

	Key Officer Decision: Strategic Director Regeneration & Environment
	Report from the Head of Parking and Lighting
PARKING PENALTY CHARGE NOTICES: BOROUGH-WIDE BANDING	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Appendix 1 – PCN Banding Consultation Summary
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 This report summarises the outcome of non-statutory consultation on the proposal to move all Brent parking Penalty Charge Notices (PCNs) to the higher Band 'A' level borough-wide. Band 'A' currently applies only in Wembley (and a section of Harrow Road), with Band 'B' applied to all remaining highways in the borough.
- 1.2 This follows Cabinet agreement on 17 August 2020 to proceed to a borough-wide non-statutory consultation on the proposals. Consultation commenced via the Councils corporate Hub on 07 September and ended 05 October 2020.

2.0 Recommendation

That, following consultation with the Lead Member for Environment, the Strategic Director Regeneration and Environment agrees:

- 2.1 To note the outcome of the non-statutory consultation on moving all Brent parking Penalty Charge Notices to the higher Band 'A' penalty rates.
- 2.2 Following consideration of the outcome of the aforementioned non-statutory consultation process, to apply to the Transport and Environment Committee of London Councils to seek approval to implement the proposed change to have a borough wide Band A level for parking Penalty Charge Notices in the borough of Brent, and support any subsequent application for approval to the Mayor of London and the Secretary of State for Transport.
- 2.3 Subject to the approval process, to give effect to the proposed banding changes for parking Penalty Charge Notices in the borough of Brent, including amending the relevant Traffic Management Orders.

3.0 Background / Detail

- 3.1 Currently, two levels of charging by location operate within Greater London in respect of the value of parking Penalty Charge Notices: Band A and Band B. The Bands apply only to parking contraventions, as bus lane and traffic offences are not subject to banding.

The Band A/B boundary was last reviewed by Brent in 2011, following the introduction of the Wembley Event Day Protective Parking Scheme, and has not changed since.

Band A applies to all roads in the Wembley Event Day Protective Parking Scheme Area (at all times and not only on Wembley Event Days) and Harrow Road between Greyhound Road and Kilburn Lane.

Band B applies to all remaining streets in the London Borough of Brent.

- 3.2 Officers advise that this geographic boundary can no longer be justified in respect of the need for parking enforcement, given the level of contraventions observed in all Brent CPZs.
- 3.3 All of the Band B CPZs, largely within the North Circular boundary, are physically closer to inner London than the Wembley EDPPS area is. The anomalous position of a single section of the Harrow Road has complicated enforcement within the relevant CPZs. Finally, there is also a concern that parking contraventions may increase if commuters switch back to private car use instead of using public transport, following the Covid health emergency.
- 3.4 If this proposal is implemented, the value of a parking Penalty Charge Notice would then no longer be determined by the location of the contravention within the borough.
- 3.5 PCNs are issued at Higher and Lower Levels in both Band A & Band B areas. The higher and lower values for both PCN Bands are shown below, with the early-payment discount value in brackets.

Comparison of Band 'A' and Band 'B' PCN Charges:

PCN Band Level	Higher (Discount)	Lower (Discount)
A	£130 (£65)	£80 (£40)
B	£110 (£55)	£60 (£30)

Penalty Charges are applied according to the nature of the contravention. In general terms, a penalty is in the “lower” (less serious) category if it relates to a place where parking is allowed but controlled (e.g. a resident-only or pay & display bay, or in a car park). Penalties are in the “higher” (more serious) category if they relate to a place where parking is banned altogether or tightly restricted (e.g. on yellow lines or school Keep Clear zig zags).

It is emphasised that the Band A/B split is purely based on geographical area, not the seriousness of the contravention.

- 3.6 The difference in value between a Band A PCN and a Band B PCN is at most £20 (and only £10 if the PCN is paid at discount rate). The typical cost of owning and running a car within London is estimated to be more than £3k p.a. Fewer than half of motorists would expect to receive a PCN for a parking offence within any single year. There is no evidence to suggest that less well-off motorists are more likely to contravene parking regulations than wealthier motorists.
- 3.7 PCN charge rates are set unilaterally by the Secretary of State for Transport and have not changed since 2010, despite inflation eroding the deterrent effect of the charges. There is no indication that the Secretary of State will review PCN values in the foreseeable future.
- 3.8 The two Bands were originally linked to ‘inner’ and ‘outer’ London. All adjacent inner London boroughs (Camden, Westminster, Hammersmith & Fulham, Kensington & Chelsea) are already at the Band A level across almost their entire area. The following nearby outer London Boroughs already have proposals to move to Band A lodged with London Councils, or have consultation in place on moving their whole boroughs to the Band A level:
- London Borough of Barnet
 - London Borough of Ealing
 - London Borough of Hounslow

Ealing have reported a majority of consultation respondents have been in favour of moving the borough to Band A, to provide a greater deterrent. If, as expected, all comparable boroughs do seek to move to Band A, then Brent would be out of step with its neighbours and there could be a perception that parking contraventions were perceived as less of an issue in most of Brent. This could exacerbate the erosion of the deterrent effect referred to in para 3.9 below.

- 3.9 The objective of any parking enforcement operation should be to gain and maintain compliance with the controls and restrictions. In the past three years, Brent has experienced significant growth of 17% in the number of PCNs issued each year. Growth in PCN issuance has been entirely focused on the Band B areas (see para 3.11 below). Across the rest of London, the annual increase has been less than 7%.

- 3.10 The net increase in parking PCN issuance in Brent may in part be attributable to better detection techniques and greater enforcement efficiency. However, a portion of the growth in PCN issuance is likely to be due to the penalty for offending in Band B locations simply not having the same deterrent effect as it did in 2011, because inflation has eroded its value.
- 3.11 Within the borough-wide increase of 17%, there is a clear and distinct split between Band A and B locations.

Variation in Parking PCNs by Band

Parking PCNs	2017/18	2019/20	Variance	Percentage
Band A	60,423	59,680	-743	-1%
Band B	51,859	64,584	12,725	+25%
Total	112,282	124,264	18,556	+17%

The above table shows an almost static number of Band A PCNs being issued year on year, while the number of Band B PCNs issued is increasing rapidly.

- 3.12 With the overall increase of 25% of Band B PCNs, we also note some concerning individual trends.
- Loading Restriction offences have increased in Band B areas by 194% while only increasing by 3% in Band A areas.
 - Dropped Kerb offences have increased in Band B areas by 288% while reducing by 8% in Band A areas.
 - Bus Stop offences have increased in Band B areas by 21% while reducing by 25% in Band A areas.
 - Pedestrian Crossing offences have increased in Band B areas by 61% while reducing by 9% in Band A areas.
- 3.13 These offences are of concern because of the obstructive or safety-related impacts they have. There is a definite bias towards greater compliance in Band A areas across these offences.

There were also increases in the Band B areas for the following offences.

- 40% in Disabled Bay Offences
- 113% in Double Parking Offences
- 151% in Footway Parking Offences

These offences carry a high anti-social tariff, cause inconvenience and impact on the effective operation of the highway network.

Consultation: Plan and Coverage

- 3.14 Cabinet agreed at its meeting on 17 August 2020 to undertake a borough-wide non-statutory consultation on these proposals and pursuant to the Cabinet decision, to delegate authority to the Strategic Director, Regeneration and Environment, in consultation with the Lead Member to consider progressing the proposal.
- 3.15 The Parking service launched an online consultation commencing 7th September, and ending on 5th October 2020. Over 51,000 parking account holders, registered residents associations, business associations and places of worship received an email detailing the proposed changes. The email contained a direct link to the consultation portal to complete the online questionnaire.
- 3.16 Further approaches to raise awareness of the consultation included weekly updates on social media platforms, a link to the consultation from the Council's website home page and the parking page, an article in The Brent Magazine (distributed to households on 15th September) and electronic circulation of the Brent e-newsletter. Members received notification of the consultation via the Members Bulletin on 4 September.
- 3.17 During the consultation, both The Kilburn Times and The Harrow Times published an article on the proposal and informed readers of the consultation.
- 3.18 The Service also consulted with all the neighbouring boroughs: London Boroughs of Ealing, Barnet, Camden, Hammersmith, Hounslow, Westminster City Council and the Royal Borough of Kensington and Chelsea with no objections. Ealing, Hounslow and Barnet have all indicated a move to Band A. Camden council responded to inform that have only a very few roads remaining in Band B, all of which border Brent and should Brent proceed be successful in their application, Camden will also consider moving to Band A borough wide.

Consultation: Distribution of Responses

- 3.19 The online consultation provided detailed background information and statistics on the proposal. The questionnaire intended to capture the responses of the consultees and as such, structured to ask three questions, one of which was the key question on the proposed change. A further three questions provided an opportunity for individual comments and opinions to be expressed as free text.
- 3.20 There were 1,368 respondents the consultation, summarised below:

Q1: To what extent do you agree or disagree that further action form the Council is required to discourage illegal parking offences in the Band B area.

Option	Total	Percent
Strongly agree	231	16.89%
Tend to agree	147	10.75%
Neither agree or disagree	76	5.56%
Tend to disagree	137	10.01%
Strongly disagree	766	55.99%
Don't know/Can't Say	11	0.80%
Not Answered	0	0.00%

Q2: *Please let us know the reasons for your answer.* There were 1,131 responses to this part of the question. See paragraph 3.22 below.

Q3: *To what extent do you agree or disagree that increasing the amount of the Band B penalty Charge Notice to that Band A amount is an effective way of discouraging parking offences?*

Option	Total	Percent
Strongly agree	139	10.16%
Tend to agree	132	9.65%
Neither agree or disagree	76	5.56%
Tend to disagree	129	9.43%
Strongly disagree	879	64.25%
Don't know/Can't say	13	0.95%
Not Answered	0	0.00%

Q4: *Please let us know the reasons for your answer.* There were 1045 responses to this part of the question. See paragraph 3.24 below.

Q5: Key Question: *To what extent do you support or oppose the proposal to change Brent's Band for parking offences from Band A / B to Band A?*

Option	Total	Percent
Strongly support	181	13.23%
Somewhat support	94	6.87%
Neither support nor oppose	62	4.53%
Somewhat oppose	130	9.50%
Strongly oppose	901	65.86%
Not Answered	0	0.00%

Q6: *In your opinion, what other measures can be useful in discouraging parking offences?* There were 1057 responses to this part of the question. See paragraph 3.26 below.

Consultation: Analysis of Responses

- 3.21 On the question of 'To what extent do you agree or disagree that further action from the Council is required to discourage illegal parking offences in the Band B area'

28% of respondents supported further action, with 66% opposed

- 3.22 Responses were analysed, with common themes emerging summarised below:

Respondents that were in agreement:

- Illegal parking is dangerous and a safety concern
- We should do more to deter illegal parking in residents' parking spaces

- More deterrent is needed, with so many cars parking
- Illegal parking and bad parking prevents access to properties
- Illegal parking leaves disabled persons at a bigger disadvantage in finding a space
- Provides a fair approach for residents who pay for permits
- Will reduce the number of illegally parked vehicles.

Respondents that were opposed:

- It is just a means to raise additional revenue for the council
- Motorists are an easy target and punished as such
- Changes will make a difference to the way in which motorists park
- It will create an impact on local business
- The current penalty charges are fair and provide a good level of deterrent
- Provide more parking spaces to reduce illegal parking

A sample of actual responses is provided in the attached Appendix A.

- 3.23 On the question of '*To what extent do you agree or disagree that increasing the amount of the Band B penalty Charge Notice to that Band A amount is an effective way of discouraging parking offences*';

20% of respondents supported the proposal, with 74% opposed.

- 3.24 Responses were analysed, with common themes emerging summarised below:

Respondents that were in agreement:

- Increased fines could work as a deterrent
- Any additional measures are worth trying as the situation is getting worse
- Fines must be substantial and enforceable
- Single borough-wide charge is fairer
- There is a wrong belief that motorists are not doing anything wrong when parking illegally, so we need more deterrents
- Motorists will more likely comply and improve parking for everyone

Respondents that were opposed:

- Is a means for the council to raise revenue
- Small increase will not deter drivers parking illegally
- Motorists that park illegally know they risk a fine so a small increase will not discourage more of them
- Provide more parking spaces instead
- The current value of a PCN is enough of a deterrent

A sample of actual responses is provided, in the attached Appendix A.

- 3.25 On the key question of '*To what extent do you support or oppose the proposal to change Brent's Band for parking offences from Band A / B to Band A*'?

20% of respondents supported the proposal, with 75% opposed.

- 3.26 On the question of '*What other measures can be useful in discouraging parking offences?*', responses were analysed, with common themes emerging summarised below:

Respondents thought the following measures could discourage illegal parking:

- Improved signage and line marking
- lower parking tariffs and permit prices
- More parking spaces
- Improved enforcement
- Focus more on serious offences and not on minor overstays in paid for parking
- Provide more information to motorists on parking restrictions

A sample of actual responses is provided in the attached Appendix A.

Analysis of consultation responses

- 3.27 As with other authorities, Brent often receives a low level of support for parking-related charge increases, with many comments expressing concerns that the proposals are motivated by a desire to raise revenue rather than manage parking and traffic flow. A sample of 275 responses of those opposed to the proposals was analysed. 88 of these responses (32%) expressed a specific concern about the measure being principally motivated by financial considerations.
- 3.28 However, there is no legal basis on which local authorities can consider any increase in parking-related fees or charges for the purpose of raising revenue. Further details are set out in the Legal Implications, Section 5 of this report below.
- 3.29 In any case, officer advice has been clear at each stage that these proposals are most likely to be revenue neutral. This advice is set out in the Financial Implications, Section 4 of this report below. The sole purpose of the proposals is to deter parking contraventions, leading to less PCNs being issued and a net zero impact on parking PCN revenue.
- 3.30 Notwithstanding the results of the consultation, officers remain of the view that the proposal to move the whole borough to Band A, will assist in the better management of parking space within the borough, help ensure that the highway network can operate effectively and also support independent travel by members of the public, particularly those with mobility impairments.
- The Band A penalty will have a greater deterrent effect than the Band B penalty
 - This is demonstrated by the recent growth in contraventions in Band B areas in comparison to Band A areas (see paragraph 3.11 above)
 - Neighbouring boroughs are moving to Band A which could leave Brent in an anomalous position and more vulnerable to illegal parking
 - The complex geographical boundary between Band A and Band B areas in Brent can no longer be justified, and is administratively complex and inefficient

4.0 Financial Implications

- 4.1 The sole objective of the proposal is to increase the deterrent effect of PCNs and thereby reduce parking contraventions. It is expected that this proposal will be finance neutral.
- 4.2 The additional income from higher Band PCNs would be balanced by a corresponding reduction in the number of contraventions, due to the greater deterrent effect. The proposed change would target a 20% reduction in the number of parking contraventions in current Band B CPZs.

5.0 Legal Implications

- 5.1 The route to obtain approval for a change of bands in respect of charging for penalty charge, following the approval to proceed by Cabinet on the 17 August 2020 and the approval of the Delegated Authority Report following the consultation is:
 - a) London Councils – Transport & Environment Committee;
 - b) Mayor of London; and
 - c) Secretary of State for Transport.
- 5.2 The London Councils' Transport & Environment Committee ("LC TEC") receives the initial application from the borough. Typically, the application receives intense scrutiny at this stage, and LC TEC has in the past deferred decisions on applications that are not supported by adequate public consultation. If the final decision of LC TEC is to progress such an application, the results of the consultation would be incorporated into the application for further approval. Providing that LC TEC approves the Council's application to re-band its PCN charging, London Councils will then make an application for approval to the Mayor of London, and ultimately to the Secretary of State, on behalf of the London Borough of Brent.
- 5.3 Under Section 45 of the Road Traffic Regulation Act 1984 (RTRA 1984), a local authority has powers to designate parking places on the highway, to charge for use of them, and to issue parking permits for a charge.
- 5.4 In determining what parking places are to be designated under section 45 of the RTRA 1984, the Council concerned shall consider both the interests of traffic and those of the owners and occupiers of adjoining property, and in particular the matters to which that authority shall have regard include;
 - (a) the need for maintaining the free movement of traffic;
 - (b) the need for maintaining reasonable access to premises; and
 - (c) the extent to which off-street parking accommodation, whether in the open or under cover, is available in the neighbourhood or the provision of such parking accommodation is likely to be encouraged there by the designation of parking places under this section (45 of the RTRA).
- 5.5 Section 55 of the RTRA 1984 makes provision for the monies raised under section 45 of the RTRA 1984, in that it provides for the creation of a ring-fenced account (the SPA – Special Parking Account) into which monies raised through the operation of parking

places must be placed, and for the application of any surplus funds. Any surplus generated is appropriated into the Council's General Fund at the year end and can be spent on matters defined in section 55(4) of the RTRA 1984 Act (mainly transport and highways matters, which are listed in the Act).

- 5.6 Section 122 of the RTRA 1984 imposes a general duty on local authorities when exercising functions under the RTRA. It provides, insofar as is material, as follows:
"(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 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...
(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 locality 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;
(d) any other matters appearing to the local authority to be relevant"
- 5.7 If the proposals regarding PCN banding in this report obtain the necessary approval from LC TEC, the Mayor of London and the Secretary of State for Transport, they will require the amendment of the existing Traffic Management Orders under the Road Traffic Regulation Act 1984.

6.0 Equalities Implications

- 6.1 Section 149 of the Equality Act 2010 provides that the Council must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic, and those who do not.
- 6.2 No significant adverse implications have been identified in the proposal to move all PCNs to Band A. There is no evidence that motorists from any of the equalities groups with protected characteristics are more likely to incur PCNs than the general motoring population.
- 6.3 A reduction in parking contraventions would be of particular benefit to disabled motorists, who have a greater need to park legally closer to their home or destination.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 Statutory consultation on several of the aforementioned changes will be required.

7.2 The Lead Member for Environment has been consulted on the proposals and has confirmed her support for the recommendations.

8.0 Human Resource / Property Implications

8.1 None

Related Documents:

Cabinet, 17 August 2020: Parking Penalty Charge Notices: Borough-wide Banding

Report sign off:

Alan Lunt

Strategic Director Regeneration and Environment