



City of Westminster Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Sustainability and Parking.
Date:	16 October 2015.
Classification:	General Release.
Title:	Kerbside Parking Permissions Fees and Policies Review.
Wards Affected:	All.
Key Decision:	An entry was included in the Forward Plan of Key Decisions on 12 June 2015, enabling a decision to be made from 11 July 2015.
Financial Summary:	The proposed demand management structure is expected to manage demand in a variety of ways. However, it is difficult to assess what the scale of change in customer behaviour and any subsequent financial impact arising from the fee review will be. Therefore, at this stage it is not possible to determine what the financial impacts will be until new and emerging activity trends from the demand management structure can be analysed. Any resulting impacts will, however, be factored into future years' budget planning cycles.
Report of:	Stuart Love, Executive Director for City Management and Communities.

1. Executive Summary

- 1.1 Demand for access to Westminster's kerbside is increasing. The City's economy is growing and is forecast to grow further as is its residential and visitor populations. While this growth is welcomed it brings its own challenges around managing the City's roads, its public transport infrastructure, the City's public realm and transport-related disbenefits such as noise and air pollution. In managing and responding to the future growth of the City it is good practice that the Council periodically reviews how its kerbside is managed to ensure our transport network keeps pace with the environmental challenges and economic opportunities that have the potential to benefit all of those who live in, work in and visit our City.

- 1.2 A 2015 Parking Occupancy Survey shows that Westminster's paid-for parking facilities are subject to very high parking stress levels exceeding 80% during the daytime in three of the City's eight parking zones and resident bays are subject to demand in excess of 70% in all zones.
- 1.3 As part of its regular kerbside management review regime, the Council aims to review its parking-related fees and charges bi-annually to ensure they continue to support the Council's wider traffic management obligations.
- 1.4 This report is mainly concerned with parking bay suspensions, but its 'Kerbside Permissions' title reflects the fact that it encompasses further permissions to park at the kerbside that the Council is able to grant beyond just the suspending of bays for alternative use. Kerbside permissions therefore includes the following:
- Parking bay suspensions,
 - Single yellow line (SYL) dispensations,
 - 'Special permissions' on areas where parking, loading and unloading would not normally be permitted.
- 1.5 The last review of bay suspension and SYL dispensation charges took place in 2013 and led to an approximate 10% increase in related charges from 1 July 2013. Prior to this, charges had not increased since April 2009. Kerbside permission charging models have not changed since April 2006 when a system of flat-rate charging was introduced.
- 1.6 The Council's authority to operate and set charges for its suspension and dispensation schemes is defined by legislation. It is important to stress that neither scheme can operate purely and intentionally as a means to raise revenue, and charges should have regards to the costs of the schemes' administration and enforcement. However, in accordance with the Council's statutory responsibility to ensure, where reasonably practicable, the safe and expeditious movement of traffic including pedestrians, as well as the need to ensure the provision of suitable and adequate parking facilities on the public highway, the Council can also take traffic management considerations into account in the setting of charges. This enables the Council to set pricing levels to manage demand for more effective management of its kerbside and for wider transport and environmental benefits.
- 1.7 The 2013 review based its charge increases on demand and restraint management as the services had witnessed a year-on-year increase in demand since 2005. It was hoped that the increase in charges would reduce longer-term bookings, discourage unnecessary requests and encourage bays to be returned back to service more quickly, thus benefitting motorists and those who require access to the kerbside. However, the small charge increases have not proved to be an incentive to reduce suspension durations. The introduction of tiered charging structures, where charges increase with suspension duration, have been more successful in addressing such issues elsewhere. For example, the neighbouring Royal Borough of Kensington and Chelsea (RBKC) witnessed a 44% drop in the volume of suspensions exceeding six days after the introduction of a tiered charging structure in 2011.

1.8 To encourage shorter suspension durations, this report proposes re-modelling charging structures with an increase in kerbside permission charges and changing current operational policy that is detrimental to effective kerbside management, such as the granting of free-of-charge ‘special permissions’ and the non-enforcement of permit holders parked in suspended resident bays. To minimise the impacts on residents, a re-classification of bay size is proposed to be consistent with other comparable central London boroughs, as is an increased provision of alternative space for residents when large-scale resident bay suspensions are necessary.

2. Recommendations

2.1 That the Cabinet Member for Sustainability and Parking approves the following:

- A re-modelling in the charging regime, together with an increase in the charges for general parking bay suspensions and SYL dispensations, as detailed in section 5.2 of this report.
- A significant re-modelling in the London Joint Utilities Group (LJUG) charging structure and an increase in the charges for LJUG suspensions, as detailed in section 5.3 of this report. Three different options are presented for consideration, although Officer recommendation is for the adoption of scenario three.
- The introduction of charging for ‘special permissions’ at a rate 50% above that for general bay suspensions and SYL dispensations, as detailed in section 5.4 of this report.
- The introduction of a £20 ‘short notice’ administration fee for suspensions booked within ten calendar days of their commencement date, as detailed in section 5.5 of this report.
- Amendments to suspension-related policies regarding resident permit holder concessions, alternative bay provision and bay size classification, as detailed in section 5.6 of this report.
- That all the above be implemented from Monday 16 November 2015 or an appropriate date thereafter.

3. Reasons for Decision

3.1 The rationale for each proposal is outlined in detail in section 6 below, but collectively can be summarised as follows:

- To provide demand and restraint pricing mechanisms to discourage and deter unnecessary suspensions, to attempt to reduce the number of parking bays that are taken out of commission, and/or, where a suspension must take place, to reduce the length of time for which a bay is suspended.

- To be more consistent with other comparable central London boroughs, where the policy approach has proven successful in reducing demand and thus ensuring greater uniformity across neighbouring boroughs.
- To align the Council's kerbside permissions regime so that charges are consistent, fair and consistently applied no matter what type of permission is required (i.e. bay suspension, SYL dispensation or special permission).
- To address recognised system and process flaws and inconsistencies.
- To help manage the increasing demands on our kerbside space and the impacts from further growth and development by encouraging the safe and expeditious movement of traffic and the provision of suitable and adequate kerbside parking facilities for all users.
- To help ensure that residents are not disproportionately disadvantaged when resident bays become suspended in their locale.

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 SYLs to load/unload where standard loading exemptions would not suffice, to carry out work or even to park. 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 do so if it is deemed acceptable.
- 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 (RTA) 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 longer term, more disruptive suspensions.
- 4.3 The Council currently operates a flat-fee rate for suspensions of £42 per space, per day. The exception to this is for companies or operators who are part of the LJUG scheme, who are charged £45 per space, per week. Where not delineated on-street, a 'space' is currently considered to be six metres in length.
- 4.4 Suspensions to facilitate major non-commercial special events (including the Notting Hill Carnival and those organised by registered charities), news media crews, weddings and funerals incur no charge. The Police are also able to suspend bays for security reasons without charge.

- 4.5 To align with bay suspensions, SYL dispensations are also charged at £42 per vehicle, per day. However, when and where granted, ‘special permissions’, which is the granting of consent to park, wait and/or stop at specific locations where and at times when this would not normally be permissible, are currently free-of-charge.
- 4.6 The number of parking bays being suspended continues to increase. The May 2013 ‘Parking Permits and Suspension Fees and Charges Review’ Cabinet Member report, containing data upon which the last charging increase was based, highlighted that from the financial years 2004/05 to 2012/13 the volume of bay suspensions had increased by 37%. Since that report, the upward trend has continued with volumes up to the end of March 2015 having increased by a further 3.8%. Approximately 160,000 bays were suspended in the financial years 2011/12 to 2012/13 (discounting those for the 2012 Olympic and Paralympic Games) and this figure increased to approximately 166,000 bays in the financial years of 2013/14 to 2014/15. Furthermore suspended bay volumes for the first three months of the financial year 2015/16 (April, May and June) show an increase on the first three months of the preceding two years.

Period	Suspended Bay Volumes
April-June 2013	23,467
April-June 2014	24,449
April-June 2015	24,590

- 4.7 The volume of LJUG-related suspensions have increased by 32.5% from 2013 to 2014. In the calendar year 2013, 6,604 suspensions were booked for LJUG-related purposes. In the calendar year 2014, volumes increased to 8,749.
- 4.8 The average duration of bay suspensions continues to be over three days in length, being 3.15 days in the financial year 2013/14.
- 4.9 Parking Services has also witnessed a steady increase in requests for ‘special permissions’ and there are now approximately over 50% more special permissions requested per month than SYL dispensations. A total of 6,036 special permissions were granted in 2014/15, compared to the issue of 3,946 SYL dispensations. Examples of special permissions may include the granting of permission for essential loading/unloading activity to take place for longer than the maximum time permitted at a particular time and/or location or where and/or when a loading ban is in force.
- 4.10 The Council, therefore, has a need to exert more control over the use of its kerbside space to ensure that demand can be met and provision of space is equitable.

5. Proposals

- 5.1 The following changes are proposed –

5.2 A re-modelling in the charging regime, together with an increase in the charges for general parking bay suspensions and SYL dispensations.

- 5.2.1 It is proposed that a four-tiered system of charges be introduced split between suspensions required for one day, days two to five, six to 42 and for 43 or more, as per the table below. It is further proposed that for those zones where bay occupancy is equal to or exceeds 80%, a co-efficient be added to the charges which is 10% of the occupancy rate (e.g. if the occupancy rate is 81%, an 8.1% co-efficient would be applied). Based on the 2015 Parking Occupancy Survey a co-efficient would apply in parking zones E (Mayfair and St. James's) where occupancy is 81% and F (Hyde Park, Marylebone and Fitzrovia) where occupancy is 83%, see appendix B. The co-efficient would be rounded up or down to the nearest pound.

Current Rate	Proposed Rates
£42 per space, per day	Day 1 - £44 per space, per day
	Day 1 with co-efficient – £48 per space, per day
	Days 2-5 - £48 per space, per day
	Days 2-5 with co-efficient – £52 per space, per day
	Days 6-42 - £72 per space, per day
	Days 6-42 with co-efficient – £78 per space, per day
	Day 43 onwards - £96 per space, per day
Day 43 onwards with co-efficient – £104 per space, per day	

- 5.2.2 The proposed charges are set at a level to ensure it is no cheaper to purchase a suspension anywhere in the City than to pay to park for a full day. Bearing in mind that hours of control where on-street charges apply are generally a ten hour period from 08:30 to 18:30, the £44 proposed standard daily charge has therefore been calculated to be ten times that of Westminster's highest on-street hourly pay-to-park tariff of £4.40. The £48 charge proposed for days two to five is calculated to be eleven times this maximum hourly tariff rate. The £72 charge proposed for days six to 42 is calculated as being 1.5 times the proposed charge for days two to five, and the £96 charge proposed for days 43 and beyond is calculated as being two times the proposed charge for days two to five.

- 5.2.3 It is proposed that dispensation charges increase in line with suspensions. Dispensation applications can be for up to seven continuous days at a time. The occupancy-related co-efficient outlined in paragraph 5.2.1 would not apply to SYL dispensations as the co-efficient is linked to bay occupancy stress and is therefore bay-specific.

Current Rate	Proposed Rates
£42 per space, per day	Day 1 - £44 per space, per day
	Days 2-5 - £48 per space, per day
	Days 6-7 - £72 per space, per day

- 5.2.3 A matrix of proposed applicable charges is included as appendix C. To illustrate using an example, under the new proposals a seven day suspension in a zone where the co-efficient does not apply would cost £380 (1x £44, 4x £48 and 2x £72).

5.3 A significant re-modelling in the LJUG charging structure and an increase in the charges for LJUG suspensions.

- 5.3.1 It is proposed that LJUG suspension charges increase from a flat-rate £45 per space, per week, to a similarly tiered system to that proposed for standard suspensions, albeit with continued reduced rates. Three potential options are presented for consideration. The co-efficient outlined in paragraph 5.2.1 would not apply.

Day	Scenario 1	Scenario 2	Scenario 3
1	First 2 days - £45 per space, for the 2 day period	Days 1-3 – £30 per space, per day	First 3 days – £70 per space, for the 3 day period
2			
3			
4			
5			
6	Day 3 onwards – £55 per space, per day	Days 4-7 – £45 per space, per day	Day 4 onwards – £55 per space, per day
7			
8		Day 8 onwards – £60 per space, per day	
9			
10			

- 5.3.2 For scenario one, charges would be £45 per space, for the first two day period of a suspension and £55 per space, per day, for day three and each subsequent day thereafter.
- 5.3.3 For scenario two, charges would be £30 per space, per day, for days one to three of a suspension, £45 per space, per day, for days four to seven, and £60 per space, per day, from day eight onwards.
- 5.3.4 For scenario three, charges would be £70 per space, for the first three day period of a suspension and £55 per space, per day, for day four and each subsequent day thereafter. Officer recommendation is for this scenario to be adopted.
- 5.3.5 The following table illustrates how each scenario's model would translate as actual costs based on suspension duration:

Suspension Duration (days)	Scenario 1 (cost £)	Scenario 2 (cost £)	Scenario 3 (cost £)
1	45	30	
2		60	70
3	100	90	
4	155	135	125
5	210	180	180
6	265	225	235
7	320	270	290
8	375	330	345

9	430	390	400
10	485	450	455
11	540	510	510
12	595	570	565
13	650	630	620
14	705	690	675

- 5.3.6 Should LJUG install a suspension without making application and/or obtaining the Council's permission, the Council retains the right to retrospectively pursue payment at the standard rate as outlined in section 5.2 and applying the administration fee outlined in section 5.5.
- 5.3.7 It is however proposed that a separate process for 'major' works be developed, whereby charges are agreed in advance and are at a rate that seeks only to recover costs incurred rather than limit occupancy. Major works would be defined as fixed timescale major infrastructure programmes such as Crossrail, where bays would need to be out of commission for more than 21 days.

5.4 The introduction of charging for 'special permissions'.

- 5.4.1 It is proposed that all 'special permissions' become chargeable at £66 per vehicle, per day. This rate is 50% more than the general suspension and dispensation rates proposed in section 5.2 above. The exception to this would be for domestic and office moves on single or double yellow lines which, in line with traffic order exemptions, would remain free of charge. It should be noted that in nearly all cases special permissions are for a single day only, but should they be granted for more than one day, any subsequent days would be charged as per days 2-5 in paragraph 5.2.1. As outlined for SYL dispensations in paragraph 5.2.3, the co-efficient outlined in paragraph 5.2.1 would not apply to special permissions as the co-efficient is linked to bay occupancy stress and is therefore bay-specific.

Current Rate	Proposed Rate
Free-of-charge	Day 1 - £66 per vehicle, per day
	Day 2 onwards - £72 per vehicle, per day

5.5 The introduction a 'short notice' administration fee for suspensions booked within ten calendar days of their commencement date.

- 5.5.1 It is proposed that a £20 'short notice' administration fee be introduced per suspension for all short-notice applications where the applicant is attempting to book a suspension within ten calendar days of the date upon which it is required to start. This fee would also apply retrospectively to any illegal suspension where the Council pursues payment on the basis of an individual/company installing a suspension on-street without application and/or permission. Furthermore, it is also proposed that the scheme's other suspension-related administration and cancellation fees be applied more strictly and consistently in line with the scheme's terms and conditions. These are charged where the suspension requirements are amended or cancelled by the applicant post-booking. The fee is also charged where a suspension finishes early and the applicant claims a refund on unused days.

5.5.2 This stipulation would not apply to dispensations or special permissions as these do not involve the installation and removal of on-street signage.

5.6 Amendments to suspension-related policies.

- 5.6.1 It is proposed that current Council-defined kerbside management concessions which limit the issue of Penalty Charge Notices to resident permit holders parked in suspended bays for the first two days of a suspension be withdrawn. The Council will continue to attempt to contact the permit holder parked in contravention on the first morning of the new suspension, to request that they move their vehicle. However, should the vehicle not be moved after a reasonable amount of time and remain parked in contravention in the suspended bay beyond midday, it may incur the issue of a PCN and may also be relocated to a suitable alternative location.
- 5.6.2 It is proposed that the Council's operational policy of charging for alternative provision for large-scale resident bay suspensions be amended from the applicant needing to pay for the provision of five alternative resident spaces for every 30 resident bay spaces suspended to five for every 20.
- 5.6.3 It is proposed that the Council's bay size classification for the suspension of non-delineated parking bays reduces from six metres to five metres.
- 5.7 It is proposed that all the above be implemented from Monday 16 November 2015 or an appropriate date thereafter.
- 5.8 For all the above proposals, the applicable dates from which the new charges would apply would refer to the date when the application is made. This may result in unusual fluctuations in bookings in the immediate pre- and post-crossover periods. New charges would not be applied retrospectively, i.e. for any post-crossover suspensions already booked. For practical reasons any pre-booked, existing or ongoing suspension would not be subject to the proposals outlined in paragraphs 5.6.2 or 5.6.3 from the crossover date.

6. Reasons for Proposals

- 6.1 The proposals are considered necessary for the following reasons -
- 6.2 Despite charges increasing in July 2013, suspension volumes have since continued to increase in terms of both applications (by 1%) and space used (by 3.8%). Whilst most standard/non-utility suspensions continue to be for a single day (66%), average duration length continues to be over three days. When suspension and dispensation charges were last reviewed in 2013, the Cabinet Member report recommended that "*future charging regimes for these schemes be based on demand management of the kerbside, with particular aspiration to discourage longer term or unnecessary suspensions. Future consideration may be given to following RBKC's model of operating a sliding scale of charges whereby charges increase with duration*". For this reason, it is proposed that charges be increased to deter longer-term suspensions and to help manage demand, and the charging

regime be amended so that subsequent days become chargeable at a higher rate than the first.

- 6.3 Whilst traffic levels have declined on most strategic roads across Westminster in recent years and car use has reduced in Central London overall, occupancy in Westminster's paid-for bays has continued to increase in most parking zones. This trend is explained by demand for kerbside space increasing in line with the greater range of transport modes that now need access to our kerbside. Demand for Westminster's finite kerbside space continues to grow. Furthermore, over the next decade Westminster's kerbside is expected to come under increasing pressure and be subject to even greater demand with increases in employment, visitor numbers, residential population, and increased levels of servicing and deliveries from light goods vehicles, alongside demands and proposals for existing kerbside space to be dedicated for buses and more sustainable modes of transport such as electric vehicles, car club vehicles, walking and cycling.
- 6.4 The Council operates a 'traffic light' system to measure parking 'pressure' or 'stress', based upon official parking management guidance, knowledge and experience. The following are, therefore, used to differentiate levels of parking occupancy:
- Red: $\geq 80\%$
 - Amber: $\geq 70\% \text{ to } < 80\%$
 - Green: $< 70\%$
- 6.4.1 When parking occupancy is 80% or more (red) this indicates high levels of parking pressure/stress, with supply either unable or struggling to meet a very high demand for parking amongst particular restriction types or within a wide area/zone. Where parking occupancy is 70% to 80% (amber) there is again likely to be pressure/stress, only less critical or pronounced. However, when occupancy is below 70% (green), supply is likely to be adequately meeting demand. The Council's 2015 Parking Occupancy Survey identified two areas/zones of Westminster where parking bays are currently subject to stress levels above 80%. To further help manage the kerbside and reduce levels of demand beyond the critical 'red' level, a co-efficient is proposed in these zones to apply in addition to the standard suspension charges. The co-efficient is proposed to be 10% of the occupancy rate as illustrated in paragraph 5.2.1 above. The co-efficient would only apply to suspension charges, as these are parking bay-related, whereas those for dispensations and special permissions are not.
- 6.5 Whilst incidental, in comparison with other central London boroughs, the rates the Council charge for LJUG suspensions are extremely inexpensive. The City of Westminster is the only borough to offer LJUG discounted rates to standard charges and as a consequence only the London Borough of Bromley is cheaper throughout the whole of London. A 2014 comparison table of London boroughs from UK Power Network's 2015-23 Business Plan is included as a background paper. The Council has charged such comparatively inexpensive rates since September 2004 after statutory undertakers challenged the Council's right to charge them for the suspension of parking places. After consultation, a compromise was agreed whereby a weekly charge per bay (based on a five-day week) would be applied since this was deemed to be the average duration for which a suspension is required. A similar arrangement was agreed with City West Homes in 2006 to load/unload scaffolding and heavy plant machinery on-street. However, in line with

the Council's aspirations to discourage unnecessary suspensions a more realistic charge is required. To discourage longer-term suspensions, a tiered charging rate is proposed where rates increase with duration.

- 6.5.1 Of the three potential options presented for consideration in paragraph 5.3.1, scenario one proposes an initial two-day rate to be in line with the 'prescribed period' of works as defined in the Code of Practice for Streetworks Co-ordination. The "Prescribed Period" is the period during which no overrun charges can be levied. It has been set by the Secretary of State, in Regulations, at two days, starting on the day works begin. The Prescribed Period does not relate to time required to carry out any particular type of works, therefore it is not to be used to judge the duration of proposed works. 51% of utilities' suspensions are for up to two days.
 - 6.5.2 Scenario three proposes an initial three-day rate to be in line with the three day minimum period for works permit. 53% of LJUG suspensions are completed within three days. For this reason, Officer recommendation is for this scenario to be adopted.
 - 6.5.3 Conversely, scenario two proposes that suspension costs increase daily so would be the cheapest option for a single day. 51% of total suspensions in Westminster are for a single day.
 - 6.5.4 It is proposed that charges for major works be considered separately as outlined and defined in paragraph 5.3.7, whereby charges are agreed in advance and are at a rate that seeks only to recover costs incurred rather than limit occupancy. The duration of essential, major works is covered by legislation which allows the highway authority to challenge or refuse unnecessarily long works durations and even charge for the overrunning of agreed durations, and the concern is that due to the nature of major works, the application of increased charges with duration may simply increase the cost of works rather than manage demand. Major works are planned many weeks or months in advance, thus giving ample opportunity for consideration and agreement of charges between both parties. The Council would insist on the need for agreement to be in place no less than 28 days before the commencement of a particular programme.
- 6.6 As suspensions are only for parking bays and dispensations for SYLs, the Council's Parking Service receives a number of requests for special permission for kerbside access at other locations, often where or at times when parking, waiting or even stopping is not permitted. The Council is able to grant 'special permission' for this on a discretionary basis, usually where essential loading/unloading is required or for domestic and office removals. Where granted, the permission is currently given free of charge. However, there are fears that in many instances this system has become subject to abuse and used as a convenient loophole allowing suspension and dispensation charges to be avoided and required notice periods to be bypassed. Whilst there is evidently a need for Parking Services to tighten up its business rules in this regard and apply these more rigorously, it is logical that where permission is granted, it is charged for. This ensures alignment and consistency with suspension and dispensation charges, helps manage and reduce demand and closes the potential 'convenience' loophole. As this concerns locations where, due to road safety and traffic management reasons, we generally would not want vehicles to park, wait and/or stop, in order to deter superfluous requests it

would be sensible for charges to exceed those for standard bay suspensions or SYL dispensations. For this reason a charge is proposed which is 50% higher than the proposed standard bay suspension and SYL dispensation charge. It is anticipated that introduction of such a charge will reduce special permission requests by more than 50% and thus shift activity to more appropriate bay and SYL locations.

- 6.7 The Council does not currently charge a 'short notice' administration fee for suspensions booked close to the date upon which they are required to start. To manage demand and to discourage the practice of late or short notice bookings, a £20 short notice administration fee per suspension is proposed for any suspensions booked within 10 calendar days of the date on which they are required to commence. This fee would only apply if the suspension is granted but would not guarantee its granting as usual considerations would continue to apply. The Council can incur additional costs in installing short notice suspensions, such as the paying of overtime costs necessary to ensure signage is erected in good time. The shorter the notice period given, the greater the potential impact the suspension may have on those who may normally use the bay.
- 6.8 The Council has relocated an average of 86 vehicles a month from July 2013 to May 2015. Anecdotally the vast majority of relocations carried out by the Council are for vehicles parked in contravention in suspended bays, and most commonly in suspended resident bays. In 2008, the Council introduced as part of its 'common sense' parking policies a concession for residents whereby permit holders would not be ticketed for the first two days of a suspension if parked in contravention and only relocated if absolutely necessary. Although data is not available to show how many relocations are now necessitated as a result of this policy, anecdotally it is significant and disruptive for the individual/organization requiring the suspended bay. Existing policy does nothing to encourage residents to move their vehicle prior to the start of a suspension. It should also be borne in mind that 66% of standard/non-utility suspensions continue to be for a single day. So bays that have been suspended can be used immediately upon commencement of the suspension for the purposes for which the suspension was arranged, it is therefore proposed that this concession be withdrawn. As well as making it more likely that the space will be free for the start of the suspension, this will also have the effect of ensuring that such suspensions do not over-run and that bays are not suspended for longer than they absolutely need to be.
- 6.9 Linked to the above, current Council policy states that where a large-scale suspension of resident bays is required, the applicant must also pay for alternative parking provision of five resident spaces for every 30 they suspend. This is done through the additional suspension of five pay-to-park bays that are then temporarily converted for displaced resident use. It has often been a source of complaint that the Council does not insist that more alternative spaces be provided. It is therefore proposed that the alternative provision rule be amended so that five alternative spaces be provided for every 20 resident permit spaces suspended. The 2015 Parking Occupancy Report highlights that resident bays are subject to significant parking stress with demand being in excess of 70% in all zones throughout the City, with the scheme in general being over-subscribed with more permit holders than spaces available. It is therefore important that the Council takes all reasonable steps in its power to make space available for permit holders.

- 6.10 The withdrawal of the two day resident permit holder concession will be further tempered by the Council re-classifying what it considers a suspension ‘space’ where bays are not already delineated, such as in resident and shared-use bays. Traditionally, Westminster has allocated a suspension space as six metres in length. However, by redefining an undelineated suspension space as being five metres in length, less kerbside would need to be suspended and less resident space will need to be taken out of commission. Study has shown that five metres in length is sufficient for one vehicle’s use during a suspension. 95% of UK cars are shorter than five metres long.
- 6.11 Under the suspension-related terms and conditions, set administration and cancellation charges apply in circumstances where an applicant cancels a suspension prior to its commencement but after the signage has been erected on-street or where a suspension ends earlier than originally anticipated and a refund is requested for unused days. Under the scheme’s terms and conditions, the first instance should result in fees not being refunded and in the second a partial refund granted but a £20 administration fee charged. However, in reality these rules are applied inconsistently. For the Council to better manage its kerbside space and to limit the amount of kerbside being taken out of general use unnecessarily, these charges should be applied more consistently and rigorously.

7. Financial Implications

- 7.1 The proposed changes seek to implement a demand management structure for suspensions to enable the Council to meet its statutory responsibilities of ensuring, where reasonably practicable, the safe and expeditious movement of traffic including pedestrians, and the provision of suitable and adequate parking facilities on the highway, by deterring unnecessary suspensions, by reducing the number of bays being suspended and the length of time bays are taken out of commission.
- 7.2 The outcome of this demand management structure is expected to reduce demand in a variety of ways. However, it is difficult to assess what the scale of change in customer behaviour and any subsequent financial impact arising from this fee review will be. Therefore at this stage no financial impacts have been determined and will not be until new and emerging activity and behaviour change trends from the demand management structure can be analysed. Any resulting impacts will be factored into future years’ budget planning cycles.
- 7.3 It should be noted that any change to levels of income resulting from the proposed changes would be incidental to the Council’s traffic management aims and reasons for introducing these proposals.

8. Legal Implications

- 8.1 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.*

- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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.

- 8.6 The waiting and loading TMO (listed as a background paper) does not make any mention of charging; however, a similar position applies legally in relation to charges for applications to suspend parking bays, for which the Council makes a charge even though the relevant zonal parking places TMOs make no mention of charges. Whilst there is no legal requirement for the TMO to mention such charges, the Council can still charge pursuant to the Local Authorities (Transport Charges) Regulations 1998 provided that it has a policy to do so. It is permissible for the Council to charge in cases where the Council's specific consent is needed, as in Article 14, but not in cases where there is an automatic exemption such as those listed in Article 15 (delivery of postal packets, building operations etc).
- 8.7 None of the proposed changes necessitate any amendments to the Council's Traffic Management Orders.

9. Staffing Implications

- 9.1 This report has no significant staffing implications although there may be increased resource required for back office administration and increased back office costs and handling times as a result. There may also be an increased number of bookings prior to the implementation date to take advantage of current charges whilst they still apply.

10. Consultation and Communication Implications

- 10.1 No formal consultation is required as a result of the proposals set out in this report. However, the Head of Parking Operations has consulted with LJUG to explain the reasons underpinning the LJUG-related proposals in this report and to gauge opinion. A consultation letter (appendix D) inviting comment was issued to LJUG on 6 August 2015. Following a meeting with the Council on 12 August, LJUG formally responded on 17 August. However as concerns were raised regarding the amount of time between the meeting and the stated response deadline, the consultation was extended. A second meeting was then held on 14 September and a further formal LJUG response was submitted on 23 September. A summary of the points and concerns raised by LJUG in their two submissions, along with the Council's responses, is included as appendix E.
- 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 increases and policy changes will be undertaken prior to the proposed implementation date of Monday 16 November 2015 or appropriate date thereafter. 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. The matrix of charges (appendix C) will be published online and on the appropriate application forms and literature.

10.3 It is proposed that new charges and policies apply to all suspensions and dispensations booked and special permissions granted from the implementation date(s) and beyond. Any new application that straddles the implementation date(s) will be subject to current charges and terms and conditions.

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

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dmontague@westminster.gov.uk

BACKGROUND PAPERS:

'Parking Permits and Suspensions Fees and Charges Review' Cabinet Member report 22 May 2013

http://transact.westminster.gov.uk/committee/index.cfm?c_docs=Cabinet%20Member%20Decisions/Archived%20Decisions/Business/2013-2014/03%20-%20Parking%20Permits%20and%20Suspensions%20Fees%20and%20Charges%20Review

LJUG suspended bay rates London borough comparison table 2014 (pages 78-79)

https://library.ukpowernetworks.co.uk/library/en/R110/Main_Business_Plan_Documents_and_Annexes/UKPN_Regional_Cost_Justification.pdf

'The City of Westminster (Waiting and Loading Restriction) (Consolidation No.1) Order 2011 No.193' WCC Consolidated Waiting and Loading Traffic Management Order

<http://westminstertransportationservices.co.uk/limey/common/pages/download.php?file=SnVzdFMwbWVUM3h0TDJodmJVNdZV2RsY3k4ME15OWtNaIE1TURrM01qSXpMMmgwWkc5amN5OVdNaTQyTDNSdGJ5OW1hV3hsY3k5amlyNXpiMnhwWkdGMFpXUXZkMkZwZEsdVoxOXNiMkZrYVc1bkxuQmtaZz09>

Map of WCC showing E and F zones where co-efficient would apply

http://transact.westminster.gov.uk/docstores/publications_store/parking/parking_zones_map.pdf

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member** for *Sustainability and Parking*

Declaration of Interest

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

Signed:

Date:

NAME:

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 '*Kerbside Parking Permissions Fees and Policies Review*' and reject any alternative options which are referred to but not recommended.

Signed

Cabinet Member for Sustainability and Parking

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 Head of Legal and Democratic Services, Chief Operating Officer and, if there are resources implications, the Director of Human 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.

Appendix A

Other Implications

- 1. Resources Implications** – The recommendations of this report may result in a minor increased resource requirement for back office administration and increase back office costs and handling times as a result.
- 2. Business Plan Implications** – The recommendations of this report are in accordance with the Business Plan for 2014/15.
- 3. Risk Management Implications** - The recommendations of this report could present reputational risks to the Council.
- 4. Health and Wellbeing Impact Assessment including Health and Safety Implications** - None
- 5. Crime and Disorder Implications** - None
- 6. Impact on the Environment** – Aligns with the Council's wider transport and environmental policies of discouraging unnecessary vehicle use
- 7. Equalities Implications** – None.
- 8. Human Rights Implications** - None
- 9. Energy Measure Implications** - None

Appendix B

City of Westminster Parking Occupancy Survey Report table showing occupancy per period for the main restriction types.

Appendix C

Matrix showing proposed standard suspension, dispensation and special permission charges by duration and number of bays/vehicles.

Appendix D

LJUG consultation letter dated 6 August 2015.

Appendix E

Summary of LJUG's submissions to the appendix D consultation letter, along with the Council's responses to LJUG's points and concerns raised.