

**TRANSPORT FOR LONDON**

**BOARD**

**SUBJECT: LOCAL GOVERNMENT OMBUDSMAN'S REPORT**

**DATE: 10 FEBRUARY 2009**

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**1 PURPOSE AND DECISION REQUIRED**

- 1.1 Under section 31(2) of the Local Government Act 1974, the Transport for London (TfL) Board is required to consider the findings of a report issued by the Local Government Ombudsman (LGO) in relation to three complaints investigated by the Ombudsman. A copy of the LGO's report is attached.
- 1.2 The purpose of this paper is to inform the Board of the Ombudsman's findings and recommendations contained in the report, the circumstances of the complaints made against TfL and the action take by TfL in response to the complaints and the report findings.
- 1.3 This paper was also considered at the recent Audit Committee meeting on 28 January 2009.

**2 BACKGROUND**

- 2.1 TfL is responsible for delivering compliance with traffic regulations on the red route network. The network comprises major routes into and around London that carry a third of the city's traffic and which are essential for the movement of traffic and public transport. TfL is responsible for enforcing contraventions on the red routes which include clearways, parking and loading bays, bus lanes, yellow box junctions and banned turns.
- 2.2 The vast majority of enforcement on the network is undertaken through the issue of Penalty Charge Notices (PCNs) issued by TfL using CCTV systems. The penalties issued by TfL for contraventions on the red routes currently attract a financial penalty of £120 which is discounted to £60 if paid within 14 days.
- 2.3 TfL officers identify and validate contraventions and then pass the details to an outsourced Service Provider for the physical issue of the PCN and the processing of all payments or other related activity. The penalties are issued by post to the registered keeper of the vehicle identified as committing the contravention of the regulations who then has the option of paying the penalty or challenging the circumstances of issue.
- 2.4 Motorists can pay PCNs by telephone, post or via the internet and once full and correct payment is made the progression of the penalty should cease with immediate effect and the penalty should be closed and no further action taken.

- 2.5 Where PCNs remain unpaid the penalty escalates in terms of the amount outstanding until the monies due are finally registered as a debt and a warrant is issued to certified bailiffs acting on behalf of TfL to recover the outstanding debt.
- 2.6 Since the formation of the original Traffic Enforcement team in 2001, TfL has issued some 3.4 million PCNs. Customers who lodge complaints with the LGO do so about a range of Traffic Enforcement activities including the issuing and processing of penalty charge notices. The majority of the cases are resolved directly by TfL as the LGO has considered a complaint to be premature, where the complainant has not given the authority the opportunity to answer the complaint prior to LGO involvement.
- 2.7 The three cases detailed in the report are the first cases to result in a finding of maladministration leading to injustice at TfL.

### **3 SUMMARY OF REPORT**

- 3.1 On 15 December 2008 TfL received a report from the LGO following their investigation into complaints from three motorists who had each received a PCN from TfL for traffic contraventions identified on the red route between September 2006 and April 2007.
- 3.2 In each case the motorists had paid the penalties through the postal channel by cheque and these were cashed by TfL's PCN processing Service Provider, NCP Services (NCPS). NCPS are responsible for the financial systems in place that manage the receipt, banking and allocation of customer PCN payments. NCPS did not reconcile the payments with the relevant open PCNs and, as a result, despite the motorists contacting NCPS directly and TfL on several occasions, enforcement of the penalties in each case continued.
- 3.3 As a result of these failures the penalties in question progressed incorrectly to the debt recovery stage and bailiff action was wrongly taken in all three cases, with two of the complainants having their vehicles clamped and then being required to pay the penalties for a second time, together with bailiff costs before their vehicles were released.
- 3.4 Following the investigation by the LGO, the Ombudsman concluded that there was maladministration leading to injustice in each of the three complaints. As a result the LGO directed TfL to:
- a) Take a number of specific actions (detailed below);
  - b) Pay compensation totalling £1,780 to the three customers involved;
  - c) Place an advertisement in the local press informing the public of the report and making the report available to the public; and
  - d) Inform the TfL Board of the report and its findings.

## **4 SUMMARY OF LGO RECOMMENDATIONS**

- 4.1 Through discussions with TfL during the investigation and through the issued report, the LGO made a number of recommendations to TfL to avoid further similar incidents occurring in the future, all of which have been accepted by TfL. These are:
- a) TfL develops a comprehensive policy for dealing with payments received which cannot immediately be reconciled with outstanding penalties.
  - b) TfL reviews its procedures for locating payments which have been 'lost' and reconciling them with outstanding penalties.
  - c) TfL reviews its procedures for refunding payments to motorists where it accepts they have been wrongly charged so that in the future unreasonable delays do not occur.
  - d) TfL carries out training for staff to help them recognise the difference between representations against the issue of a penalty and representations that payment has been made.

## **5 ACTION TAKEN BY TfL - GENERAL**

- 5.1 TfL has accepted the LGO's findings and, since first being notified of the investigation in October 2008, TfL Officers from the newly established Congestion Charging & Traffic Enforcement (CC&TE) Directorate have worked closely with the LGO to establish the facts of the complaints, the areas of failure and outline already delivered and future changes to remedy such failures.
- 5.2 The CC&TE Directorate was established in February 2008 with a specific objective of improving the efficiency and effectiveness of services delivered to motorists and, in particular, the effective processing and management of Congestion Charging, Low Emission Zone and Traffic Enforcement payments and penalties. Since then the Directorate has significantly changed its perspective and style of service delivery. These changes include:
- a) A harmonisation of policies and procedures – reviewing and implementing the best examples of practice from across the teams making up the new Directorate. This has particularly changed the approach to how TfL handles customer contact and manages service providers.
  - b) The introduction of 'A Fair Deal for Drivers'. This initiative includes the termination of the vehicle removal service, a more lenient view in the case of genuine driver error, and the suspension of enforcement where it is clear that driver confusion is leading to high levels of contraventions.
  - c) A 20 per cent fall in Traffic Enforcement contraventions and a 15 per cent reduction in Congestion Charging contraventions arising from a combination of improvements to operational processes and better compliance by motorists.

- d) The implementation of a new PCN Processing Contract with NCP Services in June 2008 with significantly enhanced customer-focused requirements and performance regime – this contract includes improved processing of items such as payment and refunds, and enhanced tracking and audit processes to allow easier identification and resolution of issues.
  - e) In the context of a change in emphasis from enforcement to delivering compliance through education, a reduction in the size of the department from 450 to 250 posts. This has contributed to efficiency savings of over £18 million in 2008/9 and savings of over £500 million (over 40 per cent of costs) during the Business Plan period.
- 5.3 Most notably, in the context of these issues, in September 2008 an Organisation Change Programme (OCP) was launched in CC&TE in order to bring together the operational teams working on Congestion Charging and Traffic Enforcement under the responsibility of the Deputy Director of CC&TE.
- 5.4 The structures delivered through the OCP have been specifically devised to increase effective, consistent, customer-focused management by TfL and deliver further improvements to the operation, quality of service and service provider performance. Through the OCP an assessment process was undertaken to identify the most experienced and capable staff at every level to fill the roles within the new structure. None of the senior managers directly involved in the functions referred to in this report obtained positions in the new structure and they have since left the organisation.

## **6 ACTION TAKEN BY TfL - SPECIFIC**

- 6.1 As a result of the failures and the specific recommendations made in the LGO report a number of specific actions have already been taken to prioritise:
- a) Improved management of escalated complaints and enhanced risk-based contract monitoring activities by TfL Officers.
  - b) The introduction of proactive customer contact where payments are unable to be allocated.
  - c) A review of the level and volume of unallocated cheques, especially where cheques are received without reference to a specific PCN, by TfL Surface Finance team (who regularly review the management accounting procedures inherent to the PCN processing service).
  - d) Clarification of the process for requesting evidence to prove payment.
  - e) Enhanced PCN suspension processes to prevent escalation of PCNs to recovery stage.
  - f) Changes to working hours of TfL staff to ensure bailiffs can refer cases at all times as required for advice.

- g) Enhanced monitoring and performance management by the new TfL Contracted Services team.
  - h) Improvement of information provided to recipients of PCNs to maximise payments via non postal channels and use of PCN payment slips via the postal payment process.
  - i) Increased, direct TfL involvement in NCP Services training activities - including verification that the training recommended by the LGO is successfully undertaken.
- 6.2 TfL has taken over ownership of the bailiff operation from NCP Services. Through this change, TfL is undertaking a much more direct service management and monitoring regime. This builds on the lessons learned from the management of Congestion Charging and LEZ debt recovery activity, where the sorts of issues described in these three cases have been eradicated.
- 6.3 From 2009/10, all of the CC&TE Directorates debt recovery (bailiff activity) will be delivered through completely new contracts with additional customer focused contractual requirements.
- 6.4 The LGO was pleased to note that the underlying causes of the complaints have already been addressed by TfL, and welcomed the decision to consider if further changes to the service providers' financial management arrangements and TfL's business processes are now required in response to this report. TfL will provide the LGO with a copy of the policy put in place for dealing with unallocated payments and the reviewed process for making refunds to motorists. To date, TfL has identified a total of 21 actions which will be taken in response to the LGO report. The vast majority (90 per cent) of these will be completed by 10 February 2009 and all actions completed by the end of March 2009.
- 6.5 Furthermore, in light of the findings of this report, TfL Internal Audit has been asked to carry out a full audit of complaint handling within the CC&TE Directorate.

## **7 CONCLUSION AND NEXT STEPS**

- 7.1 As the Ombudsman acknowledges in his report, TfL 'processed over half a million direct customer payments relating to PCNs in 2007 - when these events occurred – and that 30 per cent of those payments were made by cheque'. This area has experienced a number of finance and audit reviews over the past few years – with no negative results until the LGO report.
- 7.2 Notwithstanding the high number of PCNs processed and the assessments previously undertaken, it is clear that in these three cases there were unacceptable failings in the level of customer service, the management of service providers, the business processes and the culture within the relevant teams.
- 7.3 The Ombudsman's report clearly sets out repeated and significant failures by TfL, its service provider, NCP Services, and a bailiff acting on behalf of TfL. The result of these combined failures was a totally unacceptable level of service for customers who had paid their penalties but remained subject to enforcement activity resulting in bailiff action in all three cases.

- 7.4 There is no suggestion in the LGO report that there has been any financial irregularity within TfL or its suppliers. Nor has there been any indication of misuse of funds in the audits and reviews carried out prior to or since receipt of the LGO report. In these cases the monies were banked entirely appropriately. Customer service errors resulted in the PCNs not being closed, and the consequences were clearly unacceptable. In recent months CC&TE has instituted a policy of immediately cancelling a PCN and refunding all payments if there is any error, however trivial, made by TfL or its suppliers in the processing of a case, even if the original contravention was correctly identified.
- 7.5 As has been highlighted in this report, since the failures occurred there have been a number of significant changes with the Directorate resulting in improvements to the management of this business area. Before the Ombudsman's report had been received the new senior management team had undertaken substantial changes to the structure, personnel and approach with the new Directorate. Since receiving the report a clear series of additional activities has been launched that will deliver further improvements.
- 7.6 The key underlying issues have been understood and addressed. Given the actions already undertaken, TfL is confident that there is no possibility of a repetition of the events set out in this report. TfL will advise the Ombudsman of the actions taken and underscore the importance attached by TfL to the LGO findings.

## **8 RECOMMENDATION**

- 8.1 It is recommended that the Board NOTE the report.

## **9 CONTACT**

- 9.1 Contact: Jeroen Weimar, Chief Operating Officer, Enforcement & Compliance  
Phone: 020 3054 0187

# Report

on an investigation into complaint nos  
07/A/17576, 07/A/17777 & 08 008 328  
against Transport for London

15 December 2008

# **Investigation into complaint nos 07/A/17576, 07/A/17777 & 08 008 328 against Transport for London**

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## **Key to names used**

Ms Moss

Mr Stewart

Mr Hunt

The complainants

## Report Summary

### Subject

I received complaints from three motorists, Ms Moss, Mr Stewart and Mr Hunt<sup>1</sup>, who had each received penalty charge notices (PCNs) from Transport for London for various motoring contraventions. The motorists had paid the penalties by cheque and these were cashed by Transport for London. But the Authority did not tie the payments up with the relevant PCNs and so, despite the motorists contacting Transport for London on numerous occasions in an attempt to establish to its satisfaction that cheques had been sent and the funds cleared from their bank accounts, enforcement continued.

Bailiff action was wrongly taken in all three cases, with two of the complainants having their vehicles clamped and then being required to pay the penalties for a second time, together with bailiff costs before their vehicles were released.

### Finding

The Ombudsman finds that there was maladministration leading to injustice in each of the three complaints made to him.

When the motorists contacted the Authority to say they had paid the penalties, Transport for London misunderstood their representations, gave inadequate responses and failed to give them proper advice on what information it needed to help match the missing payments with the appropriate PCNs.

I understand that the Authority's Notice Processing Service processed over half a million direct customer payments relating to PCNs in 2007 - when these events occurred – and that 30% of those payments were made by cheque. But in these cases it failed to initiate a meaningful search for payments the motorists could prove they had made, and chose instead to take enforcement action as if the PCNs remained unpaid.

When Transport for London finally accepted that it was in error, although it refunded the additional costs associated with enforcement promptly, it failed within a reasonable period to refund the original fines which had been paid twice.

### Recommended remedy

The Local Government Ombudsman recommends Transport for London takes the following steps to avoid further similar incidents:

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<sup>1</sup> Not their real names for legal reasons

- The Authority develops a comprehensive policy for dealing with payments received which cannot immediately be reconciled with outstanding penalties.
- Carries out training for staff to help them recognise the difference between representations against the issue of a penalty and representations that payment has been made.
- Reviews its procedures for locating payments which have been 'lost' and reconciling them with outstanding penalties.
- Reviews its procedures for refunding payments to motorists where it accepts they have been wrongly charged so that in the future unreasonable delays do not occur.
- Pay compensation of £250 to Ms Hunt in recognition of the anxiety she was caused by being sent a bailiff's letter for a debt she knew she had paid, and the unreasonable time and trouble she was put to in establishing this to Transport for London's satisfaction.
- Pay Mr Stewart £1050 in recognition of the embarrassment he was caused when bailiffs wrongly attended his place of work and clamped a fleet vehicle before demanding payment of a fine which he no longer owed, a refund of the duplicated penalty and bailiff charges, interest on the money which was not returned as it should have been, and the time and trouble he was put to in resolving the matter.
- Pay Mr Hunt £480 to compensate him for the embarrassment and stress he was caused when a bailiff wrongly visited him at his home in the early hours of the morning and clamped his car, threatening him with its removal and additional costs if he did not immediately pay a penalty which he knew had already been paid and despite him being able to show the bailiff reasonable evidence of this, and for the unreasonable time and trouble he was put to in getting Transport for London to refund the duplicated penalty payment he made to the bailiff.

## Introduction

1. Three people complained separately to me that Transport for London had enforced penalties issued to them for motoring contraventions despite their having paid the penalties. The complainants said that payment had been made by cheque, the cheques had been cashed but enforcement had continued, leading in each case to bailiff action.
2. In each case the complainants say that they suffered upset by being pursued by a bailiff for a fine they had already paid. Two of the complainants had vehicles clamped and had to pay the penalty a second time together with bailiff charges before their vehicles were released. It took considerable time and trouble on their part to get this money repaid.

## Legal and Administrative Background

3. For legal reasons<sup>2</sup>, the names used in this report are not the names (apart from those of the authority concerned) of the people and places involved.
4. Under the law Transport for London is entitled to issue Penalty Charge Notices for parking offences and various moving traffic contraventions. These may cover such contraventions as stopping on a Red Route when prohibited, bus lane contraventions and moving traffic offences such as turning where prohibited, disobeying a no-entry sign and stopping in a yellow box junction.
5. Once a Penalty Charge Notice (PCN) is issued it is for a motorist to decide whether the penalty should be paid or challenged. In 2007 Transport for London's Notice Processing Service managed 547,764 payments relating to penalty charges issued by Traffic Enforcement of which 30% were made by cheque.<sup>3</sup>
6. A motorist has the right to make representations to the Authority against the issue of a penalty, and to appeal to the Parking and Traffic Appeal Service, a statutory tribunal, if representations are rejected. None of the complainants exercised their right of appeal to the Parking and Traffic Appeal Service.
7. A discount (currently 50%) is applied where the penalty charge notice is paid within 14 days. In the case of a parking contravention, if the penalty remains unpaid after 28 days, a Notice to Owner is issued to the person appearing to be the owner, usually the person registered with the Driver and Vehicle Licensing Agency (DVLA) as the keeper of the vehicle. If representations are not made against the issue of the penalty or if the penalty is not paid within 28 days, a Charge Certificate is issued increasing the penalty by 50%.

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<sup>2</sup> Local Government Act 1974, section 30(3)

<sup>3</sup> Source – Transport for London 9 December 2008.

8. If payment has not been made 14 days after the Charge Certificate has been issued Transport for London may register the penalty as a debt at the Traffic Enforcement Centre at Northampton County Court. The Traffic Enforcement Centre then writes to the owner, enclosing a statutory declaration form. The owner must either pay the outstanding penalty or lodge a statutory declaration at the Traffic Enforcement Centre if they had not received a Notice to Owner, had not received a Notice of Rejection after having made formal representations to the Authority, or had made an appeal to the Parking and Traffic Appeal Service but had had no response.
9. Transport for London may apply to the court for a Warrant of Execution 21 days after the Charge Certificate has been issued if the owner has not paid the penalty or lodged a statutory declaration. The Warrant authorises the Authority to recover the unpaid penalty using bailiffs.
10. Bailiffs' costs for the recovery of unpaid penalty charges are set out in The Enforcement of Road Traffic Debts (Certified Bailiffs) Regulations 1993 (IS 1993 No 2072) and The Enforcement of Road Traffic Debts (Certified Bailiffs) (Amendment) Regulations 1998 (IS 1998 No1351).

## **Investigation**

### **The complaint by Ms Moss – 07/A/17576**

11. A Penalty Charge Notice (PCN) was issued when Ms Moss allegedly stopped on a Red Route at a time when it was prohibited to do so. The alleged contravention took place on 14 November 2006. The notice required the complainant to pay a penalty of £100 within 28 days of the contravention but this would be discounted to £50 if payment was made within 14 days of the contravention.
12. Ms Moss sent a cheque for £50 by post to the Authority within the 14 day discount period. Ms Moss says she stapled the cheque to the penalty charge notice and returned both to Transport for London. The complainant has sent me evidence that the cheque was cashed and cleared through her bank account on 1 December 2006.
13. But when the payment was processed it appears that it was not allocated to the individual PCN she had been issued with by Transport for London and so enforcement continued. Transport for London has offered me no explanation why this cheque was not allocated to the PCN when it was received and so was effectively 'lost'.
14. A Notice to Owner was issued on 18 December 2006, and Ms Moss contacted Transport for London on 10 January 2007 for an explanation. She told an officer that the penalty had been paid. She was asked to provide evidence of this.

15. On 18 January 2007 she sent the Authority a copy of the cheque stub showing Transport for London as the payee and a mini statement showing a payment of £50 had been made against this cheque. Despite her efforts to satisfy Transport for London that she had in fact paid the fine enforcement continued and a Charge Certificate was issued on 22 January 2007.
16. Transport for London wrote to Ms Moss on 12 February 2007 to say it could not tie up the payment on the basis of the information which she had provided. The Authority asked that Ms Moss provide a copy of her bank statement. The Officer said the copy of her bank account which had been sent was unclear and did not show her account number. The Officer did not ask for a copy of the back and front of the cheque which it seems to me would have provided the requisite information with which to trace the payment.
17. Ms Moss wrote again on 16 February 2007. She enclosed a copy of her bank statement showing the payment of £50 with the serial number of the cheque. The statement showed her bank sort code and her account number. What she sent appears to me to comply fully with the request made by the Authority in its letter of 12 February 2007.
18. The Authority acknowledged receipt of this letter on 6 March 2007. A further letter was sent to the complainant on 16 April 2007 asking for a copy of the cheque used for payment of the penalty. Ms Moss replied on 23 April 2007 saying she had already sent a copy twice – it seems to me she was wrong in saying this; as I understand it she had provided only the cheque number and stub rather than a copy of the front and rear of the cheque now being asked for.
19. An Order for Recovery of unpaid penalty charge was sent to Ms Moss on 4 May 2007.
20. Transport for London responded to Ms Moss' letter of 23 April 2007 on 9 May 2007. It did not deal with her claim that payment had already been made but said only that it was too late for her to make representations. The letter said she must pay the outstanding amount, which had by now risen to £155. As this penalty went unpaid it was referred to a bailiff on 19 June 2007.
21. In the meantime, Ms Moss wrote to the Commissioner of Transport for London on 7 June 2007, making a formal complaint about TfL's handling of the case. It appears this may have triggered a new search for the missing cheque. On 29 June 2007 bailiff action was put on hold for 28 days and on 2 July 2007 the cheque was found and payment was finally allocated to the PCN.
22. The Managing Director of the Authority's Surface Transport Division wrote to Ms Moss on 2 July 2007. He said it was his view that her complaint had now been addressed and the PCN was considered paid. He refused Ms Moss's

request for compensation for the time and trouble she had been put to, saying that he believed that the Authority had not acted vexatiously or unreasonably.

23. It appears that the 'found' cheque was not correctly entered on Transport for London's payment system and so the bailiff action which had been suspended in June 2007 became 'live' again after the 28 day period had elapsed. In the absence of further instructions from Transport for London, at the end of July 2007 the bailiff sent a letter to Ms Moss demanding payment of £168.16 (the £155 penalty plus its charge for a collection letter) and threatening seizure of her goods if this amount was not paid within seven days.
24. Ms Moss contacted the bailiff but was told he had a warrant from the court and that she should speak to the court if payment had been made. She telephoned the court and she told my investigator that the court said she must speak to Transport for London. It was only when she telephoned Transport for London that she received confirmation that the penalty had in fact been paid and that it would request the bailiff to return the warrant to it.
25. Following enquiries made by my Investigator, Transport for London has accepted that it had no more information in July 2007, when it was able to find Ms Moss' missing cheque, than it had in February 2007 when it could not. The Authority's Appeals Manager wrote to my Investigator saying of the search which eventually found the missing cheque;

"This action *could* (his emphasis) have been carried out at an earlier stage, but it is an extremely lengthy and resource heavy process."

### **The complaint by Mr Stewart – 07/A/17777**

26. Mr Stewart runs a business. His company leases its vehicles under a hire contract. A Penalty Charge Notice was issued in respect of one of Mr Stewart's hired vehicles when it was alleged that on 27 September 2006, the driver of the vehicle failed to drive in the direction shown by an arrow on a sign with a blue background – a moving traffic contravention.
27. The PCN was initially issued on 4 October 2006 to the lease hire company as it was the owner registered with the DVLA. The hire company made representations to Transport for London saying it was a hire company and at the material time the vehicle was hired under a qualifying hire agreement. It requested that liability for the penalty be transferred to Mr Stewart's company. Transport for London accepted these representations.
28. The PCN was issued to Mr Stewart's company on 23 October 2006. He says that payment of the full penalty of £100 was made on 17 November 2006 using a company cheque. Mr Stewart has told my investigator that although the PCN

number was written on the back of the cheque he now accepts that it was incorrectly transcribed – one of the digits was omitted. However he says that when the cheque was sent to Transport for London it was stapled to a copy of the PCN.

29. The cheque was cashed by Transport for London on 24 November 2006 and the payment was debited from Mr Stewart's company bank account on 28 November 2006.
30. Mr Stewart says he had no further correspondence from, or contact with, Transport for London following his payment of the PCN and he had no reason to believe the matter was not closed.
31. But it appears that the payment was not allocated to the PCN by Transport for London and so enforcement continued. My Investigator asked Transport for London for copies of all correspondence and statutory notices sent to Mr Stewart's company in respect of the allegedly unpaid penalty but none has been supplied.
32. It appears that Transport for London registered the 'debt' at the Traffic Enforcement Centre at Northampton County Court and subsequently applied to the court for a Warrant of Execution. This was granted and was sent by the Authority to a bailiff for enforcement on 14 April 2007.
33. This warrant does not seem to have been actioned by the bailiff at that time and nothing further seems to have taken place until December 2007. I have seen no evidence that the bailiff contacted Mr Stewart's company by letter before he called at his business premises on 12 December 2007. Transport for London has not explained why enforcement was delayed by approximately eight months.
34. When the bailiff attended at Mr Stewart's business premises on 12 December 2007 he clamped one of Mr Stewart's company vehicles. Mr Stewart paid the bailiff £556.29 (the penalty of £155 plus the bailiff's costs of £385.09) to have the vehicle released.
35. Mr Stewart wrote to Transport for London on 20 December 2007 seeking repayment of the fine (which he had now paid twice) and the bailiff's costs. He attached to his letter a copy of the front and rear of the cheque used for payment of the fine in November 2006, together with supporting documents showing the cheque had been paid by his bank.
36. It appears that this letter was received by Transport for London and passed to its finance department for investigation. However no reply was forthcoming.
37. Mr Stewart contacted the Authority again on 5 March 2008 using an online feedback form on its internet website, asking that the duplicated fine and bailiff's

costs be refunded. The feedback form was received by the Authority's IT department and emailed to its notice processing department in Croydon for consideration and for it to send Mr Stewart a response.

38. This was sent on 6 March 2008. The Notice Processing Officer making the response addressed his letter, in error, to the IT officer who had emailed him the message from the Authority's website, albeit sending the letter to Mr Stewart's trading address. He answered none of the points made by Mr Stewart when he contacted the Authority through the website but instead said that any costs which arose in making representations (which Mr Stewart was not seeking) were the responsibility of the registered keeper (which Mr Stewart was not). The Officer said that the matter was closed.
39. Mr Stewart complained to me on 27 March 2008. One of my investigators wrote to Transport for London on 14 April 2008 to make enquiries. The Authority replied on 27 June 2008. While accepting that Mr Stewart's cheque had been received and cashed in November 2006, the Authority made no offer to refund the duplicated penalty payment or the bailiff costs which had been incurred.
40. My Investigator wrote to the Authority again on 17 July 2008. He said he was keen to resolve the issue of the money which appeared to be outstanding to Mr Stewart and asked what action the Authority proposed. No response was received until 9 September 2008 when the Authority offered to refund all the money which Mr Stewart had paid, less the original cost of the PCN.

### **The complaint by Mr Hunt – 08 008 328**

41. Mr Hunt received a Penalty Charge Notice because it was alleged his vehicle was seen stopped on a Red Route at a time prohibited. The date of the alleged contravention was 26 April 2007. There was some correspondence with the Authority but, on 3 September 2007, as the penalty had not been paid, a Charge Certificate was issued. The penalty remained unpaid and an Order for Recovery was sent to Mr Hunt. When no payment was made the fine was registered as a debt at the Traffic Enforcement Centre at Northampton County Court and a Warrant of Execution was issued on 7 November 2007. The Warrant was passed to a bailiff for collection of the outstanding penalty.
42. Mr Hunt's wife paid the penalty (which had now reached £155) to Transport for London on 13 November 2007. However Transport for London did not inform the bailiff that payment had been received and more than three months later, on 25 February 2008, a bailiff called at Mr Hunt's home, clamped his car, and demanded payment of £624.91 (the £155 penalty and his costs of £469.91).
43. This visit took place in the early hours of the morning and Mr Hunt tried to prove to the bailiff that payment had been made. He showed the bailiff the cheque stub and his bank statement showing the cheque had been paid by his bank. Mr Hunt

contacted Transport for London and using an automated system was able to access the PCN and hear a recording saying that full payment had been made against the PCN and nothing remained outstanding.

44. The bailiff was not prepared to consider any of this evidence or listen to Transport for London's recorded message saying the PCN had been paid in full. Nor was he prepared to wait until someone could be contacted at Transport for London when the office opened to confirm that the penalty was no longer outstanding. He threatened to tow Mr Hunt's car away if he did not pay immediately, and said that this would result in additional costs.
45. Mr Hunt paid the bailiff £624.91 and his car was released.
46. Mr Hunt contacted Transport for London when the bailiff had left. Once Mr Hunt was able to establish that payment had been made in November 2007, the Authority passed information to the bailiff and he promptly refunded his charges of £469.91 directly to Mr Hunt. But despite several telephone calls to Transport for London, the Authority did not refund the duplicated penalty payment Mr Hunt had paid of £155.
47. Mr Hunt complained to me on 15 July 2008. My investigator made enquiries to Transport for London on 25 July 2008, asking why repayment of the duplicated penalty had been delayed. Transport for London replied that despite Mr Hunt's requests for repayment in early February 2008, the refund process had not been started until 22 April 2008. A cheque was raised on 8 July 2008, but due to a mistake on the Authority's part, it was sent to the wrong person.
48. Transport for London has told my Investigator that the refund of the duplicated penalty payment was eventually sent to Mr Hunt on 4 August 2008 and he has confirmed that this has been received.

### **Transport for London's response**

49. Transport for London has accepted the findings of the Ombudsman in each of the complaints.
50. In response to the Ombudsman's recommendations Transport for London has said
  - It now has in place a comprehensive policy for dealing with payments received that cannot be immediately reconciled to a PCN.
  - It will ensure that the business rules and training developed for the service around managing representations are amended to reflect requirements for differentiating between types of representation.

- It has reviewed and implemented a procedure for allocating a payment to a penalty charge, where a penalty charge number does not appear to have been provided with a payment.
- It has implemented a procedure for the timely turn around of refund payments.
- In February 2008 Congestion Charging and Traffic Enforcement merged as a single directorate which has led to a recent re-organisation. One of the objectives of the re-organisation is to streamline management of operational services that are being delivered within the Directorate, to ensure that process and policy is managed and delivered cohesively through its operational and contracted services.

## Conclusion

51. Transport for London is responsible for around 580km of the capital's roads. Known as London's Red Routes or the TfL Road Network, they make up five per cent of London's roads and carry a third of the city's traffic. The Authority has powers to penalise motorists for motoring contraventions on this network. Penalties may be issued for contraventions such as parking offences, driving in a bus lane at a time prohibited, entering a yellow box junction when the exit is not clear and failure to comply with blue direction signs. Penalties can quickly escalate if payment is not made within the strict time periods set out in statute.
52. Many motorists choose to pay penalties which have been issued by posting a cheque to the Authority. It is inevitable that from time to time cheques received by post will become detached from the payment slip, or motorists will make an error when entering the PCN number on the back of their payment cheque. Transport for London seemingly had no procedure in place for dealing with this eventuality. It is not acceptable that cheques were cashed by the Authority and then little effort was made to contact the drawer, or attempt made to reconcile the payments with the relevant penalties. Transport for London must have robust procedures for dealing with this problem.
53. I identified serious deficiencies in the Authority's officers' understanding of both written and telephone representations made to it in the cases which form the basis of this report. Further training is required so that officers can readily identify and respond to the points made to them by motorists.
54. Where refunds are due, they must be made without unreasonable delay. It is not equitable that an authority which is entitled to double penalties if payment is not made in time can then withhold refunds for unreasonable periods without due cause.

55. While I accept that bailiffs have a difficult job to do, they must not act unreasonably in carrying out their duties. I regard a refusal on the part of a bailiff to consider evidence that a payment has been made, or to wait until the Authority's office is open to verify that a penalty has been paid, as unreasonable behaviour.

## Remedy for the injustice

56. In two of the complaints I have investigated, the complainants suffered the embarrassment of having bailiffs attending either their home or at their place of work. They had their vehicles clamped and were denied the use of them even though no penalty was outstanding. All of the complainants were put to inordinate time and trouble in seeking to establish that the penalties had been paid for the PCNs which had been issued.

57. Transport for London has already acknowledged it was at fault and has agreed to pay compensation to the complainants as follows:

Ms Moss	£250
Mr Stewart	£1050
Mr Hunt	£480

58. I consider this is suitable compensation for the injustice the complainants suffered.

59. Transport for London has told me that it has already taken steps to alter its procedures for dealing with cheques when they are received, and reconciling unallocated cheques to the relevant PCNs. I look forward to receiving a copy of the comprehensive policy it says it has put in place for dealing with these payments.

60. The Authority has said it has reviewed the process by which it makes refunds to motorists. I look forward to seeing the new procedure which it says it has put in place, learning the outcome of its review and to seeing real improvements in the time taken to issue refunds.

61. It has told me that it is arranging training and workshops for its notice processing staff to ensure the desired standards are understood and implemented throughout the business.

62. At present representations against enforcement are dealt with by a contractor. Enforcement is carried out by bailiffs employed by this contractor, not by Transport for London. The Authority has told me it has already enhanced the management and monitoring of bailiff activities since the events complained about.

63. I am pleased to note that the underlying causes of the complaints have already been addressed by Transport for London, and I welcome the decision it has taken to consider if further changes to this policy are now required in response to this report.

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**15 December 2008**