an individual employed by the authority, or
 - (b) where the authority have made arrangements with any person for the purposes of this section, an individual employed by that person to act as a civil enforcement officer.
- (3) Civil enforcement officers—
- (a) when exercising specified functions must wear such uniform as may be determined by the enforcement authority in accordance with guidelines issued by the appropriate national authority, and
 - (b) must not exercise any of those functions when not in uniform"
6. VPS were accordingly entitled to employ CEOs who could discharge functions under the TMA. I have been asked to advise what effect it made on the validity of parking tickets if the CEOs employed by VPS were not lawfully entitled to work in the UK. I note that it remains unclear from the internal audit report from Greenwich Council on this topic whether the management at VPS was aware of the fact that some of its employees were not permitted to work either (a) at the outset of their employment or

(b) at a later date. I will therefore assume for the purposes of this advice that there was some level of knowledge with VTS that persons were working for the company without proper immigration status but that it cannot be assumed that this was known to senior managers or to anyone who constitutes the “mind” of the company.

7. The internal audit report indicates at paragraph 2.16 that there is some robustness about the present systems employed by VPS to check the status of their employees but the report does not appear to have reached a clear view as to precisely who within the company knew that some employees were working illegally in the past.
8. A contract of employment between an employer and an employee where both sides know the employee is working illegally (i.e. in breach of immigration law) is an unenforceable contract at law: see *Vakante v Governing Body of Addey and Stanhope School (No 2)* [2003] ICR 290, *Hall v Woolston Hall Leisure Ltd* [2001] ICR 99 and recently approved in *Zarkasi v Anindita and another* [2012] ICR 788. These cases were brought by employees who attempted enforce the terms of the contract against the employer, and the employee failed in each case. The clear implication from the cases is that the employee’s knowledge of the illegality of the contract prevents the contract being enforceable. However if the employee did not know that he or she was not lawfully entitled to work, the implications in the cases is that his or her contract of employment would be enforceable even if the illegality was known to the employer.
9. It follows therefore that a person who (to their knowledge) is employed at a time when they are acting illegally by working can still be classified as an employee as far as the rest of the world is concerned. The employer would, for example, be vicariously liable to third parties for the actions of the employee even if the employment cannot be enforced by either party. In the case of VTS, this line of authority suggests that, even if the contract of employment was unenforceable between the employer and employee, (and even if this was known to the employer) the CEO is still classifiable in law as an employee of VTS. Hence, even if the CEO was working illegally, there would not appear to be a breach of section 76(2)(b) of the TMA.

10. If a motorist who knew that the employee who issued the ticket sought to make representations to the Council against the issue of the ticket, he would have to rely on one of the limited grounds set out in Regulation 4 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 to support his case. The only possible ground would be under Regulation 4(4)(f) namely that there was a:

“procedural impropriety on the part of the enforcement authority”

11. A “procedural impropriety” is defined in Regulation 4(5) as follows:

“In these Regulations “procedural impropriety” means a failure by the enforcement authority to observe any requirement imposed on it by the 2004 Act, by the General Regulations or by these Regulations in relation to the imposition or recovery of a penalty charge or other sum and includes in particular—

(a) the taking of any step, whether or not involving the service of any document, otherwise than—

(i) in accordance with the conditions subject to which; or

(ii) at the time or during the period when,

it is authorised or required by the General Regulations or these Regulations to be taken; and

(b) in a case where an enforcement authority is seeking to recover an unpaid charge, the purported service of a charge certificate under regulation 21 of the General Regulations before the enforcement authority is authorised to serve it by those Regulations”

12. There is no general ground which permits representations (or a subsequent appeal) to the Parking Adjudicator¹ on the grounds that there was a mis-description on the ticket or some other aspect of unlawfulness about the circumstances in which the ticket was issued. It follows that the only legal rules that are relevant for the purposes of creating a “procedural impropriety” for a Penalty charge Notice (“PCN”) are those set

¹ Which can also only be based on a “procedural impropriety”: see Regulation 8.

out in the TMA and the relevant regulations. Alleging that the Council or its contractor was in breach of some other legal requirement which is outwith the TMA and the relevant regulations does not amount to a procedural impropriety for the purposes of making representations. Hence, for example, if a motorist was to have discovered that VTS was acting illegally because it was not paying the national minimum wage, that would not entitle a motorist to have his penalty charge rescinded.

13. There is no specific provision in the TMA or the relevant Regulations which provides that the enforcement authority must ensure that all CEOs are lawfully able to work in the UK. It follows that employing a CEO who does not have the legal right to work in the UK may have left VTS to being fined by the Border Agency under immigration law but this did not, in my view, amount to a “procedural impropriety” under the TMA and the relevant parking regulations.
14. It is thus, in my view, difficult if not impossible to see that a successful argument could be run by a motorist that there was no liability for his (or her) parking violation because the CEO who observed the violation and issued the ticker was not lawfully allowed to work in the UK. I therefore do not consider that the underlying legality of the parking tickets is likely to be affected by the immigration status of the CEO. I therefore consider that there is no legal requirement for the Council to refund motorists who have been issued by CEOs who were working illegally.
15. The second area of malpractice was that some VPS employees arranged for other VPS employees to issue parking tickets on their behalf. Thus the identity number of the Civil Enforcement Officer which was generated by the handheld computer on the parking ticket which was used by VPS employees was often incorrect. It follows that the parking violation was observed and recorded by a CEO, but this was not necessarily the CEO whose identity number appears on the parking ticket.
16. The relevant Regulations concerning PCNs made under Part 6 of the TMA are the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (as amended). Regulation 4(1) of these Regulations provides:

"Subject to the provisions of these Regulations a penalty charge is payable with respect to a vehicle where there has been committed in relation to that vehicle—

- (a) a parking contravention within paragraph 2 of Schedule 7 to the 2004 Act (contraventions relating to parking places in Greater London)..."

17. It follows that the, under the facts assumed above, the penalty charge becomes payable if the offence is committed by the motorist. It seems to me that, in analysing the legal structure applying to PCNs, it is important to start from the position that the liability on the motorist to pay the penalty charge arises from the actions of the motorist in committing the parking violation. The parking ticket is thus the method by which that legal liability to pay the charge is communicated to the motorist but the primary liability to pay arises from the parking violation as opposed to the issuing of a valid PCN.

18. There are however provisions which govern how PCNs can be issued, breach of which can result in the Council having the duty to set aside the PCN. Regulation 6 provides:

"A penalty charge shall not be imposed except on the basis of—

- (a) a record produced by an approved device; or
- (b) information given by a civil enforcement officer as to conduct observed by that officer"

19. In these cases the Council is rightly concerned that there may have been a breach of Regulation 6(b) in that the CEO who observed the parking violation was the CEO whose identity number appeared on the PCN. However, as I understand the assumed facts, the PCN was always issued by the CEO who in fact observed the parking violation. These were not PCNs issued by a CEO who had not seen the relevant parking violation and so, prima facie, having the wrong CEO reference on the PCN would not appear to amount to a breach of Respondent 6.

20. In order to be legally enforceable (or perhaps more accurately not to contain procedural improprieties) PCNs must also comply with the conditions set out in Regulation 9, 9A and the Schedule to the Regulations. Regulations 9 (which refers to off road offences) and Regulation 9A (which refers to on road offences) do not require the name or identity number of the CEO to appear on the penalty charges notice.

Paragraph 1 of the Schedule provides:

"A penalty charge notice served under regulation 9 or 9A must, in addition to the matters required to be included in it by regulation 3(2) of the Representations and Appeals Regulations², state—

- (a) the date on which the notice is served;
- (b) the name of the enforcement authority;
- (c) the registration mark of the vehicle involved in the alleged contravention;
- (d) the date and the time at which the alleged contravention occurred;
- (e) the grounds on which the civil enforcement officer serving the notice believes that a penalty charge is payable;
- (f) the amount of the penalty charge;
- (g) that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice was served;
- (h) that if the penalty charge is paid not later than the last day of the period of 14 days beginning with the date on which the notice is served, the penalty charge will be reduced by the amount of any applicable discount;
- (i) the manner in which the penalty charge must be paid; and
- (j) that if the penalty charge is not paid before the end of the period of 28 days referred to in subparagraph (g), a notice to owner may be served by the enforcement authority on the owner of the vehicle"

² Which are not relevant for present purposes.

21. There is accordingly no requirement under the relevant Regulations for the name or an identity number of the CEO to be set out on the penalty notice. There are, of course, sensible practical reasons why either the name or identity number of the CEO should be set out on the notice because, if the penalty notice is later challenged, this information will allow the relevant CEO to be identified. But including the name or an identity number referring to the relevant CEO on the face of the PCN is not an explicit requirement of a valid PCN within the Regulations. It follows that a penalty notice which contains an incorrect name of the CEO is not a penalty notice which breaches any mandatory requirement in the the TMA or any provision of the relevant Regulations. Further there is no ground in the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 which allows a Council to quash a penalty notice on the grounds that there was any other non-material false or incorrect information set out on the notice.
22. It must therefore follow that if representations were made to the Council under Regulation 4 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 on the basis that that there had been a “procedural impropriety” in the form of the PCN because the wrong name or identity reference for the CEO had been included on the penalty notice, the Council would not be obliged to quash the PCN. The Council would have been entitled to conclude that there was no procedural impropriety within the meaning of Regulation 4(5) and thus no grounds for cancelling the PCN. I can entirely understand why the Council might have decided to cancel the PCN on an ex gratia basis but strictly my view is that there would have been under no legal obligation to do so.
23. I therefore do not consider that the Council needs to undertake any general repayment of sums which have been paid by motorists under PCNs issued in either the above circumstances. Equally there are no grounds to cease enforcement steps with respect to PCNs which have been issued and where payment has not been made. However if either representations are made on the basis that there was no underlying parking offence committed or an appeal is lodged (in time) on such grounds, the Council may wish to take a pragmatic view as to whether the Council is likely to be

able to lead credible evidence to support the factual case that a parking violation was committed. In such a case the Council may well wish to concede the appeal rather than seeking to lead evidence from a person who was not recorded as being the relevant CEO on the relevant ticket. Outside that however there seems to me to be no grounds to require the Council to undertake a general policy of reimbursement.

[REDACTED]

25. I hope that this advice covers all matters upon which I have been asked to advise.
Please come back to me if I can assist further.

DAVID LOCK QC

3rd June 2015.

Landmark Chambers,
180 Fleet Street,
London. EC4A 2HG



Private and Confidential

LB Bromley – Parking Enforcement:

Investigation of whistleblowing allegations

Financial Year: 2014/15

Date of Issue: 16th February 2015

Auditors:



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1 Introduction

Independent Review:

- 1.1 The London Borough of Bromley currently has a contract with Vinci Park Services UK Ltd for the provision of Parking Enforcement. During 2014, both Vinci Park and the LB Bromley (Parking Services/Transport and Highways) received allegations of malpractice involving the Penalty Charge Notices (PCN) issued by Civil Enforcement Officers (CEO). The allegations were in relation to the CEO's employed by Vinci Park on the LB Bromley contract. Both LBB Parking Services and Vinci Park undertook preliminary investigations which indicated some substance to the allegations. As a consequence of the Vinci Park internal investigation, a number of CEOs were suspended and dismissed for misconduct.
- 1.2 Whistleblowing allegations of malpractice continued to be directed to both parties together with additional allegations that Vinci Park had employed CEOs with no legal status to remain or work in the UK. In September 2014 these allegations were directed to LBB Members and LBB Senior Management. Although the LBB Internal Audit Section commenced an immediate investigation, LBB Members and Senior Management decided the seriousness of the allegations warranted independent review.
- 1.3 As a consequence, in October 2014, the Royal Borough of Greenwich Internal Audit were requested to review the action taken by LBB and Vinci Park in response to the various allegations received. RBG Internal Audit were also requested to obtain further information wherever possible, to determine whether allegations could be substantiated (Terms of Reference attached as Appendix A).
- 1.4 The whistleblowing allegations received are many and varied but all originate from ex-employees of Vinci Park. In summary, the

allegations focus on two key areas, both of which could potentially impact on the legality of the Penalty Charge Notices previously issued by Vinci Parks and the income subsequently collected by LB Bromley:

- a) Malpractice in the issuing of Penalty Charge Notices;
- b) The employment of CEO's who had no legal status to work in the UK.

1.5 **Malpractice:** Whistle blowers have alleged that in a number of cases, the Penalty Charge Notices issued were not accurate. In particular, it has been alleged that the Civil Enforcement Officers officially recorded as issuing the PCNs were not the same officers as those observing the contravention, producing the PCN and physically issuing the document to the driver/vehicle, i.e. CEOs were issuing PCNs on behalf of other CEOs. It was also alleged that Vinci Park management were aware of this situation and the practice was encouraged in order to inflate performance figures.

1.6 **Illegal Status:** During 2014 Vinci Park had dismissed two CEOs for submitting false documentation/failing to produce documentation indicating a legal right to remain or work in the UK. One of those dismissed was also the principal whistle blower. This whistle blower and another CEO have alleged there were more CEOs employed on the LB Bromley contract without legal status. Again, it was alleged Vinci Park management were aware of the illegal status of staff and were complicit in maintaining their employment.

1.7 To permit a full investigation, both LB Bromley and Vinci Park agreed to allow full access to all employees, make available all previous investigative work and any further material deemed appropriate by RBG Internal Audit. As part of the process RBG Internal Audit have interviewed employees and obtained relevant material from the following sources:

- LBB Internal Audit;
- LBB Parking Services;

- Vinci Park – Bromley Operation (Letchworth Drive);
- Vinci Park HR (Watford Head Office).

1.8 In addition, RBG Internal Audit in co-operation with LBB Internal Audit have contacted and interviewed several of the key whistle blowers and with the agreement of Vinci Park, have contacted the Home Office for confirmation of employee status. This report presents the results of the investigative work undertaken by RBG Internal Audit.

2 Management Summary/Conclusions

Internal Audit Opinion:

- 2.1 Although the RBG Internal Audit investigation has involved the detailed examination of allegations and parking enforcement procedures, the two key areas of concern relating to Vinci Park's management of the LB Bromley Parking Enforcement contract, which existed at the outset of the investigation, have remained unchanged and undisputed:
- Penalty Charge Notices had been issued which did not accurately reflect the Civil Enforcement Officer responsible for officiating the process, i.e. the incorrect CEO had been stated on the PCN;
 - Several Civil Enforcement Officers previously employed by Vinci Park on the Bromley contract, had no legal right to work in UK.
- 2.2 In both instances, the validity of the Penalty Charge Notices served on members of the public on behalf of the LB Bromley, has been undermined, i.e. the PCNs did not contain the true identity of the individual responsible for recording contraventions and serving the notices.
- 2.3 Although not specifically stated, the Traffic Management Act 2004 does imply that a Civil Enforcement Officer's identity should be accurately recorded, on the Penalty Charge Notice. As a consequence, many of the PCNs issued by Vinci Park staff may not be compliant with the Act and LB Bromley is now facing a significant challenge in determining a) the corporate approach for erroneous PCNs where payment has already been received and b) how the contractual relationship with Vinci Park should continue.
- 2.4 As a guide to the potential level of refund which may be necessary, RBG/LBB Internal Audit identified the Penalty Charge Notices credited

to the two principal Civil Enforcement Officers involved in the PCN malpractice and identified PCN's issued by three Civil Enforcement Officers known to have no legal right to work in the UK. The figures below indicate the payment received to date from the public and the charges which remain outstanding:

Problem with PCN	Paid PCN's £	Charges Outstanding £	Total £
Issuing malpractice	140,223	10,544	150,767
CEO Illegal status	995,611	114,713	1,110,324
Total	1,135,834	125,257	1,261,091*

*Figures taken from April 2011 only. There are potentially more PCN's prior to this date.

Summary of Main Findings:

- 2.5 RBG Internal Audit have summarised the investigation findings below (with due regard to the requirements of the Terms of Reference provided by LB Bromley):

i) PCN Malpractice:

- 2.6 Both LBB Parking Services and Vinci Park undertook investigations in respect of the initial allegations and both obtained evidence confirming the PCN malpractice. As a consequence of their investigation, Vinci Park provided written assurances to LB Bromley all the Civil Enforcement Officers responsible had been identified and dismissed from their employ. Vinci Park also assured LB Bromley the malpractice was confined to the individuals dismissed and new control procedures had been introduced to prevent a reoccurrence. RBG Internal Audit attempted to ascertain the reasons behind the malpractice, how far it extended and the impact, and whether there is satisfactorily assurance the situation has been corrected.

- 2.7 *Reasons for the malpractice:* Although alleged, RBG Internal Audit found no evidence Vinci Park local management had instructed staff to issue PCNs under another CEO's identity in order to improve deployment figures and secure the performance pay from LB Bromley. Based on the minutes provided by Vinci Park, it appears none of the staff dismissed over the malpractice presented this as a mitigating reason for engaging in the malpractice, i.e. that they were simply acting on a management instruction.
- 2.8 Although there is no evidence of a direct management instruction, the malpractice occurred over a significant period, unnoticed and unchecked by Vinci Park local management. This raises the possibility local management may have been aware certain staff were engaging in the practice but chose to disregard this, given the positive impact on deployment figures. The matter was only fully investigated by Vinci Park management, once allegations were directed outside the organisation.
- 2.9 Given there was no management instruction, RBG Internal Audit attempted to ascertain the motive for one CEO to credit another officer with the PCN but there is no definitive explanation in this respect. Vinci Park confirmed the number of PCNs issued does not attract any form of bonus payment for the CEOs but rather, is used as an individual performance indicator. Vinci Park management have therefore suggested the two senior CEO's [REDACTED] and [REDACTED] were lazy and used their superiority to instruct staff to issue on their behalf. Generally, the two senior CEOs dismissed indicated mistakes occurred when two CEOs shared the same Hand Held Computer, i.e. officers did not adequately check the previous officer had logged out.

- 2.10 *Extent of the malpractice:* LB Bromley can take reasonable assurance the malpractice was confined to the Penalty Charge Notices issued by a limited number of Vinci Park staff. At interview, whistle blowers indicated CEO's had only issued erroneous Penalty Charge Notices when paired with two other members of staff on Vinci Park's mobile units [REDACTED] and [REDACTED]. It is unlikely the CEOs on individual foot patrols have assigned PCNs to another CEO (by entering another CEO identity on the Hand Held Computers).
- 2.11 LB Bromley have been largely reliant on Vinci Park for identifying the staff responsible for issuing erroneous Penalty Charge Notices. Vinci Park used video evidence and an analysis of attendance sheets to identify the CEOs paired with [REDACTED] and [REDACTED]. There is reasonable assurance Vinci Park identified all the staff issuing erroneous PCN's given that; a) the number of individuals is larger than those identified by the LB Parking Services investigation and b) in allegations and at interview, none of the whistle blowers offered up other CEO staff who should have been included in the disciplinary process. However, if LB Bromley decides erroneous Penalty Charges need to be refunded, a wider, independent exercise may be necessary to confirm whether all complicit CEOs have been identified.
- 2.12 *Control of PCN Issuing Procedures:* There are concerns regarding the level of control exercised by Vinci Park in respect of the Penalty Charge Notices issued. Vinci Park had a responsibility to impose tighter controls in this respect.
- a) *Shared Hand Held Computers:* Many of the problems relate to the shared use of Hand Held Computers, i.e. a generic password allowed staff to log in to an HHC under a different CEO identity number. It has been suggested HHC sharing was commonplace given previous problems with device availability and reliability. In addition, both the senior CEOs dismissed, indicated they rarely obtained a HHC from store but generally used the device allocated to the CEO they were paired with. In the

circumstances, it would have been reasonable to expect Vinci Park management to closely monitor HHC sharing (via the equipment log) and be alert to the possibility of erroneous PCNs’;

- b) Recording the contravention: Identifying the malpractice has been possible because the contravention and issue of the PCN has been captured on Body Worn Videos. However, during an exercise undertaken by Vinci Park management, there were several cases (17/301) where the video evidence had either not been captured or was difficult to locate. In these instances, the absence of video evidence would weaken LBB’s position when attempting to secure PCN payment;
- c) Endorsing the PCN: Although the CEO number is printed on the PCN, the process also requires the CEO to sign the document before serving. A hard copy of the PCN is not retained so there is no means of verifying this action. However, given that PCNs were erroneously issued, there is a strong likelihood the signatures did not match the CEO identity or if they did, they were falsified. At interview, a CEO indicated the signature provided would have been deliberately indecipherable.

2.13 **Prevention of a reoccurrence**: Vinci Park have produced an assurance statement for LB Bromley indicating the control process has been tightened. This has involved the introduction of unique CEO passwords to be used when logging onto Hand Held Computers and a series of proposed controls: a) daily checks of anomalies between PCN record and body camera evidence and random checks of both records; b) CEOs to use audio on Body Worn Videos; c) stressing to staff at morning meetings the importance of entering the correct identity number.

In the time allowed, RBG Internal Audit were unable to confirm the introduction of these controls but it is recommended this is confirmed by LB Parking Services on an on-going basis. It should be

noted that even with the introduction of unique passwords, erroneous PCNs could still be produced if CEOs fail to log off a shared Hand Held Computer.

2.14 **Level of erroneous PCN's issued:** The full financial impact of the malpractice has not yet been clearly defined. LBB Parking Services and Vinci Park appeared to disagree on the relevant Key Performance Indicator affected by the malpractice. Originally, LBB Parking Services informed Vinci Park that as the company failed to reach the average deployment figure, none of the performance pay for 2013/14 would be payable (approximately £109k). Vinci Park disputed this indicating the malpractice had impacted on a limited number of PCNs credited to [REDACTED] and [REDACTED] and the actual parking contraventions were genuine. However, Vinci Park suggested LB Bromley retain 50% of the 2013/14 performance pay. LBB Parking Services responded indicating Vinci Park could retain the £29k already paid in September 2013 as full and final settlement of the 2013/14 performance pay. As a consequence, £80k is currently being withheld in respect of 2013/14, although it is not known whether this has been formally accepted by Vinci Park.

2.15 The situation above concentrates on performance pay and does not address the potential financial impact of identifying and repaying vehicle owners who may have paid an erroneous PCN. LB Bromley will need to ensure a Legal opinion is provided on both the level of performance payment to be withheld and the level of any “compensation” payable by Vinci Park.

ii) **Employment of staff with illegal status:**

2.16 Numerous allegations have been received that Vinci Park had employed staff with no right to work in the UK. In response, the company provided assurances appropriate employment procedures had been followed, including regular communication with the UK Border Agency (UK Visas and Immigration) to confirm staff's right to

work in the UK. During the investigation, Vinci Park Human Resources provided further information relating to the checks undertaken with UKBA. RBG Internal Audit attempted to ascertain whether the employment checks were robust and LB Bromley can take assurance the Civil Enforcement Officers employed by Vinci Park, have a right to work in the UK.

- 2.17 **Recruitment checks (UK Border Agency):** RBG Internal Audit were unable to take full assurance Vinci Park were applying a satisfactory level of pre-employment check, in particular to be assured employees' right to work in the UK. Vinci Park HR indicated the company had fostered a close working relationship with the UK Border Agency and in several instances, RBG Internal Audit were able to confirm Vinci Park HR had contacted the UKBA. However, the enquiries appeared very "informal" in nature and the process had failed to identify at least three staff members who had presented false identities at recruitment. In one of these cases, the identity documents presented were not complete and should have been questioned by Vinci Park HR (and UKBA). As a consequence there is again, a concern over the legitimacy of the PCNs issued by the staff concerned.
- 2.18 RBG Internal Audit undertook a sample of independent checks direct with the Home Office. The information returned included photographs of individuals which allowed RBG Internal Audit to confirm passports/visas had been falsified in three instances. The Home Office offers an Employers Checking Service and although Vinci Park HR indicated they were aware of this, RBG Internal Audit were unable to take assurance the service had been fully utilised. Vinci Park HR recognised there appeared to a conflict with the information being returned by the Home Office/UKBA and indicated this would be investigated.
- 2.19 **On-going checks during employment:** RBG Internal Audit were unable to take full assurance an appropriate level of identity check is applied during employment. Vinci Park indicated passport/visa

renewal dates are followed up and regular site audits are undertaken to verify employee documents. Vinci Park also indicated they had identified two employees with a questionable right to work in the UK and as a consequence, the individuals were dismissed.

2.20 It appears only one employee was dismissed because of a standard check [REDACTED]. The other employee [REDACTED] had been dismissed following a whistle blow from another CEO (ironically, [REDACTED]). With regard to the other employee with false identity [REDACTED] the individual had left employment for other reasons, i.e. Vinci Park did not identify the employee had false documents.

2.21 Several of the responses received from the Home Office indicated areas of concern with regard to current Vinci Park employees. Although RBG Internal Audit has forwarded details to Vinci Park HR for further review, there has been no response in this respect. LB Bromley require further assurances from Vinci Park that all employees engaged on the Bromley contract, retain the right to work in the UK.

iii) Receipt of allegations and response:

2.22 Numerous and varied allegations have been received from different sources, which have predominantly been channelled through LB Bromley and Vinci Park. The principal whistle blower has indicated allegations were referred to the media and there has been recent contact. RBG Internal Audit attempted to analyse the various allegations received by LB Bromley and Vinci Parks and ascertain whether these had been processed appropriately, i.e. the information provided was acted upon quickly and fully investigated.

2.23 Initial allegations originated from a single whistle blower and mainly concentrated on PCN malpractice. The same whistle blower gradually included additional allegations regarding employees with illegal status. It was when LB Bromley decided to proceed with an

independent investigation, other whistle blowers made contact with LB Bromley and the nature of the allegations intensified. It is possible the whistle blowers may have collaborated on certain information.

- 2.24 **Allegations received by LB Bromley:** Generally, LB Bromley responded appropriately to the allegations received. Upon receipt of the initial information, (focusing on PCN malpractice), LB Bromley made immediate contact with Vinci Park and conducted an independent investigation, finding substance to the allegations. The following Vinci Park investigation resulted in the dismissal of staff responsible and the information allowed LB Bromley to retain a large element of performance related pay.
- 2.25 LB Bromley provided appropriate e-mailed responses to the principal whistle blower and LBB Parking Services officers met with him to obtain further information and any available evidence. However, to ensure a structured and joined up approach to the investigation, RBG Internal Audit feel LBB Internal Audit should have been notified of the allegations and involved in the investigation at a much earlier stage.
- 2.26 **Allegations received by Vinci Park:** It is not so clear whether Vinci Park acted appropriately with regard to allegations directed to themselves. Although there is some evidence Vinci Park knew of the PCN malpractice several weeks before the allegations were directed to LB Bromley, information was not immediately shared with the Council. It is accepted however, that the information received may not have been sufficiently detailed to confirm the extent of the malpractice.
- 2.27 It also appears Vinci Park did not share information regarding staff with illegal status. Vinci Park were aware a member of staff dismissed [REDACTED] did not have a clear right to work in the UK [REDACTED] Vinci Park were aware the CEO had been arrested in connection with his legal status and should have been aware, this could have impacted on the validity of Penalty Charge Notices issued.

This information should therefore have been shared immediately with LB Bromley. Similarly, if there were concerns over the employment status of [REDACTED], dismissed in May 2014, these too should have been immediately shared with LB Bromley.

2.28 Vinci Parks appear to have responded appropriately to the LB Bromley in respect of the allegations jointly received. Vinci Park provided various statements providing assurance over their control of the contract and detailed the investigations undertaken. Vinci Parks have taken action to identify and dismiss the staff deemed responsible for the PCN malpractice and have made LB Bromley a financial offer involving the suspension of performance payment.

2.29 Although Vinci Park did investigate the allegations of PCN malpractice, RBG Internal Audit feel that the nature of the allegations warranted an independent internal review. [REDACTED] and yet he presided over receipt of allegations, review of PCNs/BWVs and the subsequent interview of CEO staff. Given the circumstances, it would have safeguarded staff integrity and provided more assurance for all parties if Vinci Park had appointed an independent officer to conduct an internal investigation.

iv) **Contract Monitoring:**

2.30 RBG Internal Audit aimed to ascertain whether LBB Bromley had adequately monitored the Vinci Park contract in respect of Parking Enforcement. In particular, whether it would have been possible for LBB to detect a problem with regard to the issuing of PCNs and the employment of staff with no legal right to work in the UK. Although the supporting information has provided a level of assurance (see below), it is recommended LBB Internal Audit undertake a more in depth systems review in the area, to obtain full assurance.

- 2.31 **Monitoring of PCN Issues:** Based on the information presented to RBG Internal Audit, LBB Parking Services appeared to be applying an adequate level of control over the monitoring process. The daily deployment figure and issue of PCNs was being actively monitored, performance defaults were being identified and applied as appropriate. There is also evidence of regular contract meetings to discuss and action any concerns with contractor performance.
- 2.32 Until the malpractice was disclosed, it would not have been necessary for LBB Parking Services to check the validity of the CEO identity numbers assigned to PCNs. However, as consequence of their recent investigation, Vinci Park have provided assurances there will be a daily check between PCNs issued and video evidence, to confirm the process has been accurately applied. It is recommended that LBB Parking Services undertake regular verification of this process in future.
- 2.33 **CEO Employment:** RBG Internal Audit were informed LBB Parking Services are regularly provided with a listing of staff employed by Vinci Park on the Bromley contract and are kept informed of starters and leavers. Evidence of this was not provided during the course of the investigation and it is unlikely LBB Parking Services would undertake any independent check on an employee's legal status. In order full assurance can be taken that CEO staff employed have a legal right to work in the UK, it is recommended LBB Parking Services agree on a firm protocol with Vinci Park, for the supply of staffing information.
- 2.34 **Payment Release:** Other contractual payments also being made to Vinci Park by LB Bromley complicate the payment process. RBG Internal Audit were made aware of payments released to Vinci Park in respect of the Parking Enforcement element but were unable to confirm these through LBB Accountancy. RBG Internal Audit noted that due to the PCN malpractice, the LBB Contracts Operation Manager is withholding performance payment to Vinci Parks of approximately £80k in respect of 2013/14 but has released 50% of

the 6 month performance pay in respect of 2014/15 (approximately £13k). To date, it is not known whether Vinci Park have indicated their acceptance of the retention. It is recommended LBB Internal Audit undertake a review of the contract payment process, including confirmation the action in respect of the retention has been approved/authorised at the correct level.

3 Internal Audit Findings

3.1 The LB Bromley Terms of Reference included a number of separate areas for review, albeit the main objective of the investigation was to ascertain whether there was any substance to the allegations received. To address the requirements of the Terms of Reference, RBG Internal Audit has grouped the investigation findings under the following generic headings:

i) Receipt of allegations and the responses provided:

- a) Allegations received by LB Bromley
- b) Allegations received by Vinci Park

ii) Allegations in respect of PCN Issuing Procedures:

- a) Outline of PCN issuing procedure
- b) Main allegations received in respect of PCN malpractice
- c) Action taken to investigate and substantiate allegations

iii) Allegations in respect of Vinci Park CEO staff with illegal status:

- a) Allegations submitted
- b) Assurance provided by Vinci Park
- c) Review undertaken by RBG Internal Audit

iv) LB Bromley – Contract Monitoring:

- a) Contract specification – overview
- b) LBB – Performance monitoring

i) Receipt of allegations and the responses provided:

a) Allegations received by LB Bromley:

3.2 The first allegation received by LB Bromley appears to have been e-mailed anonymously on 17th June 2014 and directed to [REDACTED] [REDACTED] – LBB Car Park, Facilities and Assets Manager. The allegation centred on PCN malpractice by Vinci Park. It now seems apparent this initial allegation may have been sent by previous Civil Enforcement Officer [REDACTED]

[REDACTED] Several further anonymous e-mails were received, before [REDACTED] began to submit under his “own” name.

3.3 LB Bromley continued to receive a significant number of e-mailed allegations, many of which were also copied to Vinci Park. Initially, allegations were directed to LBB Officers but later these were directed and/or copied to LBB Councillors. Although the majority of allegations originated from [REDACTED] allegations have been received from other ex-employees of Vinci Park:

- [REDACTED] [REDACTED] was dismissed by Vinci Park [REDACTED] for having no legal status to remain in the UK. He subsequently submitted an e-mail on 5 November 2014 to Ben Stephens, Head of LBB Parking Services and Cllr Smith, alleging CEO's were unjustly dismissed for issuing PCN's and the disciplinary process had not been conducted fairly.

- [REDACTED] [REDACTED] was dismissed by Vinci Park [REDACTED] for PCN malpractice. He submitted an e-mail to LB Bromley on 7th November 2014 alleging Vinci Park management were complicit in the PCN malpractice and had knowingly employed staff with no legal status to work in the UK.

- [REDACTED] was dismissed by Vinci Park [REDACTED] for PCN malpractice. He submitted an e-mail on 9th November 2014 to Mark Bowen LBB Director of Corporate Services and Cllr Dunn alleging Vinci management were complicit in the PCN malpractice.
- [REDACTED] formally resigned from Vinci on 6th July 2014. She submitted an e-mail in her name on 20th December 2014 to Cllr Dunn alleging Vinci managers knew of the malpractice + LB Bromley should have acted earlier on the allegations made by [REDACTED] See below.

- 3.4 It is noted the above individuals only contacted LB Bromley after the independent investigation had been initiated. It is also noted their allegations corresponded with those previously submitted by [REDACTED] [REDACTED] From the correspondence received and statements subsequently made at interview, it appears several of the whistle blowers may have discussed and mutually agreed the allegations.
- 3.5 In many cases, the allegations centre on PCN malpractice but there are references to other areas of malpractice, most notably Vinci Park's employment of individuals with no legal right to work or remain in the UK. During interview, several of the ex-employees, including [REDACTED] expanded on the allegations previously made.
- 3.6 Initially, officers in LBB Parking Services acknowledged receipt of allegations received in respect of PCN malpractice, provided assurances matters would be further investigated and requested the whistle blower provide further detail where necessary. A summary of the allegations received and responses provided by LBB is provided below:
- The initial allegation was received anonymously by LB Bromley on 17th June 2014. There is no address to the e-mail although it was

copied to Ben Stephens, the Head of LBB Parking Services and [REDACTED] – LBB Car Park, Facilities and Assets Manager, provided the response. [REDACTED] replied to the e-mail advising the whistle blower the complaint would be logged and investigated. The whistle blower was asked to provide further information.

- In the meantime, Ben Stephens, Head of LBB Parking Services, instructed the Parking Team on 19th June 2014 to contact the Vinci Contract Manager at Bromley [REDACTED] and request a formal statement in response to the allegations. On 23rd June 2014, the whistle blower provided LBB with details of 3 x CEO's incorrectly credited with issuing PCNs. Details were forwarded to Parking Services for investigation. The information was shared with the Contract Manager at Vinci Park.
- LBB Parking Services convened a meeting with the Contract Manager [REDACTED] on 24th June 2014 to discuss the findings. [REDACTED] had already reviewed video footage and found some substance to the allegation (and on return to the Vinci Park office [REDACTED] was suspended). LBB Parking Services gave [REDACTED] until 30th June 2014 to fully investigate the allegations. A Vinci Park statement was subsequently provided to LBB Parking Services on 30th June 2014;
- In the interim, LBB Parking Services investigated a sample of the PCNs credited to [REDACTED] and [REDACTED] produced a report dated 30th June 2014, identifying instances which appeared to substantiate the allegations. The report was shared with Vinci Park who subsequently undertook their own investigation, which resulted in the suspension and dismissal of several CEO's;
- In June/July/August 2014 the whistle blower [REDACTED] continued to submit e-mails to LB Bromley repeating many of the previous allegations of PCN malpractice but including allegations that Vinci Park had employed staff with illegal status. [REDACTED] also sent an e-

mail to Vinci Park on 29th July 2014 identifying individuals with illegal status, which was subsequently copied to LB Bromley. Vinci Park provided a further statement to LB Bromley indicating they had taken appropriate action with regard to employment checks.

- The Head of LBB Parking Services provided assurances to [REDACTED] that matters were being investigated and any further information should be provided to [REDACTED] LBB Contracts and Operations Manager. [REDACTED] advised [REDACTED] that Vinci Park had taken appropriate disciplinary action against staff responsible for PCN malpractice. [REDACTED] met with [REDACTED] on 5th September 2014 and indicated that apart from the PCN malpractice, LBB were satisfied with the assurances provided by Vinci Park.
- In Sept/Oct/Nov 2014, [REDACTED] continued to repeat allegations of PCN malpractice and the employment of staff with no legal status. [REDACTED] also included allegations that the Managers and Vinci Park Bromley were aware of both malpractices and began to include LBB Senior Officers and Councillors in correspondence. Councillors responded to [REDACTED] in Sept/Oct 2014 indicating matters were being investigated he would be written to in due course. It appears no further responses were provided to [REDACTED] until he was contacted by RBG/Bromley Internal Audit and interviewed on 9th December 2014.
- On 26th November 2014, three former Vinci park employees met with Cllr Dunn [REDACTED] [REDACTED] They indicated they had made allegations but had received no response and wished to be interviewed as part of the investigation (the three had submitted written allegations in early November 2014 but there was no evidence of a response from LBB). All three were subsequently interviewed by RBG/Bromley Internal Audit in December 2014.

- 3.7 It was noted that although the first allegation was received by LBB Parking Services in June 2014, the situation was not drawn to the attention of Bromley Internal Audit until September 2014, when the whistle blower(s) began to make direct contact with LBB Councillors. In the interim, the allegations (some of which implicated Vinci Park management) were shared with Vinci Park Management.
- 3.8 Never-the-less, there is sufficient evidence that LB Parking Services were actively investigating the allegations made, in particular with regard to PCN malpractice. The initial investigation findings by LBB Parking Services provided sufficient evidence for the Council to withhold any performance related payment to Vinci Park and resulted in the company investigating the malpractice, resulting in the dismissal of the staff Vinci Park deemed responsible.
- 3.9 Despite the action taken and the subsequent assurances provided by Vinci Park, the investigation has continued. This is primarily due to the persistence of the prime whistle blower, the evolving nature of the allegations and the potential financial consequences for the Council. Indeed, to provide full assurance, it was decided to engage RB Greenwich Internal Audit to provide an overview of the investigation process. In this respect, LBB has responded appropriately to the allegations received.
- 3.10 To date, there has been limited formal feedback of investigation progress to the whistle blowers. However, the correspondence collated by Bromley Internal Audit suggests e-mails were acknowledged and appropriate replies provided to the prime whistle blower [REDACTED] particularly when allegations were initially submitted. It was also clear that [REDACTED] was advised of the action taken by Vinci Park in respect of the PCN malpractice.
- 3.11 It is noted that formal acknowledgement of e-mailed correspondence from [REDACTED] has decreased recently. This is understandable given the high level of correspondence being generated and the likelihood [REDACTED] would be interviewed as part of the on-going RBG investigation.

Similarly, although LBB has not formally replied to the other CEOs making allegations, this appears to be because there was the likelihood they would be subsequently interviewed.

b) Allegations received by Vinci Park

3.12 As part of the review process, RBG Internal Audit sought to establish whether Vinci Park had separately received allegations relating to the management of the Bromley contract and if so, how these had been dealt with. The information in this respect has been provided by Vinci Park:

i) Allegations received from [REDACTED] (PCN malpractice):

3.13 The initial Vinci Park statement provided to LB Bromley effective 30th June 2014 (produced by [REDACTED] – Vinci Park Regional Commercial Manager) indicates the company became aware of the PCN malpractice as a consequence of an employee's grievance procedure initiated on 19th May 2014. In further discussions, with [REDACTED] (Contracts Manager) and Vinci Park, Human Resources, RBG Internal Audit were informed Vinci Park had not previously received any similar allegations of this nature for Bromley or at any other parking enforcement contract.

3.14 In the event, it was [REDACTED] who had initiated proceedings. Following an incident in the Bromley depot on 16th or 17th May 2014, [REDACTED] had raised a formal grievance against other CEO's in respect of bullying and harassment. A copy of the grievance letter, dated 19th May 2014, was provided by Vinci Park HR. The letter clearly makes reference to PCN malpractice:

[REDACTED] and a certain member of staff committed gross misconduct by getting other CEO's to issue PCN's on their behalf. [REDACTED] covered this up as he had ample proof that this had taken

place. This issue was what started [REDACTED] being bullied at work in the first place as he had felt that [REDACTED] and the other member of staff were jeopardising other CEO's work by forcing them to issue PCN's and passing them off as theirs".

3.15 Following the incident, [REDACTED] went on stress related sick leave and did not return to full time employment with Vinci Park. [REDACTED] is the partner of [REDACTED]. At interview with RBG/LBB Internal Audit, [REDACTED] indicated he had hand delivered [REDACTED] grievance to [REDACTED] (Contract Manager) on 19th May 2014 and was dismissed from the company on the same day.

3.16 The Vinci Park statement makes reference to a second grievance submitted on 7th June 2014 alleging [REDACTED] and [REDACTED] had knowledge of the alleged malpractice. RBG Internal Audit have not been provided with details of this second grievance but it is possible the statement is referring to the Grievance Hearing which occurred on 17th June 2014 (see below – paragraph 3.18).

3.17 The Vinci Park statement also indicates [REDACTED] met with [REDACTED] away from site (Subway in Beckenham) to discuss matters. [REDACTED] subsequently confirmed at interview the meeting had taken place. At the meeting [REDACTED] again alleged PCN malpractice and indicated the [REDACTED] had been aware of the situation as [REDACTED] had obtained video footage of the malpractice which had been sent to him via "WhatsApp". In his statement, [REDACTED] has indicated the [REDACTED] denied having any prior knowledge of the malpractice.

3.18 During her sickness period, [REDACTED] was called to Grievance Hearing Meeting on 17th June 2014 (the same date the first allegation was referred to LB Bromley). [REDACTED] attended the meeting with her Union Representative. Vinci Park management were represented

by [REDACTED] and an officer from Vinci Park Human Resources [REDACTED]

3.19 Although Vinci Park provided copies of the minutes, much of the discussion was referenced to a statement prepared by [REDACTED] which was read out and discussed at the meeting. Although RBG Internal Audit have made several requests for a copy of this statement, to date Vinci Park have been unable to locate and provide a copy. In the recorded minutes, [REDACTED] made several allegations, including the practice of issuing of PCNs on behalf of other CEOs.

3.20 [REDACTED] appears to have formally tendered her resignation effective from 6th July 2014, although Vinci agreed to continue with the Grievance Appeal Hearing on 27th August 2014. In her resignation letter, [REDACTED] made further reference to the PCN malpractice but also indicated [REDACTED] was involved the malpractice.

3.21 At the Grievance Appeal Hearing on 27th August 2014, [REDACTED] attended on her own and Vinci Park management were represented by [REDACTED] – Interim HR Manager and [REDACTED] – Regional Support Manager. The minutes supplied by Vinci Park indicate [REDACTED] alleged she and other CEO's had issued PCNs on behalf of [REDACTED] and [REDACTED] [REDACTED] indicated this malpractice had occurred for a number of years and previous and the current site managers were aware of the situation.

3.22 The date of [REDACTED] Grievance Hearing (17th June 2014) corresponds with the date of the first allegation was anonymously referred to LB Bromley. It is possible the allegation originated from [REDACTED] but was likely submitted by her partner [REDACTED] [REDACTED] who had been dismissed by Vinci Park effective from 19th May 2014 and arrested by the Police at a meeting with Vinci Park on 27th May 2014. In any event, from June onwards it is [REDACTED] who takes responsibility for submitting allegations in respect of Vinci Park.

ii) Allegations received from [REDACTED]
[REDACTED]

3.23 Vinci Park has indicated that following his dismissal, [REDACTED] contacted the company on many occasions with various allegations. [REDACTED] indicated he had received numerous e-mails and at interview [REDACTED] himself indicated he had contacted Vinci Park management on more than 90 occasions.

3.24 However, in a further statement provided to LB Bromley, Vinci Park copied an e-mailed allegation received by them from [REDACTED] on 29th July 2014, which focused on other CEO staff with alleged illegal status. In addition, Vinci Park have provided copies of e-mails, supposedly issued by [REDACTED] to [REDACTED] and [REDACTED] after his dismissal for illegal status. It is noted the e-mails from [REDACTED] focus on other CEO staff with illegal status, make no mention PCN malpractice and do not implicate [REDACTED]

3.25 Vinci Park also provided copies of a meeting held with [REDACTED] following his suspension for failing to provide an up to date passport. The meeting was held on 24th May 2014 and attended by [REDACTED] and [REDACTED] taking the minutes. The meeting appears to have been very short and ended when Police arrived to arrest [REDACTED]. During the meeting [REDACTED] restated allegations there were other CEOs with illegal status. [REDACTED] indicated he had received several previous e-mails from [REDACTED] in this respect and other CEOs had been checked and cleared.

iii) Allegations received from other CEO's:

3.26 RBG Internal Audit were not made aware of any allegations directed to Vinci Park by other employees. However, following the Vinci Park investigation into allegations of PCN malpractice, a series of interviews/meetings were held with the staff implicated (7 officers implicated, 2 of whom had already left). The following were subsequently dismissed from employment on 18 July 2014 (although [REDACTED] was later reinstated):

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

3.27 Each member of staff was interviewed by [REDACTED] on 2nd/3rd July as part of the investigation process and then suspended. There then followed Disciplinary Hearings (10th July) and Appeal Hearings (11th + 18th August), which were chaired by an independent Vinci Manager. RBG Internal Audit were provided with copies of the minutes. It is noted that although employees had the opportunity to raise further allegations, in particular against management [REDACTED] and [REDACTED] this does not appear to have been the case, i.e. the minutes do not record any employee allegations against management in respect of the PCN malpractice and there is no reference to employees with illegal status.

iv) Vinci Park's response to the PCN allegations:

3.28 Vinci Park Human Resources confirmed that aside from the individual interviews and eventual dismissal of the staff implicated, there had been no wider internal investigation or any internal company reports produced regarding the situation at Bromley. In summary, Vinci Park's response to the allegations has been to:

- Meet LB Bromley Parking Officers and provide subsequent statements to LB Bromley outlining their position on the PCN malpractice and the action being taken;
- Investigate officers implicated in the PCN malpractice and take appropriate disciplinary action (see above);
- Provide statements in response to the allegations received in respect of staff being employed with illegal status.
- Undertake a staff “recruitment audit” at Bromley depot;
- Introduce changes to PCN issuing procedures (introduction unique/personal CEO passwords on hand held devices)

3.29 Although allegations of PCN malpractice appear to have been first raised with Vinci Park on 19th May 2014, the situation was not immediately notified to LB Bromley. The Vinci Park response appears to have been precipitated by the receipt of the anonymous allegations at LB Bromley, approximately one month later on 17th June 2014, i.e. LBB Parking Services contacted [REDACTED] at Vinci Park on 19th June 2014 for comment on the allegations received.

3.30 Vinci Park have indicated the initial allegations were not specific and it was only at the subsequent meeting of 23rd June 2014 with [REDACTED] [REDACTED] that an address was provided which allowed the investigation to be more focused.

v) Impact of malpractice on PCN's issued

3.31 LB Bromley are yet to obtain Legal opinion on the validity/legality of Penalty Charge Notices issued by Civil Enforcement Officers who had incorrectly entered another CEO number on the PCN. Given the malpractice appeared to relate to PCNs issued by two principal officers, RBG and LBB Internal Audit interrogated the 3sixty system to ascertain the number of PCNs issued during their employ where payment has been made or currently remains outstanding. Figures are presented below:

CEO	PCN's Issued	Charge Paid	Charge Outstanding
██████	2,770	£114,645.00	£9,677.00
██████	552	£25,577.88	£867.00
Total	3,322	£140,222.88	£10,544.00

3.32 It should be noted that the figures have been taken from April 2011. It is currently not known when the two CEOs commenced employment with Vinci Park on the Bromley contract. As a consequence, the figures could be considerably higher.

ii) Allegations in respect of PCN Issuing Procedures:

a) Outline of procedures for issuing Penalty Charge Notices (PCNs):

3.33 RBG Internal Audit have held interviews with LBB Parking Officers, Vinci Park management and individual CEO's. The normal procedure for issuing Penalty Charge Notices (PCN's) in respect of LB Bromley is summarised as follows:

- Vinci Park are contracted to provide the Parking Enforcement Service to LB Bromley (covering on-street parking, 35 car parks and 3 multi-storey car parks). Vinci Park operate from offices at Letchworth Drive, Bromley – leased from LBB. Vinci Park provide Civil Enforcement staff and vehicles. LBB provide all the necessary equipment (including IT for down loading data);
- The current Vinci Park contract includes several performance targets relating to the issue of Penalty Charge Notices. The two key targets are that Vinci Park provide a minimum of 23 CEOs on daily patrol and a total of 66,000 PCNs are issued annually. RBG Internal Audit has been advised performance figures are based on monthly averages and performance related payment can be withheld if targets are not met;
- Civil Enforcement Officers report to Letchworth Drive and complete a daily attendance log. CEOs operate in two daily shifts. CEOs operating as foot patrols are allocated defined beats determined by Vinci Park. Vinci Park also operate several mobile units, each one generally comprising a driver and a CEO. These units are required to drive in allocated areas. There is an expectation (from LB Bromley) both the driver and the CEO will issue Penalty Charge Notices;

- CEOs are provided with standard equipment from Vinci Park's Bromley Depot:
 - Hand Held Computer to record the contravention;
 - Portable printer for producing PCN;
 - Body Worn Video to record the contravention and issuing of PCN;
 - Separate digital camera to record the contravention;
 - A radio and mobile phone.
- Equipment is issued daily and CEOs sign a log sheet to indicate receipt. A CEO is required to log into the HHC to register their identity (CEO number). At the time of the PCN malpractice CEOs were logging in under a generic password ("password"). Since the malpractice has come to light, CEOs have been allocated unique, personal passwords;
- The CEO observing the parking contravention will take a photograph and activate the body worn video. The CEO records the details of the offence on the Hand Held Computer and prints the Penalty Charge Notice. There is an expectation the CEO observing and recording the contravention also serves the PCN. The printed PCN contains the CEO number + the CEO is also expected to sign the PCN before issuing. The PCN is then normally placed under the vehicles' wiper blade (or hand delivered to the driver if in attendance);
- At the end of the day, the equipment is logged back into store and the data on the Hand Held Computer and the Body Worn Video is downloaded. Details from the HHC is downloaded to the 3sixty system (system introduced in October 2013, replacing the Legacy system). The 3sixty system is administered by LB Bromley. Video data is downloaded onto Edisix – a web based system (video recordings can be viewed by vehicle owners wishing to query PCN's). Vinci Park have a 24 hour window to cancel any PCN's they feel may have been issued in error. Thereafter, the PCN is included

as issued and if found incorrect, will impact on the performance target;

- RBG Internal Audit were informed CEOs do not receive any form of bonus for the number of PCNs issued. However, the number issued by each CEO is a performance issue for management, i.e. depending on the circumstances those CEOs only issuing a small number of PCN's would be challenged by management.

b) Main allegations received in respect of PCN malpractice:

i) Allegations received Pre Audit Investigation:

3.34 As previously detailed, many of the original allegations in respect of PCN malpractice appear to have been submitted by ex-employees

[REDACTED]
[REDACTED] The initial allegations indicated:

- CEO's were issuing PCNs on behalf of others, i.e. the CEO number recorded on the PCN was not that of the officer observing and recording the contravention.
- Local management at Vinci Park Bromley were aware of the PCN malpractice which had been on-going for a number of years.

3.35 As part of her grievance with Vinci Park, [REDACTED] alleged CEOs were issuing PCNs specifically on behalf of [REDACTED] and [REDACTED]. The initial anonymous allegation submitted to LB Bromley on 17th June 2014, also indicated CEOs were issuing on behalf of [REDACTED] and [REDACTED] and identified [REDACTED] as the officer issuing PCNs on their behalf.

3.36 In the second anonymous allegation to LB Bromley received on 23rd June 2014, [REDACTED] were mentioned again and CEO's 195 [REDACTED] and [REDACTED] were identified as officers issuing on their behalf. This allegation contained a specific location where this malpractice was alleged to have occurred, i.e. Sayers Court Rd. In the same e-mail, the whistle blower alleged [REDACTED] was aware of the situation and [REDACTED] had been sent video footage of the malpractice but did not act on this.

ii) Allegations received after an independent investigation announced:

3.37 Although [REDACTED] then proceeded to submit numerous e-mails, the allegations did not change significantly and centred on CEOs issuing PCNs on behalf of [REDACTED] and [REDACTED] submitted several allegations identifying the relevant CEOs). [REDACTED] also emphasised several times he had passed video footage in respect of the malpractice to [REDACTED] via "Whatsapp", but this information was not utilised. [REDACTED] could no longer access this information (and [REDACTED] had denied receiving this) and was therefore asking LB Bromley to contact "Whatsapp" to pay for this information to be released.

3.38 Although [REDACTED] persists with allegations in this vein, action was being taken and progressed by LB Bromley and Vinci Parks, i.e. a review of the PCNs supposedly issued by [REDACTED] and [REDACTED] the identification of CEO's actually issuing the PCN's, their subsequent interview and eventual dismissal. Although [REDACTED] was putting great store by the video footage supposedly sent by Whatsapp, LB Bromley and Vinci Parks had already accumulated their own video evidence in this respect.

3.39 It appears when CEO's became aware an independent investigation was taking place, [REDACTED] and several of the other CEOs dismissed by Vinci Parks, began to place more emphasis on the involvement of local management in the PCN malpractice. [REDACTED] also placed more focus on the alleged employment of CEO's with illegal status.

c) Action taken to investigate and substantiate the allegations:

i) LBB Parking Services – Investigation findings:

3.40 RBG Internal Audit met with [REDACTED] (LBB Contracts and Operation Manager) and [REDACTED] to discuss PCN procedures and the malpractice which had occurred. Officers have explained how the situation developed and provided details of the subsequent investigation undertaken.

3.41 Upon receipt of the initial allegations LBB Parking Services met with the Vinci Park Contracts Manager – [REDACTED]. Given that [REDACTED] had been identified as the main protagonists, LBB Parking Services proceeded to review 3sixty in respect of the PCNs issued by [REDACTED] and [REDACTED]. The review was focused on an 18 month period January 2013 to June 2014.

3.42 Initially, LBB Parking Services identified that 54 PCNs were credited to [REDACTED] and 1,289 to [REDACTED]. LBB Parking Services selected a sample of PCNs (46 for [REDACTED] and 60 for [REDACTED]) and accessed Edisix to ascertain whether there was video evidence of PCNs being issued by [REDACTED] and [REDACTED]. The results were detailed in a report dated 30th June 2014, subsequently passed to Vinci Park. Results are summarised in the following table:

<i>Check undertaken by Parking Services</i>		
Total PCNs issued in period (Jan 2013 to June 2014)	54	1,289
Sample PCNs reviewed by Parking Services	46	60
PCNs found with no corresponding video footage	6	10
PCNs found where the BWV used by the credited CEO	9	27

<i>PCNs with evidence of another CEO issuing</i>	<i>31</i>	<i>33</i>
PCNs subsequently cancelled during the 24 hour period	4	Nil
<i>Total no. PCNs incorrectly “charged”</i>	<i>27</i>	<i>33</i>

3.43 The exercise identified the CEO's below had issued PCN's on behalf of both [REDACTED] and [REDACTED]

[REDACTED]

3.44 LBB Parking Services also noted occasions where 3sixty indicated PCNs had been issued by [REDACTED] but the corresponding video footage on Edisix came from the Body Worn Video issued to [REDACTED]

ii) Vinci Park – Investigation findings/outcome:

3.45 To ascertain procedures and discuss the Vinci Park approach to the investigation, RBG Internal Audit met with [REDACTED] (Vinci Park Contracts Manager) and [REDACTED] (Vinci Park Regional Commercial Manager) at Letchworth Drive. Other CEO staff were spoken to during the initial visit and RBG Internal Audit made a return visit to confirm the various investigations undertaken by [REDACTED]

3.46 RBG Internal Audit also visited Vinci Park Head Office in Watford and following a brief meeting with the Operations Director [REDACTED], discussed procedures and the investigation approach with staff in Vinci Park HR [REDACTED]. Subsequent to the meeting, RBG Internal Audit has regularly communicated with Vinci Park HR via telephone and e-mail.

3.47 In response to the allegations received (23rd June 2014), Vinci Park immediately suspended [REDACTED]. Following the meeting with LBB Parking Services (24th June 2014) Vinci Park also suspended [REDACTED]. Vinci Park then undertook a separate investigation and produced a statement for LBB Parking Services dated 30th June 2014 indicating the progress in this respect.

3.48 Initially, Vinci Park concentrated on the last 90 days of enforcement but no anomalies were found between PCN and video records. Vinci Park reviewed earlier records concentrating on the PCN's issued by [REDACTED]. Evidence was found that substantiated the allegations and the following CEO's were suspended:

[REDACTED]

3.49 There then followed a series of Investigation Meetings, Disciplinary and Appeal Hearings with the 5 suspended CEOs. All were eventually dismissed from Vinci Park employment with the exception of [REDACTED] who was reinstated. At the request of RBG Internal Audit, Vinci Park provided copies of the minutes from each one of the 15 separate meetings.

3.50 All the meetings were held in [REDACTED] office at Letchworth Drive. The initial Investigation Meetings were all held on 2nd – 3rd July 2014 with [REDACTED] as the investigating officer and [REDACTED] from Vinci Park HR as the minute taker. These were followed by Disciplinary Hearings on 10th July 2014 chaired by [REDACTED] (Vinci Park Head of Learning and Development) with [REDACTED] (Vinci Park HR) taking minutes. The Appeal Hearings were held on 11th + 18th August 2014, chaired by [REDACTED] (Vinci Park Regional Commercial Manager) and [REDACTED] (Vinci Park HR) again taking minutes.

3.51 RBG Internal Audit has reviewed all the minutes provided by Vinci Park and concluded the following:

- It appears all the staff were made aware of the reasons for their suspension and the implications for incorrectly issuing PCNs (undermines the validity of the PCN);
- All CEOs appear to have been shown video evidence to support management's case, albeit that these appeared to be mostly single examples of the malpractice;
- It was clear it was common practice for several CEOs to share the Hand Held Computers, either because there was a shortage or operating problems. [REDACTED] indicated he did not book out an HHC to himself, but used the machine allocated to the other CEO he was training/ accompanying. All the CEOs (in particular [REDACTED] and [REDACTED] were made aware of the importance of logging out of shared HHCs after use and/or repair;
- None of the CEOs indicated they had instructed other CEOs to issue on their behalf. Similarly, it was noted none of the staff indicated they had been instructed by management to issue PCN's on behalf of others. [REDACTED] indicated [REDACTED] would have asked him to issue PCN's if they were short on CEO numbers (but not on behalf of someone else);
- The officers responsible for "claiming" the credit for issuing PCN's [REDACTED], both indicated there had been mistakes, i.e. other CEO's had failed to log them out of the HHC and log back in again under their own CEO number. [REDACTED] also suggested other CEO's may have logged into the HHC using his number;
- The officers responsible for issuing PCN's on behalf of [REDACTED] and [REDACTED] were also challenged. Despite being shown video evidence,

██████ appeared to deny this had happened. ██████ indicated mistakes had been made and the previous user of the HHC ██████ had not logged out prior to him using the machine. ██████ indicated he had unknowingly issued a PCN in respect of ██████ had entered his number into ██████'s machine without his knowledge. ██████ spotted this at the end of the day and had asked ██████ to void the PCN.

3.52 Although not explicit in the minutes, Vinci Park dismissed ██████ and ██████ for failing to ensure they had properly logged out of the HHCs, whereas ██████ and ██████ were dismissed for failing to check the status of HHCs and log back in under their own CEO identity. Vinci Park HR indicated all the formal dismissal letters stated the same reasons and copies of the letters issued to ██████ and ██████ were provided as examples. Both were dismissed for Gross Misconduct and dismissal letters indicate this was for failing to log in and out of equipment correctly.

3.53 It appears, Vinci Park accepted the explanation provided by ██████ and elected to reinstate his employment. ██████ referred to a single instance of issuing a PCN for ██████ for which ██████ was at fault. The PCN exercise undertaken by LBB Parking Services did not highlight any instances of malpractice involving ██████. It is not known, how many instances of malpractice were identified by Vinci Park in respect of the individual CEOs implicated but it appears Vinci Park confirmed only a single instance for ██████.

3.54 In addition, to the staff suspensions and disciplinary meetings held, Vinci Park undertook a separate exercise to ascertain whether the malpractice could be more widespread. The Contract Manager ██████ agreed with LBB Parking Services to review 4 separate weeks from January 2013 to February 2014 (24 separate days). ██████ identified CEO staff remaining on the Vinci Park payroll as at 27th July 2014, selected a random sample, identified the PCN's issued and proceeded to check the video footage. Instances, where the video footage which did not match the number of PCNs issued, were further

investigated. The results were forwarded to [REDACTED] LBB Head of Parking Services on 7th August 2014.

3.55 In the report provided, [REDACTED] reviewed 301 separate occasions of CEOs issuing a total of 2,700 PCNs. On 17 occasions, [REDACTED] identified the volume of video footage from the Body Worn Videos did not match the number of PCN's issued by the CEO on the day. In most of these cases, [REDACTED] provided an explanation for the disparity. Three examples shown below:

- On 17th January 2013 – [REDACTED] was shown as issuing 9 PCN's but there was no supporting video footage. The explanation provided was that the BWV battery was flat + the comment was there was *"no suggestion of any past history"*.
- On 14th June 2013 – [REDACTED] was shown as issuing 13 PCNs has no supporting video footage. The explanation provided: *"Taken 195 BWV in afternoon by mistake". "Cases for [REDACTED] on [REDACTED] BWV. Genuine mistake incorrection allocation of cam"*.
- On 8th February 2014 – [REDACTED] shown as issuing 20 PCNs but with no supporting video footage. Explanation provided: *"Moped Rider – No BWV taken out". Warning on file"*.

3.56 In many other cases, the explanation provided was that the BWV battery was flat or had stopped working. It was noted in several cases, there was no explanation for the missing video footage but [REDACTED] appears to have taken assurance through other means that a reasonable explanation existed. As a result of the exercise only one member of staff was reprimanded ([REDACTED] above).

3.57 As a consequence of the above exercise, Vinci Park concluded: *"VINCI Park Services UK is confident following the investigation into the above samples that no malpractices were witnessed by our current employees for the stated period. As a result of the vigorous checks*

and an implementation of new protocols Vinci Park Services Ltd is confident that the malpractices witnessed have ceased."

3.58 RBG Internal met with [REDACTED] to review the investigation process.

Whilst it is accepted the exercise was long and laborious and a more detailed check was probably not practical, the investigation does not necessarily provide independent assurance – given that it was undertaken by [REDACTED] and not Vinci Park Head Office. If there were any truth to the allegation Vinci Park management instructed CEOs to issue PCNs on behalf of others, in particular in times of low deployment, the exercise would not identify these occasions.

3.59 The investigation process contained several flaws, e.g. it appears to have been based on a selective sample of CEOs; in several cases there is no clear evidence why there is no supporting video footage; it is not clear whether the CEO's were working as part of a mobile unit or as a solitary CEO, etc.

3.60 In the statement provided on the 27 July 2014, Vinci Park indicated controls had been tightened. In addition to the introduction of unique CEO passwords for Hand Held Computers, Vinci Park indicated the following would be undertaken:

- Any daily anomalies between PCN record and the body camera evidence will be investigated and those involved asked to explain their actions as to the issue;
- Random checks will be made to check both types of records;
- CEOs will use audio to make it clearer in the future who is holding the body cam;
- Regular and full reminders in daily briefs of this specific malpractice and the outcome for anyone found to be participating.

iii) RBG/LBB Internal Audit – Interview of Vinci Park ex-employees (PCN malpractice):

3.61 RBG and LBB Internal Audit, have interviewed a number of staff dismissed by Vinci Park. i.e.

[REDACTED]

Although [REDACTED] was also invited for interview, he declined to attend but did provide detail to the Head of LBB Internal Audit on the telephone.

3.62 The information provided at interview (in respect of the PCN malpractice) has been summarised below:

- It was confirmed CEOs had issued PCNs on behalf of [REDACTED] and [REDACTED]. Generally, it was indicated the malpractice was restricted to mobile units and only applied to the PCN's credited to [REDACTED] and [REDACTED] i.e. the malpractice was not more widespread amongst other CEOs. However, [REDACTED] indicated he had been instructed to issue on behalf of [REDACTED].
- Both [REDACTED] and [REDACTED] did not take out Hand Held Computers but used a generic password to log onto the equipment assigned to the other CEO's. [REDACTED] was mainly office based and rarely went out to issue PCNs. This was only done if CEO deployment numbers were low;
- Several interviewees indicated the CEOs accompanying [REDACTED] and [REDACTED] would have been instructed to issue PCNs on their behalf, i.e. to log into the HHC under their number and issue the PCNs. However, [REDACTED] implied he had issued PCN's and CEOs forgot to

log back in as themselves, implying the mistake was due to “human error”. [REDACTED] indicated CEO’s would use his number to log into the HHC and issue PCNs but then forget to log out and back in again as themselves.

- Several interviewees suggested [REDACTED] instructed CEO’s to log in as another CEO and issue PCNs in order to increase deployment numbers [REDACTED]. They indicate this would have been a verbal instruction. [REDACTED] suggested he was informed to deny this practice was occurring, especially if asked by the Council. If acting under management instruction, [REDACTED] was asked why he did not offer this as a defence against his dismissal, especially at the appeal hearings. [REDACTED] stated he was under the impression he needed to deny the allegations and he would be reinstated;
- [REDACTED] indicated the CEO’s issuing the PCNs needed to sign the document before placing on the vehicle. When issuing PCNs on behalf of [REDACTED] the CEO would have entered “a squiggle”, i.e. the signature would not be decipherable. [REDACTED] indicated he had not issued any of the PCNs assigned to his CEO number (it is assumed to be from the time he was a driver in the mobile unit).

3.63 The information provided is largely compliant with the original Vinci Park findings, ascertained through investigation and the disciplinary interviews. The most significant “additional” allegation is that management had instructed CEO staff to issue PCNs on behalf of [REDACTED] and [REDACTED] in order to increase deployment numbers and meet performance targets. On the balance of probability, it seems unlikely a specific instruction would have been issued in this respect given that none of the staff dismissed over the malpractice (and [REDACTED]) appear to have presented this in their defence at appeal, i.e. that they were simply acting under a management instruction.

iii) Allegations in respect of Vinci Park CEO staff with illegal status:

a) Allegations submitted

3.64 As with the PCN malpractice, allegations regarding the employment of staff with no legal status to remain or work in the UK are numerous and have increased as the investigation progressed. The initial allegations appear to have been directed to Vinci Park by [REDACTED], who was himself dismissed from Vinci Park on 19th May 2014 for failing to provide a renewed passport.

3.65 Vinci Park produced a statement for LB Bromley on 30th July 2014, in which they refer to an e-mail received a day earlier from [REDACTED] copied to LB Bromley. There has been no evidence of this e-mail. The e-mail allegedly refers to the following members of Vinci Park staff as “illegal immigrants”:

[REDACTED]

3.66 The e-mail indicates 3 other staff would be “exposed”. On 22nd August 2014 [REDACTED] e-mailed [REDACTED] at LB Bromley, indicating [REDACTED] should not be working due to their immigration status. On 12 September 2014, [REDACTED] submitted a further allegation to LB Bromley [REDACTED] indicating that [REDACTED] were both illegal workers in the UK.

3.67 [REDACTED] continues to submit further e-mails to LB Bromley alleging the employment of staff with illegal status. There are further references to [REDACTED] and a reference to [REDACTED]. In later correspondence, [REDACTED] alleged that [REDACTED]

██████████ had been aware of staff with no legal status to remain or work in the UK and had been complicit in their continued employment.

b) Assurances provided by Vinci Park

3.68 In the Statement provided on 30th July 2014, Vinci Park responded to the initial allegations received from ██████████ by providing a short outline of the normal recruitment procedure:

"Prior to taking on any new employee VINCI Park request a number of forms of documentation including passport, right to work in the UK, NI/NINO and proof of address. These are then checked by site alongside our HR department in line with UKBA guidelines. Once these are met, these documents are then forwarded to VINCI Park's in house specialist who then processes any further CRB and/or credit worthiness checks if applicable."

3.69 In the same statement, Vinci Park provided assurances in respect of ██████████ and the individuals named in his initial allegations and ██████████ (it is understood ██████████ had made earlier allegations to Vinci Park regarding ██████████). The assurances provide by Vinci Park are summarised below:

- ██████████: Normal pre-employment procedure followed. The passport presented was valid, contained ██████████ photograph and indicated he had leave to remain in the UK issued by the UKBA. The passport due to expire in early 2014 and he was requested to provide a new one as per UKBA guidelines. He requested time to go to the Police to get a note allowing him to go to the ██████████ High Commission in London to get a new passport. This caused concern and the Contract Manager contacted HR and Peninsula (HR Consultancy service providers) who advised he be suspended till he produced a valid passport.

The UKBA carried out checks on [REDACTED] and discovered he was not who he claimed to be. Acting on advice, Vinci Park called Police and he was arrested on site. Immigration Officer failed to attend Bromley Police Station and he was released. [REDACTED] was dismissed as unable to fulfil his contractual obligations.

- [REDACTED] Same pre-employment procedure above was followed. Vinci Park were not aware of any irregularities. [REDACTED] always re-submitted documents when requested. Documents checked in line with UKBA. He was also checked by UKBA in August 2012 during a surprise visit at Bromley. [REDACTED] No reason to doubt NT or the paperwork submitted.
- [REDACTED] In July 2012 he brought in a passport and letter from UKBA and Solicitor confirming his new name [REDACTED] He left in 2012 and took another job. No reason to doubt [REDACTED] or the paperwork submitted. [REDACTED] was actually employed by Vinci Park as [REDACTED]
- [REDACTED] went through the same pre-employment procedure as above and submitted passport with right to work and leave to remain in the UK. Paperwork submitted to HR before he was allowed to start work. HR forwarded paperwork to UKBA for checks. Vinci Park not aware of his deception until this year (2014), when information became available that cast doubt on the validity of his documentation. Vinci Park were informed the passport he presented did not belong to him and in due course he was arrested and charged for various offences. Dismissed for not being able to complete his contractual obligations.

- [REDACTED] [REDACTED]
[REDACTED] Paperwork previously sent to HR. In subsequent years he would always resubmit documentation when asked to do so. At no stage did Vinci Park have any inclination of the allegation made by [REDACTED] and no reason to doubt [REDACTED] or paperwork submitted.
[REDACTED]
[REDACTED]

- [REDACTED] [REDACTED] underwent the same pre-employment procedure as other staff and all his paper work was forwarded to HR. [REDACTED] had been checked via UKBA several times and as recent as June 2014. UKBA confirmed he has the right to work and live in the UK. Vinci Park has no reason to doubt [REDACTED] or the paperwork submitted.

3.70 In the statement of 30th July 2014, Vinci Park “vehemently denied” a) knowingly employing any persons without the leave to remain or work in the UK and b) when information did come to light, they had been negligent in exercising their obligations. Vinci Park indicated that as a result of checks during employment, the company identified two individuals with invalid documentation who were subsequently referred to the UK Border Agency. When aware the individuals were ineligible to work and remain in the UK, they were dismissed.

3.71 Vinci Park indicated that in July 2014 they undertook a “full and thorough” audit at Bromley to confirm and verify the identity of all employees and be assured of their eligibility to work in the UK. All employees were required to submit documents confirming their right to live and work in the UK which were checked and copied. Vinci Park HR then corresponded with UKBA to verify residence permits and outstanding applications. Vinci Park were satisfied all employees at the Bromley Contract had been vetted and “are who they say they are”.

3.72 In response to the later allegations submitted in respect of [REDACTED]
[REDACTED] Vinci Park produced two statements for LB Bromley dated 30th September 2014

and 14th October 2014. In the October statement, Vinci Park indicated the two individuals had been checked in line with normal procedures and checked again during the course of the July 2014 audit. Documentation provided by the individuals was checked with UK Border Agency and Vinci Park had no reason to doubt their authenticity.

- 3.73 In response to further enquiries from [REDACTED] (LBB Contracts and Operations Manager) in respect of [REDACTED] Vinci Park produced one further statement on 30th October 2014. The statement indicated Vinci Park HR had submitted a copy of the passport held for [REDACTED] to the UKBA (including the photograph) and obtained confirmation the records matched. As a consequence, Vinci Park had no concerns regarding his right to work in the UK.

c) *Review undertaken by RBG Internal Audit*

- 3.74 RBG Internal Audit has discussed recruitment arrangements with Vinci Park management [REDACTED] and Vinci Park HR, obtained and reviewed HR documentation provided and interviewed several ex-employees in respect of the allegations made in respect of illegal status. With the consent of Vinci Park, RBG Internal Audit also contacted the Home Office to confirm the status of several current and ex-employees. The results are presented below:

i) Vinci Park – Employee recruitment/review process:

- 3.75 During interview, Vinci Park management and HR confirmed arrangements for recruiting new staff and undertaking on-going checks during employment:
- Initial recruitment is undertaken at Bromley (advertisement/ interview). Prospective employees are required to provide the necessary identity documentation indicating a right to work in the

UK (Birth certificates; Passports, Residency Permits, etc.). The documents are copied and forwarded to Vinci Park HR for further verification checks;

- Vinci Park HR confirmed verification checks are undertaken and details of expiry dates for passports, visas, etc. are entered into the Vinci HR system which automatically flags up document renewal dates as appropriate;
- Vinci Park HR indicated the company had not found any incidents of staff being employed with no legal right to work in the UK, at any other company site (only the two instances at Bromley). To date the company had not received any Home Office fine for failing to apply the necessary verification checks and employing staff with no legal right work in the UK;
- In response to the two incidents in 2014, Vinci Park HR “tightened controls” and fostered closer ties with the UK Border Agency. A contact officer [REDACTED] attended the Vinci Park Managers Conference in 2014 to discuss the verification checks to be undertaken by HR and Managers. In consultation with UKBA, Vinci Park HR produced management guidance in this respect. Copies were forwarded to RBG Internal Audit. With UKBA support, Vinci Park HR agreed to undertake a 2 year audit of employee status at each site;
- Vinci Park HR indicated the UKBA would be contacted in relation to any concerns over an employee’s legal status. In response to an enquiry from RBG Internal Audit, [REDACTED] Interim HR Manager indicated:

“Not every employee who is on a visa/work permit details are sent to the Home Office to verify. It is only ones where there are suspicious or where clarification is needed at the time of hire.

In cases where there are queries regarding a potential employee and sometimes that of a current employee, where their eligibility to work has raised questions we will contact the Home Office and supply them with all identity documents – passport and visa, along with any letters from the Home Office that has been submitted. In some cases we will often send copy of a signature to ensure that this matches Home Office records. In addition, we will provide them with any of our own comments to help them provide us with the facts.

Further to this, we also conduct ECS checks on potential employees who have a case outstanding with UKBA and that also of current employees whose current visa end and where they submit a new claim to UKBA to ensure that they do have the eligibility to continue working within the UK. This information is of course kept on file and reviewed on a regular basis.”

- At RBG Internal Audit’s request, Vinci HR accessed several employees’ on-line records and provided evidence of communication with UKBA. Although an evidence trail existed in these cases, this mainly comprised e-mailed correspondence between [REDACTED] of Vinci Park HR and [REDACTED] of UKBA;
- In response to an enquiry from LBB Parking Services in relation to [REDACTED] (Regional Commercial Manager) explained the arrangement between Vinci Park and UKBA: *“In case of confusion I wish to clarify something with you, the ‘service’ we have with UKBA is solely built around a relationship built up by our HR and one officer. The UKBA do not provide any ‘service’ for checking paperwork, you cannot subscribe or engage UKBA to act as an Immigration checking service and as such we cannot ‘quicken’ their pace or press for an answer”.*
- Vinci Park HR confirmed their HR Consultancy partner (Peninsula) indemnify the company against Employment Tribunal losses and

therefore approve the processes/correspondence issued in respect of employee dismissals. The verification was applied to the decisions taken for the staff found to have no legal right to work in the UK.

ii) Review of action taken by Vinci Park:

- 3.76 To date, Vinci Park have identified and dismissed two members of staff for having no right to work in the UK – [REDACTED] and [REDACTED].
- 3.77 In the July 2014 statement, Vinci Park indicated the documentation submitted by [REDACTED] had been reviewed at recruitment by Vinci Park HR and subsequently cleared with UKBA. Despite this, [REDACTED] continued to operate as a CEO under a false identity from October 2011 until February 2014, when Vinci Park received information the documentation was invalid.
- 3.78 RBG Internal Audit requested a copy of the passport submitted to Vinci Park by [REDACTED]. The copy provided contained no relevant passport detail (e.g. photograph, personal detail, expiry date, etc.), only the passport cover and blank page. Details included an enclosed Residence Permit (with photograph) and a copy of a letter from UKBA granting [REDACTED] "Indefinite leave to remain in the UK". Subsequent RBG enquires have shown that whilst the Residence Permit photograph matched the person presenting themselves as [REDACTED] the other documentation was false.
- 3.79 Although not included in the statement, [REDACTED] did inform RBG Internal Audit that it had been [REDACTED] who had provided the information regarding [REDACTED] illegal status, which had resulted in more stringent checks and his eventual dismissal.

- 3.80 Similarly, in the July 2014 statement Vinci Park indicate pre-employment checks had been undertaken on [REDACTED]. However, [REDACTED] had operated as a CEO under a false identity from June 2012 until May 2014, when he failed to renew his passport. In this instance, Vinci Park have indicated the discovery of his false identity appears to have resulted from a routine check generated by Vinci Park HR (the passport presented by [REDACTED] was due to expire on 28th April 2014).
- 3.81 At RBG Internal Audit's request, Vinci Park provided a copy of the passport presented to the company by [REDACTED] together with some associated correspondence. In this instance, Vinci Park had copied the passport details including a copy of a Residence Permit indicating "No time limit on holder's stay in the UK". However, the Residence Permit contains no photograph of the holder and there is no supporting letter from UKBA.
- 3.82 It is not clear when Vinci Park initially contacted [REDACTED] asking him to renew his passport. Vinci Park HR provided an undated letter to [REDACTED] from [REDACTED] indicating he had been contacted in this respect on 14th May 2014. The letter also refers to a meeting [REDACTED] had previously attended with management [REDACTED] on 27th May 2014. In the minutes passed to RBG Internal Audit [REDACTED] indicates his passport had been expired for a week when he was called in and told to renew.
- 3.83 The undated letter sent to [REDACTED] by [REDACTED] states his employment was terminated with immediate effect. [REDACTED] has informed RBG Internal Audit he was suspended on 19th May 2014, the same day he handed [REDACTED] grievance letter to [REDACTED]. The official dismissal date from Vinci Park is recorded as 19th May 2014.

3.84 At the meeting between [REDACTED] and [REDACTED] on 27th May 2014, [REDACTED] questioned why he had been singled out to renew his passport when there were at least 4 other staff whose passports had also expired. [REDACTED] indicated [REDACTED]'s details had been reviewed by "*Kevin who is our immigration officer*" and found to be incorrect, i.e. passport number did not correspond with the Residence Permit serial number and no photograph on the Residence Permit. [REDACTED] also indicated that in addition to [REDACTED] he had received "numerous" e-mails relating to other CEO staff [REDACTED]. The passport expiry dates had been identified by the "People Portal" system at Head Office.

iii) RBG/LBB Internal Audit – Interview of Vinci Park ex-employees (re legal status):

3.85 RBG Internal Audit accompanied by LBB Internal Audit, have interviewed a number of staff dismissed by Vinci Park. i.e.

[REDACTED]

3.86 The above were asked questions regarding the employment of CEO staff with no legal right to work in the UK. A summary of the information provided is presented below:

[REDACTED] confirmed he had no legal right to work in the UK and his real name was [REDACTED] indicated [REDACTED] has e-mailed staff indicating ID checks would be undertaken every 6 months but he had been there 2 years without any checks. [REDACTED] indicated Vinci Park in Bromley had employed other staff with no legal right to work in the UK and management [REDACTED] were aware of this

during their employment, e.g. [REDACTED] has suggested [REDACTED] marry [REDACTED] in order to “legalise his status”. [REDACTED] gave further information relating to some CEO’s he had previously included in written allegations (under the name of [REDACTED]):

- [REDACTED] indicated [REDACTED] had changed his name to [REDACTED] with the assistance of [REDACTED]
- [REDACTED] indicated [REDACTED] had been in the UK illegally for approximately 7 years and had “married” [REDACTED]
- [REDACTED] indicated [REDACTED] did not have the requisite documents and [REDACTED]
- [REDACTED] indicated [REDACTED] knew of his and [REDACTED] indicated it was when [REDACTED] complained [REDACTED] at Bromley, that [REDACTED] called immigration.

[REDACTED] provided information at interview and supplemented this with further e-mails provided shortly afterwards. [REDACTED] indicated he had been informed by [REDACTED] there would be ID checks every 6 months but this had not been done in the 2 years he was there. [REDACTED] indicated [REDACTED] knew staff had no legal right to work in the UK when they were employed.

[REDACTED] indicated in some cases [REDACTED] assisted illegal workers to have a name change, [REDACTED] – changed to [REDACTED]. [REDACTED] indicated [REDACTED] had called immigration because [REDACTED] had become the spokesman for a group of CEO’s objecting to the “unfair” dismissal of another CEO. [REDACTED] also indicated that apart from himself the following had no legal right to work in the UK:

- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED] that [REDACTED] had called the immigration in respect of [REDACTED]. [REDACTED] was asked to produce his passport following an incident with [REDACTED] and was subsequently arrested. Apart from these two CEO's, [REDACTED] was aware that [REDACTED] did not have legal status. [REDACTED] name was changed to [REDACTED] with [REDACTED] knowledge [REDACTED].

[REDACTED] When asked whether he knew of any CEO's employed with no legal status to work in the UK, [REDACTED] indicated he knew of no current employees but was aware of the following ex-employees (CEO numbers quoted):

- [REDACTED] implied [REDACTED] was a friend of [REDACTED] who had informed [REDACTED] at engagement, there could be problems with [REDACTED] papers at the Home Office;
- [REDACTED]
- [REDACTED]
- [REDACTED]

3.87 The allegations put forward at interview largely mirror those previously submitted by [REDACTED], although several new names were included as having no right to work in the UK. To ascertain the level of verification undertaken on employees, RBG Internal Audit had hoped to review the personnel files held by Vinci Park HR during a site visit to their Watford Head Office at the end of

November 2014. However, manual employee files requested were not available for inspection during the visit. Vinci Park HR explained all employee files were being held in off-site storage. Although some personnel details had been scanned into a new Payroll/HR System, the electronic files were not fully complete, in particular for ex-employees.

3.88 Although Vinci Park HR agreed to “download” certain individual documents upon request, this proved too time consuming and not particularly practical. Where possible, Vinci Park HR agreed to provide requested documents by e-mail. Although not ideal, RBG Internal Audit did attempt to request certain documents. However, the process became arduous as constant reminders needed to be sent to elicit a response. Responses were eventually provided but the length of time taken made further enquires impractical.

3.89 Under the circumstances, RBG Internal Audit has been unable to take complete and independent assurance that Vinci Park HR has applied the required level of verification check in respect of all the employees engaged on the Bromley contract. In addition, although RBG Internal Audit attempted to undertake independent checks via the Home Office, data security complications in this area have prevented a full review.

iv) Home Office Checks:

3.90 RBG had hoped to undertake an extensive check of Vinci Park employees (both current and several ex-employees) at the Home Office and this process was commenced early in the investigation, based on the initial staffing list provided to LB Bromley. Initially, RBG Internal Audit had a high level of success obtaining the necessary details from the Home Office. In total, the Home Office provided information in respect of 17 CEO staff.

3.91 However, as the investigation progressed, the Home Office had concerns regarding providing this detailed information to a third party, albeit RBG Internal Audit were acting under instruction from LB Bromley and Vinci Park. As a consequence, the Home Office were not prepared to continue sending information to RBG and indicated these enquiries should be undertaken direct by the employer.

3.92 Although RBG Internal Audit has been unable to obtain more confirmation from the Home Office, in particular with regard to several of the names put forward by the whistle blowers, the information provided to date by the Home Office has revealed the following:

HO responses in respect of staff currently employed by Vinci Park (12 of 17):

- In 3 cases, the Home Office confirmed employees had obtained British Citizenship: [REDACTED].
- In one case, the Home Office indicated Unknown Nationality but the subject did have the right to work in the UK: [REDACTED].
- In 3 cases, the Home Office confirmed there was no trace of the employees and the nationality was unknown. However, the Home Office have indicated there may be valid reasons for this, e.g. a British Citizen born in the UK; a national of the European Economic Area (EEA). The individuals are: [REDACTED].
- In 4 cases, the Home Office confirmed the employees had non-British nationality, but had leave to remain/work in the UK [REDACTED].

- In one case, the Home Office confirmed the employee had [REDACTED]
[REDACTED] RBG Internal Audit queried this employment with Vinci Park HR and were given assurances the case had been cleared by their UKBA contact. At RBG Internal Audit's request, Vinci Park provided a copy of [REDACTED] passport indicating he held [REDACTED]
[REDACTED]

As a [REDACTED] national, [REDACTED] would have the right to work in the UK. However, RBG Internal Audit still had concerns over the passport copy provided, i.e. the photograph(s) were not clear, there were possible amendments and deviations from a standard [REDACTED]. The matter was therefore referred back to Vinci HR with a copy of the Home Office notification and photograph supplied to RBG. Vinci Park HR were advised to investigate further and satisfy themselves over [REDACTED] identity.

Vinci Park HR replied they had asked their UKBA contact to check again and he had responded with *"I've just checked and after a mini panic up, I can confirm there are no restrictions"*. Vinci Park HR indicated the RBG photograph had since been sent to Immigration requesting a further check *"...as it appears that the same department is providing conflicting information"*. Vinci Park indicated they would advise RBG Internal Audit when a response had been provided. To date this has not been forthcoming.

HO responses in respect of ex-employees of Vinci Park (5 of 17):

- [REDACTED] The Home Office confirmed [REDACTED] had become a naturalised British citizen [REDACTED]. Prior to this date [REDACTED] had been granted leave to remain in the UK

effective from [REDACTED] (EEA – Permanent Residence Card Non-EEA National).

During the interview of ex-staff members, several CEOs were shown the Home Office photograph and asked if they recognised the individual. All recognised the photograph as [REDACTED]

- [REDACTED] The Home Office confirmed [REDACTED] had an Issue Document Certifying Permanent Residence – EEA National [REDACTED] As a consequence, [REDACTED] had the right to work in the UK. RBG/LBB Internal Audit were able to confirm the Home Office photograph matched the individual presenting himself at interview.

- [REDACTED]: The Home Office confirmed details in respect of [REDACTED] and provided photographs of two separate individuals. The real [REDACTED] had been granted indefinite leave to remain in the UK on 17th January 2003. However, the Home Office were aware a failed Asylum Seeker had also been using the identity of [REDACTED] This person was known to the Home Office as [REDACTED]

The person presenting themselves at interview matched the Home Office photograph of [REDACTED] although he insisted this was not his real name. The name he provided to RBG/LBB Internal Audit was [REDACTED]

- [REDACTED] The Home Office confirmed that [REDACTED] was granted indefinite leave to remain in the UK on [REDACTED] and became a naturalised British Citizen on [REDACTED] At the RBG/LBB Internal Audit interview, the individual previously employed as [REDACTED] did not match the Home Office photograph. The person did not reveal his real identify, although it is noted his e-mails to LBB have contained the reference [REDACTED]

- [REDACTED] The Home Office confirmed [REDACTED] held the nationality of [REDACTED]. As an EU national [REDACTED] had the right to work in the UK. Several ex-staff called in for interview (who had worked with [REDACTED]) were shown the Home Office photograph of [REDACTED] but none recognised the image.

In the statement to LB Bromley dated 30th July 2014, Vinci Park indicated the normal pre-employment procedure had been applied to [REDACTED] including checks with the UKBA.

RBG Internal Audit referred the Home Office information including the photograph to Vinci Park HR, and requested copies of the documentation accepted at recruitment. Vinci Park HR provided (over a month after the request) a copy of the passport accepted. It is clear the person employed by Vinci Park does not correspond with Home Office records. As a consequence, it appears likely the person employed as a CEO from [REDACTED] [REDACTED] had also been operating under a false identity.

v) Impact of Employment on PCN's issued.

3.93 LB Bromley are yet to obtain Legal opinion on the validity/legality of Penalty Charge Notices issued by Civil Enforcement Officers who have no legal right to work in the UK. Given that Vinci Park employed 3 such CEO's on the Bromley contract, RBG and LBB Internal Audit interrogated the 3sixty system to ascertain the number of PCNs issued during their employ, where payment has been made or currently remains outstanding.. Figures are presented below:

CEO	PCN's Issued	Charge Paid	Charge Outstanding
[REDACTED]	8,555	£357,922.01	£28,706.00

██████████	6,396	£345,245.35	£77,588.00
██████████	6,682	£292,444.01	£8,419.00
Total	21,633	£995,611.37	£114,713.00

3.94 Figures for ██████████ and ██████████ are taken from the beginning of their employment (Nov 2011 and June 2012 respectively). Figures for ██████████ are taken from April 2011 although the CEO began employment in Sept 2006. As a consequence the figures for ██████████ are likely to be higher (PCN's for period Sept 2006 to April 2011 to be included).

iv) LB Bromley Contract Monitoring:

3.95 The information obtained in respect of the current Vinci Park contract was obtained through discussions with the LBB Contracts and Operations Manager [REDACTED] and [REDACTED]. [REDACTED] The Contracts and Operations Manager has responsibility for managing the contract with Vinci Park, which includes reviewing performance and agreeing payment.

a) Contract Specification – Overview:

3.96 RBG Internal Audit were advised Vinci Park have been responsible for delivering the Parking Enforcement contract at LB Bromley since 2000. The current contract began in 2006 and was initially scheduled to run for 5 years but was extended until 2016. It is understood that LB Bromley has Shared Service responsibility for LB Bexley and the new contract to be let in 2016 will cover both Boroughs.

3.97 The current contract covers a number of traffic control areas within the Borough including on and off street parking, car park operation and maintenance, school crossing patrols. With regard to Parking Enforcement, Vinci Parks are required to cover all LB Bromley's on street parking, 35 car parks and 3 multi storey car parks. LB Bromley outlines the specific areas to be regularly patrolled (e.g. town centres), but Vinci Park are responsible for determining individual patrols.

3.98 Vinci Park operate from offices at Letchworth Drive, Bromley, leased from LBB. Vinci Park are required to provide the manpower (Civil Enforcement Officers) and the vehicles, whilst LB Bromley provides all necessary equipment. The issue, collection, storage of equipment and downloading of data is controlled by Vinci Park. LB Bromley retain responsibility for managing the downloaded data and

recovering PCN income. The 3sixty system is used for managing Penalty Charge Notices and Edisix for video recordings.

3.99 Vinci Park invoice LB Bromley monthly in respect of the service provided. Contractual payments are based on a “fixed price” and a variable performance element. For 2014/15 the fixed price was approximately £2.6m + VAT which included all contracted areas (car park maintenance, school crossing patrols, etc.). The performance element is normally applied annually but can be paid six monthly, if performance is positive. The performance element in respect of Parking Enforcement is based on the delivery of 2 Key Performance Indicators:

- The issue of at least 66,000 PCNs in the year;
- Provision of an average of at least 23 CEOs on active patrol on a daily basis (there is an expectation from LBB that Vinci will exceed this figure, i.e. 29 CEOs on daily patrol).

3.100 Although there are 2 other KPIs which relate to staff turnover and training, RBG Internal Audit were informed these are not monitored on an on-going basis and no penalties have been imposed because of any failings in these particular areas. The LBB Contracts Operation Manager indicated Vinci Park are required to provide details of the staff employed on the contract and keep LBB advised of new starters or leavers. However, it is not clear whether this information is regularly provided to LBB Parking Services.

3.101 The performance element is driven by the number of PCNs issued in relation to the annual base line target of 66,000 PCNs. If Vinci Park issue in excess of the target figure, an additional performance payment is released based on the number achieved (up to a maximum of 74,000 PCNs), i.e.

66,001 – 67,000 PCNs issued: Performance pay – £15 per additional PCN;

67,001 – 68,000 PCNs issued: Performance pay – £17 per additional PCN;

68,001 – 74,000 PCNs issued: Performance pay – £20 per additional PCN.

Maximum annual performance pay: £152k

3.102 Similar penalties are applied if Vinci Park fail to issue at least 65,900 PCN's per annum, i.e.

65,999 – 64,900 PCNs issued: Deduction from basic fee – £15 per PCN;

64,899 – 63,900 PCNs issued: Deduction from basic fee – £20 per PCN;

Below 63,899 PCNs issued: Deduction from basic fee – £25 per PCN.

3.103 RBG Internal Audit have been informed none of the performance element will be paid if Vinci Park fail to have an average of 23 CEOs on daily patrol, regardless of the number of PCNs issued. RBG Internal Audit were also informed the daily target of 23 CEOs had originally been specified by Vinci Park in their Contract Method Statement. The figure was reviewed and agreed by LB Bromley based upon their previous experience of what was reasonable coverage for the Borough.

b) LBB – Performance Monitoring:

3.104 The LBB Contracts Operations Manager informed RBG Internal Audit he undertakes regular and independent monitoring of Vinci Park performance. This involved reviewing the number of CEO staff deployed, the number of PCNs being issued and cancelled and agreeing on the defaults which need to be applied. The independent monitoring allows the verification of performance as detailed on the

monthly invoices submitted by Vinci Park. Performance is also regularly discussed with Vinci Park at monthly contract meetings.

Contract Meetings:

3.105 LBB holds monthly contract meetings with Vinci Park to discuss performance. LBB and RBG Internal Audit obtained and reviewed minutes of the meetings held during February to October 2014. The meetings appear to follow a set pattern with regular discussion of the following:

PCN Issues:

- Training for ICES (Imperial Civil Enforcement Solutions);
- Reconciling of PCNs (manual count with the system);
- Changes to HHCs to restrict use via password (July/August/Sept 2014);
- Login passwords for CEOs to be unique (Sept 2014)
- Production and discussion of “default” spread sheets – reasons for cancellations;
- Equipment issues, in particular the number of HHCs available;
- Capability of Vinci Park to correct lines and signs.

Body Worn Videos:

- Issues in respect of vest positions for cameras;
- Equipment issues (batteries)
- Appears to be a regular item with [REDACTED] agreeing to fit cameras in vans.

KPI Training/Retention/Deployment:

- Deployment issues due to CEO sickness;
- Levels of achievement required.

3.106 Although the minutes indicate regular discussion of key issues, the earlier minutes are appeared very standardised, with the repetition of agenda items and proposed action, e.g. it was noted at each meeting [REDACTED] indicated he would investigate the option of having cameras fitted into vans – although this does not appear to have materialised.

3.107 There appears to be increased discussion towards year end however, especially with regard to the introduction of unique passwords for CEOs to use on the Hand Held Computers. RBG Internal Audit were informed both LBB and Vinci Park had mutually agreed not to discuss at the contract meetings, the detail of the allegations received in respect of PCN malpractice.

Performance Review:

3.108 The contract material submitted to RBG Internal Audit suggests Vinci Park should provide the “Parking Manager” with a weekly report detailing the total number of PCNs issued together and cancelled (report to include reasons for cancellation and the names of the CEOs responsible for their issue). There was no reference to these weekly reports during discussions with RBG Internal Audit.

3.109 Until the malpractice came to light, there would have been no apparent reason for the LBB Parking Services to undertake an independent check on the validity of Penalty Charge Notices, i.e. to be assured the CEO numbers recorded on the PCNs were accurate based on the evidence from Body Worn Videos. Vinci Park have indicated they now intend to undertake their own daily checks in this respect and RBG Internal Audit recommend LBB Parking Services regularly verify this check is being applied.

3.110 RBG Internal Audit were advised a report of PCN activity is produced by Vinci Park for the monthly contract meetings and copy of the report March 2014 was provided. The report included details of daily CEO deployment and the number of PCNs issued (monthly and year

to date). However, there was no information in relation to PCN cancellations or the actual CEOs responsible for issuing PCNs.

3.111 RBG Internal Audit were informed that the LBB Contracts and Operations Manager (COM) regularly reviews the data downloaded to 3sixty and produces a number of spread sheet reports for monitoring purposes (information used at contract meetings). On-line reports were shown to RBG Auditors during their site visits. The COM uses the reports to independently identify the number of CEOs deployed on a daily basis and the number of PCNs issued. The information is then used to verify the monthly invoice submitted by Vinci Park. The COM prepares a preparatory “pro-forma” invoice which is sent to Vinci Park in advance of their invoice submission. The submitted Vinci Park invoice is checked against the previous LBB submission and any variations/defaults are discussed.

3.112 As part of the process for verifying payment, the Contracts and Operations Manager will identify PCNs which should be discounted. Under the current contract Vinci Park are allowed a 24 hour window to cancel any PCNs they themselves identify as being issued incorrectly. Thereafter, the PCNs are included in the Vinci Park submission and are subject to a default/ penalty if found to have been issued incorrectly.

3.113 Incorrect issuing of PCNs and payment defaults are normally attributable to a *“Failure to properly attempt to serve a PCN in accordance with the provisions of the 1991 Road Traffic Act”* or *“Failure to comply with the Council’s Traffic Management of Off-Street Parking Orders”*. In most of these instances, the issuing of a PCN has been queried by the vehicle owner and the reasons why a PCN should not have been issued upheld.

3.114 The Contracts and Operations Manager calculates the number of CEOs operating on a daily basis. For this purpose, there is no calculation of hours on duty, i.e. a CEO who is on duty for an hour and only issues one PCN, would count towards the 23 daily target.

3.115 The LBB Contracts Operation Manager has provided details of payments made to date and the variables due. RBG Internal Audit has been informed that because of the current allegations and concerns, LBB Parking Services are currently withholding approximately £80k of performance pay relating to 2013/14 and have to date only released 50% of the 6 month figure due for 2014/15 (£13,375).

3.116 Following the Vinci Park investigation and confirmation of PCN malpractice, the LBB Contracts Operations Manager appears to have written to Vinci Park in July 2014 disputing payment in respect of the Key Performance Indicators for 2013/14. The COM indicated the malpractice had impacted on the overall CEO deployment figure (23 CEOs deployed daily) and as a consequence, Vinci Park were not entitled to any of the performance payment for 2013/14. The COM originally requested the return of the performance pay already released in September 2014 (£29k) and indicated there needed to be a similar assessment for the performance pay relating to 2014/15.

3.117 In a statement provided to LBB on 27th July 2014, Vinci Park disagreed the KPI in respect of deployment was applicable. Vinci Park accepted that *“unacceptable practice had occurred”* but indicated the performance pay deduction should be in respect of the number of PCN's credited to the two officers responsible for the malpractice [REDACTED] and [REDACTED]. In this respect Vinci Park had estimated the maximum number of PCN's credited to the two CEOs in 2013/14 was 411.

3.118 LBB Internal Audit obtained reports from 3sixty and the previous Legacy system in respect of PCN's credited to TL73 and CEO66. The reports indicate significantly more PCNs were credited to the CEO's in both 2013/14 and 2014/15, e.g.

PCN's Credited	[REDACTED]	[REDACTED]	Total
2013/14	779	91	870

2014/15 (Apr– June 14)	313	26	339
Total	1,092	117	1,209

3.119 Vinci Park felt that even after deducting this number of “compromised” PCN’s, the total number issued still exceeded the performance target required for the year, i.e. after defaults Vinci Park had issued approximately 72,000 PCN’s against a minimum performance target of 66,000 PCNs. Vinci Park also indicated that as the malpractice had not occurred during 2014/15, there should be no impact on the level of performance pay due.

3.120 Reducing the level of PCNs issued by 411 would have minimal impact on performance related payment (£8,220). Reducing the performance pay using the figures above would equate to £24,180. However, Vinci Park recommended LB Bromley retain a larger sum than this, 50% of the total performance pay for 2013/14, i.e.

- Total performance pay due in respect of approx. 72,000 PCN’s = £109k
- Proposed 50% to be retained by LBB = £55k;
- Advance payment already released in September 2013 = £29k;
- Outstanding 2013/14 therefore payment due to Vinci Park = £26k.

3.121 In response to the Vinci Park statement, the LBB Contracts Operation Manager contacted Vinci Park indicating he accepted their *“reassurance that PCN’s were only issued to vehicles that were in contravention”* and agreed that the company could retain the £29k payment made in September 2013 as full and final settlement of the 2013/14 performance pay. The LBB Contracts Operation Manager felt that balance of £80k should continue to be retained by LB Bromley. To date, it is not known whether this proposal has been formally accepted.

4. Audit Recommendations

- 4.1 LB Bromley should obtain immediate Legal advice regarding the validity/legality of the PCNs previously issued, where it is known the incorrect Civil Enforcement Officer identity number has been stated (the PCNs issued as a result of the malpractice). LB Bromley should ascertain whether the PCNs issued in this regard are compliant with the requirements of the Traffic Management Act 2004.
- 4.2 LB Bromley should obtain immediate Legal advice regarding the validity/legality of the PCNs previously issued, where it is known the relevant Civil Enforcement Officer had no legal right to work in the UK. LB Bromley should ascertain whether the PCNs issued in this regard are compliant with the requirements of the Traffic Management Act 2004.
- 4.3 Depending on the Legal advice obtained, LB Bromley Senior Officers and Members will need to decide whether a formal repayment policy should be applied in those cases where drivers have already paid a penalty charge to LB Bromley. If so, LB Bromley will need to fully identify and cost all the erroneous PCNs previously issued and identify those where payment has been received.
- 4.4 Depending on the decision taken above, LB Bromley should obtain Legal advice regarding Vinci Park liability under the terms and conditions of the contract, in relation to Penalty Charge Notices which been issued incorrectly but payment has subsequently been received.
- 4.5 LB Bromley to obtain Legal advice regarding the level of performance related pay which can be legally retained from Vinci Park (or released), under the terms and conditions of the current contract.

- 4.6 LB Bromley to seek assurances from Vinci Park that they have fully investigated the level of “conflicting information” being provided by the Home Office and they have adopted a formal process for confirming the identity of Civil Enforcement Officers. Vinci Park to provide LB Bromley with details of the formal process adopted in this respect and LB Bromley to judge whether this is sufficient.
- 4.7 LB Bromley to seek further assurances from Vinci Park in respect of the Civil Enforcement Officers currently employed on the Bromley contract, to be assured of their right to work in the UK. Vinci Park to pay particular attention to the current employees highlighted in this report. LB Bromley to be immediately notified if any instance is found where a CEO was subsequently found to have no right to work in UK.
- 4.8 LBB Parking Services to be provided with detailed and regular personnel information in respect of the Civil Enforcement Officer staff employed by Vinci Park on the Bromley contract. The information to include the names of the individual Civil Enforcement Officers engaged and confirmation of an identity check with the Home Office. Thereafter, Vinci Park to advise LBB Parking Services of all new starters and leavers.
- 4.9 LBB Parking Services to ensure Vinci Park have introduced sufficient controls to ensure the accuracy of Penalty Charge Notices information. In particular, there is a regular check to ensure the video evidence which supports the Civil Enforcement Officer recorded on the PCN. LBB Parking Services to undertake regular monitoring to be assured the controls are being regularly applied.
- 4.10 LBB Internal Audit to undertake a review of the contract monitoring arrangements with regard to the Vinci Park contract, to be fully assured a) there is a sufficient level of independent review of contractor performance and b) the payment process is subject to an appropriate level of internal check and review.

- 4.11 LBB Internal Audit to ensure that LBB Parking Services in particular, are fully aware of the Council's Financial Procedures in relation to the reporting of whistleblowing allegations, i.e. that LBB Internal Audit are notified at the earliest opportunity.

Appendix A



TERMS OF REFERENCE

**ENVIRONMENT AND COMMUNITY SERVICES
INDEPENDENT REVIEW OF THE PCN INVESTIGATION 2014-15**

OCTOBER 2014

INVESTIGATION OBJECTIVES

To provide independent assurance to management that the investigation reports provided by Vinci Park and LBB Parking Services are accurate, representative and timely.

To provide independent assurance that the PCN contract with Vinci Park is subject to robust controls, specifically for recruitment of operatives and the procedures to issue PCNs to counter the allegations raised by the whistle blower.

KEY ISSUES TO BE REVIEWED BY THE INVESTIGATOR

Alleged Illegal status of workers employed by Vinci Park

- Adequacy of Vinci Park personnel procedures for recruitment and ongoing reviews
- Response to the allegations received – Vinci Park and Bromley
- Verification of the Vinci Park investigation reports
- Contractor/Client working relationship – compliance to contract and availability of information in a timely manner

Malpractice

- Adequacy of Vinci Park practices and procedures for issuing PCNs
- Verification of LBB Parking investigation report and action taken –provide an overview of the work undertaken by Internal Audit
- Verification of the Vinci Park investigation report and action taken

WORK TO BE UNDERTAKEN

The independent investigator will have access to all information gathered by Vinci Park, LBB Parking and Bromley Internal Audit to date. Bromley officers in Parking, Internal Audit and Legal will be available to work with the investigator as required. Similarly Vinci Park officers will be requested to be available for the purposes of the investigation.

The investigator will not be expected to undertake work on the potential numbers and values of PCN's affected by illegal status and malpractice issues but can quote figures extracted by in house investigations. Furthermore the investigator will not be expected to comment on legality issues.

REPORTING

Reporting and Issuing of Draft and Final Reports:

Nigel Davies, Executive Environment and Community Services

Paul Symonds, Assistant Director, Transport and Highways

Mark Bowen, Director of Corporate Services

Peter Turner, Director of Finance

Luis Remedios, Head of Audit

██████████ Vinci Park

Appendix B: List of Vinci Park personnel

Vinci Park Management	Position
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Vinci Park – Civil Enforcement Officers		
Name	CEO No.	Employment status
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Vinci Park – Civil Enforcement Officers		
Name	CEO No.	Employment status
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

