



City of Westminster

Cabinet Member Report

Decision Maker:	Cabinet Member for City Management & Air Quality
Date:	24 October 2022
Classification:	General Release
Title:	Admin Charges for Unauthorised Parking Suspensions
Wards Affected:	All
Policy Context:	<p>The proposal is aligned with the Fairer Westminster vision, as it aims to address the current imbalance whereby companies who deliberately try to avoid paying for a parking suspension, do not incur any additional costs compared to those whose suspensions are authorised by the Council. The proposed new admin charge will redress this and ensure the additional administrative costs borne by the Council are paid for by the offending parties.</p>
Key Decision:	Non key
Financial Summary:	<p>The proposed introduction of a new admin charge for unauthorised suspensions is intended to encourage compliance, with the aim of reducing the volume of unauthorised suspensions that occur. The new charge could generate an estimated £28,500 per year. Whilst it is difficult to assess what the scale of change in customer behaviour will be, it is possible that income may be lower than estimated, if there is a significant reduction in the overall volume of unauthorised suspensions.</p>
Report of:	Amy Jones, Director of Environment

1. Executive Summary

- 1.1. Unauthorised parking suspensions can occur whenever parking spaces are occupied or blocked to vehicles, without prior Council authorisation, e.g., for utility works, street works, construction, filming etc. This includes situations where authorised suspensions have started earlier than agreed, overrun, or occupied extra spaces, or where space has been occupied without any notification (or payment) to the Council.
- 1.2. Parking Services actively take steps to identify unauthorised suspensions and then pursue them retrospectively. During the two-year period from 2019/20 to 2020/21, the Council dealt with 2594 verified unauthorised suspensions and investigated 5288 potential cases.
- 1.3. Currently, unauthorised suspensions do not incur any additional charges (other than the standard £20 short notice suspension booking fee), over and above the normal cost of a suspension had it been authorised and paid in advance. Whilst members of the London Joint Utilities Group (LJUG) lose any retrospective entitlement to their usual discounted rates, again there are no additional charges or penalties applied.
- 1.4. As there is no financial penalty, for many companies, especially non utilities, there may be less incentive to book and pay for a suspension in advance through the correct channels, if they feel they can occupy parking spaces without the need for suspension signage to be installed on street.
- 1.5. Unlike parking contraventions there is no legal basis to implement any sort of penalty charge for unauthorised suspensions. However, Parking Services can legally apply an administration charge for the retrospective work to attempt to recoup the unpaid charge(s), in addition to the standard cost of a suspension. Any such charge must be fully justifiable, from the perspective of the cost of providing this additional service.
- 1.6. The purpose of this report is to obtain approval to introduce a new admin charge, based on the operational costs of the unauthorised suspension service, with the aim of increasing compliance and reducing the number of unauthorised suspensions that occur on street.

2. Recommendations

- 2.1. That the Cabinet Member for City Management & Air Quality approves the following:
 - The introduction of a £70 admin charge for each unauthorised parking suspension.
 - That the new admin charge will replace the existing short notice charge, except for unauthorised suspensions involving companies who are members of LJUG.

LJUG members will continue to pay the £20 short notice fee and unauthorised suspensions will be charged at the standard (non-discounted) rates.

- That the new admin fee is implemented from the commencement of the new Parking back-office contract, scheduled to be let in April 2023, or an appropriate date thereafter.

3. Reasons for Decision

- To provide a financial means to deter companies from installing unauthorised parking suspensions.
- To help manage the impacts from unauthorised suspensions, for all kerbside users including residents.
- To ensure additional costs incurred by the Council for the provision of the unauthorised suspensions service, are recouped.
- To ensure LJUG members are not disproportionately disadvantaged by the introduction of this new admin charge.
- To align the implementation with the launch of a new back-office system in April 2023, to minimise implementation costs and complexity.

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 removals; and for facilitating special events.
- 4.2. The Local Authorities (Transport Charges) Regulations 1998 permits local authorities to charge for the suspension of their parking bays. 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 the Road Traffic Regulation Act (RTRA) 1984 and Traffic Management Act (TMA) 2004 mean that the charging regime should also have regard to demand management. For the benefit of all road users, residents, visitors, workers and those running a business, the Council especially seeks to discourage unauthorised suspensions which are installed without permission or any advance warning.
- 4.3. Parking Services' current contractor provides an end-to-end enforcement service for unauthorised parking suspensions, which includes the provision of dedicated on-street Parking Marshals, who identify potential unauthorised suspensions on street and report these to back-office staff, who in turn investigate and engage with companies to ensure appropriate payment is made and suspension signage is installed on street, as necessary. This service is charged for separately to the

City Council by the contractor, over and above the cost for the provision of standard suspensions services.

4.4. Proposed new admin charge:

- Analysis has shown that 73% of unauthorised suspensions involve just one or two parking spaces, whilst in 72% of cases the suspension is in place for seven days or fewer. Additionally, the actual admin work involved for unauthorised suspensions does not generally vary dependent on the size and duration of the suspension. To maximise the financial deterrent, it is proposed that a one-off fixed charge will be applied to each unauthorised suspension, regardless of its size and duration.
- Analysis of previous years' data, covering both the on-street and back-office elements of the current service, has determined that the average admin cost for pursuing one unauthorised suspension is approximately £50.
- The rounded cost of pursuing one unauthorised suspension is estimated at £50. This includes both back-office and on-street activities:
 - £23.15 back-office cost, calculated following a time-and-motion study which considered all relevant activities, including logging a lead, customer contacts, booking on the system, and sending follow-up correspondence.
 - £26.47 on-street cost, estimated using the cost charged by NSL for delivering the unauthorised suspensions service prior to the current profit share model, and the average number of leads pursued in the last two financial years.
- In addition to the estimated £50 cost outlined above, the proposed new charge will incorporate the existing £20 short notice fee, currently applied to all unauthorised suspensions. Therefore, it is proposed that the admin charge will be set at £70.
- It is proposed that LJUG members will not be subject to the new admin charge. Currently, when they are pursued for unauthorised suspensions, this is already done so at the full rate, so they are already disadvantaged by the removal of the LJUG discount concession. Also, due to the nature of their work, their unauthorised suspensions may occur due to them carrying out emergency or reactive works.

5. Financial Implications

- 5.1. In 2021/22, the current £20 admin charge generated approximately £31,700 of the overall £21,012,971 suspensions income. Suspensions income budget for 2022/23 is £21,029,900.

- 5.2. The proposed £70 admin charge would replace the existing £20 charge for non-LJUG suspensions, with the £20 charge remaining in place for LJUG companies.
- 5.3. Based on 19/20 and 21/22 figures (to exclude covid effects), it is estimated that the extra £50 would apply to approximately 570 unauthorised suspensions per year, generating additional annual revenue in region of £28,500.
- 5.4. The admin charge is intended to encourage compliance, with the aim of reducing the volume of unauthorised suspensions that occur. While difficult to predict the change in behaviour with any certainty, it is expected that the additional income generated would be highest in the year of implementation and then reduce. As a result, no income proposal will be included in the Medium Term Financial Plan.

6. Legal Implications

- 6.1. **Section 122 of the RTRA 1984** 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.

- 6.2. 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 of 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 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.

- 6.3. **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 RTRA 1984 and TMA 2004 legislation mean that the charging regime should also have regard to demand management.

- 6.4. 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.

- 6.5. The current tiered charging structures for standard (authorised) suspensions are a demand and restraint tool (in line with the Council's traffic management duties under Section 122 of the Road Traffic & Regulation Act 1984). The principal aim of these charging structures is to discourage and deter unnecessary suspensions and attempt to reduce the number of parking bays that are taken out of commission, and/or, where a suspension must take place, reduce the length of time for which a bay is suspended. The introduction of the proposed new admin charge for unauthorised suspensions is a refinement of the charging structure under that same principal.

7. Carbon Impact

- 7.1. No additional resources will be needed to implement or apply the proposed new admin charge. There will be no increase in current energy consumption, water

consumption, vehicle use, waste production or supply chain activity. Therefore, the proposal will have no adverse carbon impact.

- 7.2. Should the proposed admin charge act as an effective deterrent and reduce the volume of unauthorised suspensions that occur on street, this may result in a carbon reduction as potentially fewer resources will be required to manage the unauthorised suspension service.

8. Equalities Impact

- 8.1. None. An Equalities Impact Assessment has been appended to this report.

9. Consultation

- 9.1. No formal consultation is required as a result of the proposals set out in this report.

10. Communications Implications

- 10.1. A communications campaign advising of the new admin charge will be undertaken prior to the proposed implementation date in April 2023 or appropriate date thereafter. Booking confirmation letters/emails and invoices relating to unauthorised suspensions will be amended to make reference to the new admin charge.

APPENDICES

Appendix A: Other Implications

Appendix B: Equality Impact Assessment

If you have any queries about this Report please contact:

Will Haldane, Contract Officer, Parking Services

whaldane@westminster.gov.uk

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

Declaration of Interest

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

Signed:  Date: 24/10/2022

NAME: 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

.....and reject any alternative options which are referred to but not recommended.

Signed 

Cabinet Member for *City Management & Air Quality*

Date24/10/2022.....

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 Head of Legal and Democratic Services, Strategic Director Finance and Performance and, if there are resources implications, the Strategic Director of Resources (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.