



City of Westminster

# Cabinet Member Report

<b>Meeting or Decision Maker:</b>	Cabinet Member for City Management and Air Quality
<b>Date:</b>	22 March 2023
<b>Classification:</b>	General Release
<b>Title:</b>	New Kerbside Permissions' Charging Model
<b>Wards Affected:</b>	All
<b>Policy Context:</b>	This proposal aligns with the Fairer Economy and the Fairer Environment elements of the Fairer Westminster strategy. By discouraging bay suspensions and other kerbside permissions from occurring on Traffic Sensitive Streets, it will help make busier Westminster streets more accessible. It will also aid traffic flow and congestion and thus positively affect air quality.
<b>Key Decision:</b>	This report involves a Key Decision due to its potential impact on revenue and communities.
<b>Financial Summary:</b>	The proposed change to the charging model for Kerbside Permissions aims to incentivise behaviours that will lead to improved traffic flow and air quality. Based on modelled assumptions this could generate an additional £0.950m income per year.
<b>Report of:</b>	Jonathan Rowing, Head of Parking Services

## **1. Executive Summary**

- 1.1 This report seeks to amend the way the City Council (The Council) charges for parking-related kerbside permissions, i.e. bay suspensions, yellow line dispensations and special permissions, and recommends conversion to a charging structure based on Traffic Sensitive Street (TSS) classification, with the aim of encouraging permissions to take place on non-TSS. Approximately 43% of streets where parking restrictions are enforced by the Council are classified as 'traffic sensitive'.
- 1.2 The current tiered charging structure has differential charging dependent upon parking zone, with higher charges in four 'premium' zones compared to three 'standard' zones. The differentiation would therefore change from being zonal to being TSS/non-TSS.
- 1.3 The proposed charging structure would still continue to offer discounted charges to London Joint Utility Group (LJUG) and broadband providers, as well as offer concessions on TSS for resident domestic property moves.

## **2. Recommendations**

- 2.1 That the Cabinet Member for City Management and Air Quality approves the following –
  - The re-modelling of the charging regime for kerbside parking permissions on the basis of Traffic Sensitive Streets (TSS) criterion, as detailed in section 5.3 of this report.
  - That LJUG (utilities) and broadband laying companies are exempted from the TSS charging model and continue to be afforded discounted charges.
  - That current kerbside permissions terms and conditions remain but concessions be given to residents carrying out domestic removals.
  - That the new charging model be implemented from 1 September 2023 or an appropriate date thereafter to allow for the bedding in of a new Parking technology service provider contract which is scheduled to begin on 1 April 2023.

## **3. Reasons for Decision**

- 3.1 The recommendations of this report aim, as far as is possible, to discourage kerbside permissions from being booked on streets classified as TSS and to encourage their occurrence on non-TSS which may be better able to accommodate kerbside being taken out of commission, with the expected result being a positive effect on congestion and air quality. Whilst it is acknowledged

that in many instances it may not be feasible for an applicant to 'choose' the street in which they require a permission, the proposal also aims to minimise duration and encourage the work that must take place on a TSS to be completed in as timely a fashion as possible.

- 3.2 The current kerbside permissions charging regime differentiates charges by parking zone only, but this is a blunt mechanism and doesn't allow for the nuance of the proposed TSS model. The current model does not for example account for quieter streets in the 'premium' zones, nor for streets where traffic-flow pressures are high within wider 'standard' zones. The proposal is accordingly based upon the status of the street itself, rather than the wider parking zone in which it is located. This decision therefore would enable a fairer and more comprehensive method of charging for permissions, and for the Council to better manage demands on its kerbside and to perform its statutory function of encouraging the safe and expeditious movement of traffic and the provision of suitable and adequate kerbside parking facilities for all road users.
- 3.3 Adoption of the TSS standard would bring Parking into line with the categorisations used elsewhere in the City Highways Department for Streetworks Permits, the issuing of Temporary Traffic Orders, and crane/scaffold licences.
- 3.4 This TSS proposal would align with wider Parking Policy Review objectives and will help deliver and build on the Council's Greener City and Climate Emergency Declaration commitments. Furthermore, the recommendation aligns with the City Council's Fairer Westminster policy objectives, in particular the Fairer Environment pillar due to its anticipated positive effect on congestion and air quality.

#### **4. Background, including Policy Context**

- 4.1 The Council can suspend its parking bays for a number of reasons including, but not limited to: the facilitating of loading/unloading, building, utility and highway works, domestic and business purposes, and for facilitating special events. Similarly, the Council is able to grant dispensations for vehicles to use single yellow lines to load/unload where standard loading exemptions would not suffice, to carry out work or even to park. Additionally, where a vehicle requires access to the kerbside at a location where or at a time when this is not normally permitted (e.g. where and when a loading ban is in force), the Council can consider a request to grant 'special permission' to park, and will generally permit this if it is deemed acceptable.
- 4.2 The Council is able to charge for the suspension of its bays and for permissions on other areas of its kerbside, even for locations where no parking charge usually occurs and for times outside of normal controlled hours. The charges are generally at the Council's discretion, although they should have regard to the cost of providing and administering the service and must of course be fully justifiable from a traffic and kerbside management perspective. They cannot be set purely and intentionally as a means to raise revenue, although the

generation of income is legitimate if it is merely incidental to the setting of charges for genuine traffic and kerbside management reasons. Suspension charges are not linked to parking tariffs or 'lost' income (i.e. the revenue that may have been generated were a bay to be operational and not suspended) and the Council is prohibited from linking them in this way under the relevant legislation. Furthermore, although the charges should have regard to the cost of providing and administering the service, there is no necessity for suspension charges to be solely based on cost recovery, but can also include elements of demand restraint.

- 4.3 As well as bay suspensions, the Council is able to charge for other kerbside permissions and consents on the same basis, such as yellow line dispensations and special permissions.
- 4.4 The current kerbside permission charging regime has been in effect since November 2015 and is a tiered charging structure with charges increasing incrementally by duration. The purpose of this is to discourage and deter unnecessary permissions; to attempt to reduce and minimise the number of parking bays and length of kerbside being taken out of commission; and, where suspensions must take place or permissions need to be granted, to reduce and minimise the length of time for which bays are and kerbside is taken out of commission.
- 4.5 For bay suspensions, we currently apply two different price structures for dependent upon location: Parking Zones A, C and D are subject to 'standard' charges and zones B, E, F and G are subject to 'premium' charges. LJUG (utilities) suspensions and broadband providers' suspensions are charged at concessionary rates and certain other specific purposes (e.g. highways works by FM Conway, arboriculture works by Gristwood & Toms, security-related suspensions etc) are granted free of charge.
- 4.6 Yellow line dispensations and special permissions follow a similar charging pattern but do not differ by zone. Charges last increased in February 2023 as part of the Council's 2022 Fees and Charges Review. Before that they increased in April 2022 on the basis of the 2021 Review.
- 4.7 The full set of current kerbside permissions charges are detailed in the table in paragraph 5.3 below.
- 4.8 The Council has the power contained under section 64 of The New Roads and Street Works Act 1991 to formally designate certain streets as 'traffic sensitive'. This legal definition is based on Department for Transport codes of practice and is used by the Council's Highways Department to impose stricter controls and/or higher charges on works or street activities being undertaken in streets classed as such. Parking Services is looking to emulate this model and differentiate kerbside permission charges between traffic sensitive and non-sensitive streets.
- 4.9 Adoption of this standard would bring Parking into line with the categorisations used in the Highways Department for Streetworks Permits, and the issuing of

Temporary Traffic Orders and crane/scaffold licences. Furthermore, this proposal would align with wider Parking Policy Review objectives and will help deliver and build on the Council's Fairer Westminster and Climate Emergency Declaration commitments.

- 4.10 854 Westminster streets are currently classified by the Council as 'traffic sensitive', which account for 43% of those streets where 'on-street' parking is enforced in Westminster. A list of those streets are appended to this note as appendix B. The number was increased from 622 in March 2022 upon reclassification by the Highways dept. The original 622 figure accounted for 31% of streets enforced in Westminster.
- 4.11 In 2021/22 we granted 32,710 bay suspensions, 2,164 yellow line dispensations and special permissions, and 312 skip licences.
- 4.12 Data from 2019/20, the last full year pre-Covid, showed that 65% of bay suspensions were booked on TSS rather than 35% on non-TSS. It is difficult to know when, or even if, behaviour will return to pre-Covid levels, but subsequent 2021 TSS/non-TSS ratios were 59%:41%.

## **5. Proposals**

- 5.1 The recommendation of this report is to operate higher charges on TSS than on non-TSS for all kerbside permissions. This would be inclusive of all suspension types, except for LJUG (utilities) and broadband providers, who would retain their concessionary charges.
- 5.2 Those permissions currently granted free of charge would remain so and so as to not unfairly penalise residents we would look to operate certain concessions on TSS streets, such as for domestic moves, for example just charging the base (non-TSS) rate.
- 5.3 To simplify the charging mechanism we would propose abolishing the Standard and Premium differential suspension charges and apply one base charge (at the current standard rate) across the city, with a TSS uplift. We would also replicate this for other kerbside permission charges. As a result of the Council's Fees and Charges Review 2022, certain kerbside permissions charges increased on 27 February 2023. The charges that would apply are as follows –

Permission Type	Criteria	Premium charges (zones B/E/F/G)	Standard charges (zones A/C/D)	TSS % Uplift on standard charges	Illustrative Effect of TSS uplift on current charges	
					TSS (854 streets)	Non-TSS (1,135 streets)
Bay Suspension Day 1	p/space	£55.00	£51.00	+20%	£61.00	£51.00
Bay Suspension Days 2-5	p/space, p/day	£59.00	£55.00	+20%	£66.00	£55.00
Bay Suspension Day 6-42	p/space, p/day	£90.00	£84.00	+20%	£100.00	£84.00
Bay Suspension Day 43 onward	p/space, p/day	£121.00	£112.00	+20%	£134.00	£112.00
LJUG suspensions Days 1-3 inclusive	p/space	£70.00		0%	£70.00	£70.00
LJUG suspensions Day 4 onwards	p/space, p/day	£55.00		0%	£55.00	£55.00
LJUG suspensions – Day 22 onwards (pre-arranged ‘major works’ only)	p/space, p/day	£9.00		0%	£9.00	£9.00
Broadband Provision-related suspensions	p/space, p/day	£9.00		+0%	£9.00	£9.00
Yellow Line Dispensation Day 1	p/vehicle	£51.00		+25%	£63.00	£51.00
Yellow Line Dispensation Days 2-5	p/vehicle, p/day	£55.00		+25%	£68.00	£55.00
Yellow Line Dispensation Day 6 onwards (YLD would normally not exceed 7 days in duration)	p/vehicle, p/day	£84.00		+25%	£105.00	£84.00
Special Permission Day 1	p/vehicle	£76.00		+25%	£94.00	£76.00
Special Permission Day 2 onwards	p/vehicle, p/day	£84.00		+25%	£105.00	£84.00

5.4 The percentage uplift we may wish to impose on TSS is at our discretion, as long as this can be justified on a traffic management basis. Within Highways, works on TSS are subject to a range of significant uplifts in charge –

Highways Activity	Traffic Sensitive Street % Uplift Applied
Road Closure Temporary Traffic Order	17-50%
Emergency Road Closure	25%
Crane Licence	50%
Temporary Structure Licence	100%

5.5 As suspensions occur within kerbside bays, it is arguable that the greater disruption to traffic flow is caused by yellow line dispensations and other permissions which occur outside of parking bays. We therefore propose imposing differential TSS-related charges with bay-related permissions being charged a lower percentage uplift than non-bay activity. It is therefore proposed that bay-related activity be subject to a 20% TSS uplift and non-bay-related

activity to 25%. These levels are deemed appropriate to encourage activity to take place away from the TSS, without being excessive.

## 6. Financial Implications

6.1 Parking Services have an annual revenue income budget of £21.030m in respect of suspensions, and £0.250m in respect of dispensations.

6.2 From the table of proposed charges in paragraph 5.3 above, the following comparisons to the current kerbside permissions charging structure can be made:

Current Zone Type	New Zone Type	Change to Charge
Standard	TSS	20% Increase
Standard	Non-TSS	No change
Premium	TSS	10.8% Increase
Premium	Non-TSS	7.6% Decrease

6.3 A large proportion of suspensions income is driven by a relatively few large suspensions, often for large construction projects. These and many other types of suspensions are by their nature non-repeating events, making it difficult to predict as an income stream and thus difficult to model with any certainty the likely financial impact of such a proposal.

6.4 Suspensions data from the most recent four quarters has been analysed and different scenarios have been modelled for the potential increases in efficiency of kerbside permission usage. This had indicated that the proposed charging model might generate an additional £0.950m income annually.

6.5 No proposals have been made in the Medium-Term Financial Plan in respect of this proposal given the levels of uncertainty around the potential for additional income, however data would continue to be monitored and considered for subsequent budget setting processes.

## 7. Legal Implications

7.1 Section 122 of the Road Traffic Regulation Act 1984 (RTRA) sets out the considerations which must be taken into account by the Council in exercising its powers under the Act, including in relation to parking. Section 122 states:

*(1) It shall be the duty of every local authority upon whom functions are conferred by or under this Act so to exercise the functions conferred on them by this Act as (so far as is practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway, or, in Scotland the road.*

*(2) The matters referred to in subsection (1) above as being specified in this subsection are—*

- (a) *The desirability of securing and maintaining reasonable access to premises;*
- (b) *The effect on the amenities of any locally affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;*
- (bb) *The strategy prepared under Section 80 of the Environment Act 1995 (national air quality strategy);*
- (c) *The importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and*
- (d) *Any other matters appearing to the local authority to be relevant.*

- 7.2 The provisions of Section 122 were considered in the leading case of *Cran vs London Borough of Camden*, in which residents of Hampstead challenged the designation of their area as a controlled parking zone. Even though section 122(2)(d) allows a local authority to take into account any other matters appearing to it to be relevant, the High Court was very clear that this did not allow LB Camden in setting the charges for parking to take account of extraneous financial matters such as the aim of generating income for other Council projects, however worthy such projects might be as the RTRA 1984 is quite specific as to how the Council should utilise the monies. As long as the *Cran* case remains the law, the Council cannot set or increase its charges with the motive of generating income though the generation of income is legitimate if it is merely incidental to the setting of charges for other reasons such as traffic restraint.
- 7.3 The Local Authorities (Transport Charges) Regulations 1998 permits local authorities to charge for the suspension of their parking bays and for various consents, permissions etc. Whilst the charges can generally be at the local authority's discretion, regard must be given to the cost of providing and administering this function. The Council's traffic management duties under both the RTRA 1984 and Traffic Management Act 2004 mean that the charging regime should also have regard to demand management.
- 7.4 Government guidance, issued in 1998 at the same time as the Regulations, advised that local authorities should not charge for loss of income, as opposed to charging for their reasonable expenses. The Council must exercise all the powers conferred upon it by statute for a proper purpose, and recovering lost income per se would not be a proper purpose. Regulation 4 does not limit the Council to charging merely what it costs to deal with suspension applications as the Council can legitimately have regard to its duties under section 122 of the RTRA 1984, as detailed above.
- 7.5 In terms of charging for special permissions, the legal power to charge for exemptions from restrictions and prohibitions in traffic orders is found in item 1 of Table 2 in the Schedule to the 1998 regulations, which allows a local authority to charge for considering an application for an exemption "from any prohibition or restriction imposed by the order on the stopping, parking, waiting, loading or



unloading of vehicles on a road". This covers applications for exemptions pursuant to Article 14 of the waiting and loading Traffic Management Order (TMO) in relation to furniture removals and other exceptional loading or unloading.

- 7.6 None of the proposed changes necessitate any amendments to the Council's Traffic Management Orders.
- 7.7 The Council has the power contained under section 64 of The New Roads and Street Works Act 1991 to formally designate certain streets as 'traffic sensitive'.

## **8. Carbon Impact**

- 8.1 A Carbon Impact Assessment is not possible for this proposal as it merely involves a change to the charging regime for parking-related kerbside permissions. Whilst the objective of the proposal is to positively affect congestion and air quality on streets deemed as traffic sensitive, this is impossible to quantify.

## **9. Equalities Implications**

- 9.1 The Cabinet Member for City Management and Air Quality's attention is drawn to the Public Sector Equality Duty contained under section 149 of the Equality Act 2010. This places a general duty on the Council when exercising its functions and the making of decisions (in this case the re-modelling of the charging regime for kerbside parking permissions on the basis of TSS criterion) to have regard to the need to eliminate discrimination, harassment, victimisation, or other prohibited conduct; advance of equality of opportunity and foster good relations between person who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination.
- 9.2 A completed Equalities Impact Assessment is attached as Appendix C. No significant impacts on any protected groups have been identified as a result of these proposals.
- 9.3 The Human Rights Act 1998 imposes a duty on the Council as a public authority to apply the European Convention on Human Rights; as a result the Council must not act in a way which is incompatible with these rights. The most important rights for highway and traffic purposes are Article 8 (respect for homes); Article 6 (natural justice) and Article 1 of the First Protocol (peaceful enjoyment of property). The making of the charging regime in respect of the above proposals are not anticipated to engage or breach the provisions of the Human Rights Act 1998.

## 10. Consultation

- 10.1 Kerbside permissions charges do not constitute part of the Traffic Management Orders so the Council is under no statutory obligation to carry out any formal consultation exercise in amending or increasing kerbside permissions charges.
- 10.2 Charges and scheme terms and conditions are clearly advertised on the relevant pages of the Council's website and on the physical application forms. A communications campaign advising of the charging structure changes and any relevant pricing increases and policy changes will be undertaken prior to any proposed implementation date. Web content, application forms and booking confirmation letters/emails and invoices will be amended to make reference to the new charging structure and associated fee policy changes. A Frequently Asked Questions section will be posted on the Council's website so people have access to a platform providing an explanation of why the changes are being implemented. The matrix of charges, as detailed in paragraph 5.3 above, will be published online and on the appropriate application forms and literature.
- 10.3 The Council will communicate relevant changes directly to LJUG and broadband providers prior to their implementation.
- 10.4 As the proposals apply city-wide, no specific Ward Councillor consultation will take place in advance.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**

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## APPENDICES

- Appendix A – Other Implications
- Appendix B – Westminster Streets Classified as 'Traffic Sensitive' (as Defined by DfT Codes of Practice in Relation to S.64 of The New Roads and Street Works Act 1991)
- Appendix C – Equalities Impact Assessment

## BACKGROUND PAPERS

None.

*NB: For individual Cabinet Member reports only*

For completion by the **Cabinet Member for City Management and Air Quality**

**Declaration of Interest**

I have <no interest to declare / to declare an interest> in respect of this report

Signed:  Date: 21/03/2023  
NAME: **Cllr Paul Dimoldenberg**

State nature of interest if any:

*(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled **New Kerbside Permissions' Charging Model** and reject any alternative options which are referred to but not recommended.

Signed: 

Cabinet Member for City Management and Air Quality  
21/03/2023

Date: \_\_\_\_\_

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant

considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.