

London Assembly Investigation into Parking in London: Submission by an Individual

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1. (a) **Do you agree that there is a need for parking controls?**

Yes, I think there are two main reasons why we require parking controls. Firstly, there is a need to prevent obstructions to the free flow of traffic (and especially to prevent obstructions to the free flow of public transport). Secondly there is a need to provide local residents with some allocated parking bays in busy areas (where the residents do not have access to their own off street parking facilities).

(b) **Should these controls be stricter, more lenient or are they currently at about the right level?**

Parking controls (as specified in the Road Traffic Act 1991) are probably around the right level. However, the Road Traffic Act is inadequately specified in many parts, is very generous to councils in terms of time limits while placing very strict time limits on motorists, and offers motorists very narrow grounds for appeal. There is also inadequate *independent* supervision of how councils (or appointed contractors) conduct enforcement on-street.

2. (a) **Have you ever received a parking penalty notice?**

Yes. I received a PCN early on a Saturday afternoon in August 2003 from Westminster Parking Services for parking in a pay and display bay a few minutes after the time on the ticket had expired.

(b) **If so, do you believe this/these was/were justified**

The issuing of the ticket was not justified. The Parking Attendant misinformed (deliberately misled?) me regarding my right to drive away before he had issued the PCN, and attempted to exploit my ignorance of other details of parking legislation (e.g. time given for loading/unloading).

The full details are: A colleague and myself who had been loading a large (dismantled) cupboard into my car (parked in a Pay and Display bay) returned to my vehicle to find a Westminster Parking Attendant standing in front of it typing things into his handheld computer. He had not yet issued the PCN. I explained that we had been loading a cupboard (something the parking attendant could also see for himself) and asked if it was OK to leave. He said I could not leave, and that he could not cancel the ticket he was in the process of issuing since he had begun the entry process.

As my subsequent research uncovered, the actions of the PA were incorrect, if not illegal, on at least two counts:

- The PA was incorrect to say we could not leave. A PCN is not valid until it is attached to the vehicle or handed to the driver. The PA should have told us we could leave and that he would have to have the PCN cancelled by his shift supervisor because the vehicle had driven away.

- We were clearly loading (a fact the PA was informed of and could see), and vehicles that are loading are permitted 20 minutes parking (even without a pay and display ticket). This fact was ignored by the PA, although he should have been well aware of this regulation.

Being completely unaware of the relevant regulations, I waited for the PA to issue the ticket. Fortunately in his haste to issue the PCN the PA made another error and I was able to successfully appeal the fine (but only after 6 months of a very frustrating appeal process that involved at least 6 letters and several phone calls). Having successfully appealed the fine and having subsequently witnessed other PAs lying to motorists (e.g. telling them that they were going to receive a “double fine” if they left before the PCN was issued), I wrote to Westminster asking that the actions of the PA be investigated, and that appropriate disciplinary action be taken. I was told that this could not be done because so much time had elapsed since the issue of the PCN that the attendant could not reasonably be expected to remember the incident.

3. What are your views on the way boroughs and Transport for London are enforcing parking controls?

- (a) **On-street enforcement is strongly revenue driven. This system incentivises parking attendants to lie to motorists and generally encourages impersonal, overzealous, intolerant and compassionless enforcement of parking controls.**

Council officials (and I have talked to several) deny vigorously (at least to members of the public like myself) that parking enforcement is aimed at raising revenue for the council. They say they are trying to ensure the free flow of traffic, provide parking for residents, and so on. Yet when re-advertising the on-street enforcement contract for Westminster recently, the council stated the primary aim of the contract as “*maximising revenue*” (and secondarily “improving the customer experience”). It is strange that public safety and free flowing traffic should not be the primary objectives of the contract. On-street parking attendants (and I have had indepth discussions with many!) are in no doubt that enforcement is primarily revenue led. Not even a single one has ever tried to persuade me that enforcement is aimed at the free flow of traffic etc. Instead they are open about the revenue-driven nature of their work. They talk about how they are pushed to issue a minimum number of tickets in a shift (12 in RBKC, 15–20 in Westminster). Failure to meet a target results in a “discussion” with a supervisor and possible disciplinary action. It is no surprise then that some PAs try to mislead motorists about their rights in order to hit their quotas. They talk about how they are instructed to call in the clampers to clamp foreign vehicles (mostly confused tourists) as soon as possible to ensure “revenue protection” (something I have witnessed myself on a few occasions). The trade union UNISON that represents many parking attendants suggests that the government should “review parking control methods, to encourage its use primarily as a method of public safety and congestion control, rather than a revenue collection service.” Needless to say, I strongly support UNISON’s recommendation.

- (b) **Councils cause and exploit confusion with complex parking regulations**

Queen’s Gate in Kensington is a good (but not rare) example of a street with (overly?) complex parking regulations. The street consists of two separate lanes (one for each traffic direction) separated by a central reservation. Along half of its length, both sides of the street are in the borough of Kensington and Chelsea. Along the remaining length, one side is in Kensington and Chelsea, while the other is in Westminster. The transition boundary between these sections is marked by “Controlled Zone” parking signs that look the same when approached from either side (at least to the untrained observer). Each lane allows parking on both sides, and parking bays can be Pay and Display, Metered, Diplomatic Bays or Residents Only (Westminster/RBKC as appropriate). Along the sides of each lane, the type of parking varies from section to section. Hours of operation for all of these bays vary considerably.

Needless to say this causes a lot of confusion, especially for visitors to the area (and there are a lot of visitors the area because it is host to many embassies as well as museums). It is not unusual for drivers to purchase Pay and Display tickets from one side of the street and then accidentally park on the other side of the road in a Residents Only bay. Or for drivers with a Kensington and Chelsea Residents Permit to accidentally park in the Westminster section of the road. Within a few minutes, these cars are clamped, and owners must pay £115 or more to have them released (over £200 if the vehicle is removed), even though in both cases it is obvious the mistake is accidental, and there is evidence of clear intent on behalf of the driver to park legally.

(c) **Enforcement is neither proportionate nor transparent**

Proportionate enforcement means that penalties should be commensurate with the offence committed. Being revenue-driven, however, councils are not concerned with proportionate enforcement. Instead they appear to seek to obtain as much revenue from offences committed as the Road Traffic Act allows as rapidly as possible. So vehicles are not given any substantial grace period before being clamped, and vehicles that are not causing any obstruction are clamped and/or towed (e.g. for reasons of “revenue protection” as described above) etc.

Transparent enforcement means that there should be mechanisms in place to ensure the public can have confidence in the integrity of on-street parking enforcement. Instead my experience is that the enforcement process is almost completely opaque. Council officials provide warm words of reassurance about what they see as their *ideal* standards of enforcement, but in some cases do not appear to know how on-street enforcement (as carried out by contractors) actually takes place. Nor do they take steps to find out, or to communicate their findings. As an example, several RKBC PAs have told me they are instructed to ticket BT vans parked on yellow lines (something I have observed at least twice, even when the van is displaying an emergency call out notice), but not to ticket NTL vans parked on yellow lines – a very strange and apparently inconsistent policy. Since August 2004, I have written several letters to RBKC about this issue. In return I have received warm words of reassurance that their ideal policy is to treat all commercial vehicles equally; officials express their surprise that their PAs are misinforming motorists! As I have explained to RBKC, I don’t believe that all the PAs I talked to misinformed me – I believe that is how they were trained (their is no motive for PAs to lie in this instance). So there is a gap between the expressed ideals of the council and the actual enforcement carried out by APCOA. Yet there is no way for me as a member of the public to know that anything is being done about this issue. Even when a Council offers to investigate an apparent problem the investigation is carried out by their own “Compliance Officer”, who works alone. Given the council’s conflict of interest in protecting their revenue stream, how can any member of the public have confidence in the integrity of such an investigation?

4. **How do local authorities consult residents and businesses prior to introducing parking controls and do they consult on review the effectiveness of such schemes? Have you ever petitioned a local authority to implement controlled parking, and if so, how did the authority handle your request?**

I have no experience of how residents are consulted (have never been consulted). However, I live near South Harrow Underground station, around which a CPZ was created around 2 years ago. As it is now readily apparent, introduction of a large CPZ around the station was a disproportionate measure – large parts of the CPZ are unused at all hours of the day and night while the off-street station car park overflows causing commuters much frustration. A review of CPZ’s in Spring 2004 somehow failed to spot this – in fact the CPZ was extended further.

In Summer 2004 I submitted a detailed letter with photographic evidence showing that large parts of the CPZ (away from main traffic or public transport routes) are not being utilised

at all by residents (on some sections of the road every house has off street parking facilities) while the off-street station car park overflows on a daily basis. Reaction to my findings was distinctly lukewarm and I was told I will have to wait until next review in Spring 2005 before the issue can be considered.

5. Have you had any experience of challenging parking penalties or the appeals process? What is your view of the challenge or appeals process?

I went through the experience of challenging a PCN (the one described under Question 2). As someone who did not understand the underlying legislation at the time, I found the experience very frustrating. Westminster Parking Services seemed to be primarily concerned with intimidating me into paying, and secondarily concerned with meeting only the essential communication requirements imposed on them by the Road Traffic Act 1991. They were slow in replying to correspondence and were not interested in explaining the relevant process or legislation to me. Further, at every level, the person(s) handling my representation appeared not to be able to translate my simple explanations of what happened (e.g. “I found a traffic warden next to my car who told me I could not leave until he had finished issuing the PCN” and “I was loading a cupboard” and “the PCN appears incomplete”) into the relevant legal grounds for accepting my representation. Only when I researched the law, found the relevant sections of the legislation, and pointed these out was my representation accepted. But why should this be necessary? Why did the process have to take six months?

6. Are you aware of any developments which have improved the effectiveness of the enforcement of parking controls?

No.

7. How do you believe the whole process of enforcing parking controls could be improved?

(a) Legally compel councils to carry out on-street enforcement in a *proportionate* and *transparent* manner (via an independent body?)

Proportionate enforcement means that penalties should be commensurate with the offence committed. As examples, the removal/impounding of vehicles should only be permitted where they are causing an obstruction to the free flow of traffic (in which case they may be removed rapidly) or have been parked illegally for longer than six hours. The clamping of vehicles should only be permitted if the vehicle has been parked illegally for longer than two hours. It should not be acceptable to clamp or remove vehicles for “revenue protection” reasons. Where there is evidence of intent to pay or park legally, vehicles should first be issued with a warning, followed by the issue of a PCN at some later time (say one hour later if still illegally parked).

Transparent enforcement means that members of the public (and others) should be able to have confidence in *actually implemented* (not just *intended*) on-street enforcement policies.

Transparent enforcement might be ensured by an independent body (similar to an independent regulator for privatised utilities) that can:

- issue binding guidelines on the circumstances under which clamping/towing are permitted.
- investigate alleged abuses of parking enforcement by councils/contractors (e.g. deliberate misleading of motorists).
- issue substantial fines where these allegations are found to be correct.
- direct councils to make necessary changes to prevent future abuses.
- make contracts between councils and contractors public so any revenue-driven incentives to either party are not hidden.

All proceedings of this body should be public.

(b) **Place the same time limits on councils as are placed on motorists**

Motorists have various strict deadlines to meet (e.g. 28 days to respond to a Notice To Owner from the Council). It is unfair that the Road Traffic Act does not specify many reciprocal limits on Councils, and where they exist they are more generous on the Council.

(c) **Extend grounds for appeal**

The grounds available for appealing a Notice to Owner do not appear to cover for example, some very common situations such as "The PCN was not fixed to the vehicle or handed to me". This needs to be addressed.

(d) **Routinely award costs on successful appeals**

My PCN was quashed at the challenge stage, but everyone who takes their PCN to independent appeal goes through a lot of time and hassle in putting their case together, appearing in person etc. Yet costs are only awarded on an exceptional basis. I believe costs should be routinely awarded where appeals are won. Perhaps councils should also be fined, to act as a further disincentive for councils to attempt to obtain money from motorists by deception.

(e) **Conflicts of interest in the running of parking enforcement contracts need to be investigated by an independent body**

It is bizarre that NCP for example is allowed to conduct on-street parking enforcement for Westminster while also offering many of the off-street parking facilities in the area. It is obviously in NCP's interest to be as strict as possible in the enforcement of on-street parking legislation, not only to boost revenue derived from this source, but also to encourage road users to use their off-street parking facilities.

About the Author

Dr William Knottenbelt is a lecturer in the Department of Computing at Imperial College London which lies on the borders of the boroughs of Westminster and Kensington and Chelsea. On his way to and from work, he often has the opportunity to observe on-street enforcement by NCP and APCOA and to chat to on-street parking attendants.