

Machine thefts and damage



What do we know?

- Research conducted across BPA LA membership
- 100 + responses to survey
- 90 reports of theft or attempted theft in past 12 months
- Apparent hot spots in South East and Yorkshire and Humber
- 45 thefts reported since June 2017 and alerts sent to subscribers
- Estimated cost to authorities in the hundreds of thousands of pounds UK wide

What are we doing about it?

- Theft alert system running since June 2017 for subscribers.
- Conversation has taken place with the police
- Discussed amongst equipment manufacturers
- Sharing any solutions reported by members

Adjudication Matters

“Traffic Penalty Tribunal Adjudicators have, recently, increasingly frequently, asked us if we are willing to accept the discounted payment for a PCN, even though an appeal cannot be made until the discount period has lapsed and the Notice to Owner has been served.

I suggest that Adjudicators are “overstepping the mark” by asking this and it is not part of their remit to do so. The cost of officer time spent in preparing TPT cases is sometimes not covered by the payment of the full amount so to ask us to accept the discounted amount is, in my opinion, not appropriate.

It would be very helpful to know whether other Local Authorities have had similar experiences and whether the frequency of such occurrences has increased in recent times.”

The legal opinion

- Guidance and case law confirms that it is not within adjudicators' powers to request a discounted payment following a finding against a motorist
- Adjudicators are limited to cancelling the penalty, upholding the penalty, or if there is compelling mitigation, referring it back to the council to consider.
- Requesting the officer at the hearing to make an on the spot decision places them under pressure to accept when they don't have the authority to do so and where there is no power to request it.

The legal opinion – guidance and case law

- *The Civil Enforcement of Parking Contraventions (Guidance on Levels of Charges) (England) Order 2007 – States that penalty charges **must** be set at the levels provided in the table in this schedule.*
- *The Queen on the Application of the Lord Mayor and the Citizens of Westminster v The Parking Adjudicator [2002] EWHC 1007 (Admin) “I also declare that the adjudicator has no power to take mitigating circumstances into account when determining the amount of any payment payable by a person adjudged to be in contravention of a parking regulation.”*
- *Straus v Royal Borough of Kensington & Chelsea 2050448466 “To allow the motorist to pay at the reduced rate, but still go on to contest the penalty would plainly undermine that legitimate aim” [of the Road Traffic Act 1991]*

The legal opinion

- We have concerns that this practice will encourage motorists to appeal cases without merit
- This practice also represents an unfairness to those motorists who accept responsibility at an earlier stage which in turn attracted the reduced penalty.
- We submit that following a finding against the motorist the full amount should be paid in all but the most exceptional cases as set out in relevant case law.