

Executive Summary Direct Investigation Report

Measures and Usage of On-street Parking Spaces Designated for People with Disabilities

Introduction

In the past, only drivers with disabilities holding the Disabled Person's Parking Permit ("DPPP")¹ were entitled to use the on-street parking spaces designated for people with disabilities ("DPS"). With effect from 29 January 2021, the Transport Department ("TD") introduced a new measure to extend the eligibility for using DPS to holders of the Parking Certificate for Drivers Who Carry People with Mobility Disabilities ("Parking Certificate") to facilitate the carrying of specified persons with lower limb mobility disabilities ("persons with LLMD"). The new measure is aimed at promoting social integration of disabled persons as well as supporting and easing the burdens of carers. This Office concurs that these objectives are in line with the current policy direction.

2. The provision of DPS involves both the on-street parking policy and the policy of transport for people with disabilities. In handling relevant issues, TD has to consider and balance the two aspects concurrently. Moreover, TD should ensure that people with comparable levels of lower limb disabilities, either as drivers or passengers, are equally entitled to use DPS. Yet, in achieving these objectives, TD apparently has not anticipated the problems stemming from the discrepancies between DPPP and Parking Certificate in terms of approval criteria, checks against abuse, etc., when the holders of both documents are allowed to use DPS for free. TD's launch of the new measure without in-depth assessment of potential problems upon implementation could easily aggrieve the parties affected.

¹ At present, disabled persons within the definition under section 2 of the Road Traffic Ordinance (Cap. 374) and fit to drive a motor vehicle are entitled to a range of driving and parking concessions. Disabled persons who apply for a driving licence are required to undergo testing and assessments, and will be issued a driving licence upon TD's approval. After obtaining valid driving licences and vehicle licences, drivers with disabilities are eligible to apply for the DPPP.

Our Findings

3. Our investigation has revealed the following inadequacies on the part of TD in formulating the new measure, assessing the supply and demand of DPS, processing applications, preventing abuse and handling complaints.

(I) Process of Formulating New Measure

Failing to Consult Stakeholders

4. TD formulated and introduced the new measure in the wake of an application for leave for judicial review in 2019. Against this background, no public consultation had been conducted, nor had TD collected the views of stakeholders (such as DPPP holders, representatives of people with disabilities and/or their carers, qualified persons responsible for assessment of disability condition, etc.). Not only did TD miss the opportunity to refine the new measure's operational details and foster a consensus through extensive and thorough consultation and discussion, the lack of transparency during the formulation process also created a negative perception of the new measure among the stakeholders affected.

Causing Confusion and Frustration by Hastily Changing Requirements and Conditions of Use

5. When TD first introduced the new measure, it simply adopted the original practice before expanding the scope of Parking Certificate, i.e. in addition to registered doctors and registered physiotherapists, it also accepted school principals and registered nurses as qualified persons to issue the relevant certification. However, around four months later and since then, only registered doctors and registered physiotherapists are accepted as qualified persons. Besides, TD received public complaints and views shortly after launching the new measure. It then revised the Parking Certificate's conditions of use within a few months, reflecting that TD had not carefully considered the operational details and possible scenarios.

6. This Office considers that TD should draw on the experience, effectively use various communication channels to engage stakeholders, thereby formulating comprehensive and proper solutions to better respond to their demands.

(II) Supply and Demand of Designated Parking Spaces

Lack of Effective Measures to Balance Supply and Demand and to Promote Turnover of Parking Spaces

7. After the launch of the new measure, the ratio of DPS to holders of DPPP/Parking Certificate has increased from 1: 4 to 1: 8.5. The extra demand brought about by the new measure has aggravated the imbalance in supply and demand, while the increase of DPS lags far behind the increase of Parking Certificate holders. Meanwhile, those spaces are free to use without any requirement for registration or parking records. It is difficult to verify whether a vehicle had overstayed in a DPS, and there are no practical measures to promote turnover of Parking Spaces.

8. This Office considers it essential for TD to clarify the policy direction of having DPS and fully assess the supply and demand. TD should weigh up all factors and set a target ratio of DPS to DPPP/Parking Certificate holders for formulation of long-term planning and development of ancillary facilities. It should also collect and compile data on the supply and demand for DPS, including conducting regular surveys on usage rates for systematic analysis of the existing and future supply and demand. Moreover, TD should draw up a schedule for regular review of progress of the tasks, and properly adjust its actions and follow up based on the results obtained.

Failing to Disseminate Information about Usage Rates of Designated Parking Spaces

9. Before launching the new measure, TD had surveyed the usage rates of DPS. Nevertheless, TD has not released the survey results, such that stakeholders are not fully aware of the demand for those spaces.

10. This Office considers releasing such data conducive to higher transparency of Government administration and operation, thereby enhancing the public's awareness (especially stakeholders affected) of the policy rationale and engaging their support for the policy and relevant measures. In particular, TD should provide the survey results when liaising with members of the Working Group on Access to Public Transport by People with Disabilities regarding the usage of DPS and the scope of Parking Certificate.

(III) Criteria of DPPP and Parking Certificate

11. Due to their different regimes and backgrounds, DPPP and Parking Certificate have their own sets of approval procedures and eligibility criteria. DPPP is issued under the Road Traffic (Parking) Regulations (Cap. 374C) (“the Regulations”) with eligibility criteria prescribed by law. Parking Certificate, on the other hand, is issued by administrative means, and TD can adjust the relevant requirements and measures according to circumstances. Although DPPP and Parking Certificate both provide parking concessions, the discrepancies between their approval criteria and conditions of use cause problems of various degrees.

To Rationalise the Relationships among Applicant, Registered Vehicle Owner and Person to be Carried

12. TD has not imposed any restriction on the relationship between Parking Certificate applicant and the person to be carried. In the past, Parking Certificate holders were only entitled to use the designated parking spaces inside TD’s carparks when carrying the person with LLMD. Under the new measure, they can also use DPS free of charge, thus boosting the demand for those spaces. Given the insufficient supply, TD should examine whether its former lenient approach in approving application is tenable.

13. Meanwhile, DPPP applicant or his/her spouse (where the spouse is also a disabled person) must be the registered owner of the relevant vehicle, while Parking Certificate application can be made with a vehicle registered in the name of the applicant or the passenger with mobility disability. Multiple applicants can apply to TD for a Parking Certificate if they have to share the duty of carrying the same person. Upon approving such application, TD would issue only one Parking Certificate so that the certificate can only be used by one of the vehicles listed thereon at any given time. However, it certainly increases the risk of abuse. Also, TD allows registered vehicle owner to authorise another person to be the applicant of Parking Certificate to drive his/her vehicle for carrying the person with LLMD, making the approval procedures more complicated. We urge TD to stringently review the eligibility criteria for Parking Certificate, especially in cases where the applicant, the registered vehicle owner and the person to be carried are different parties and authorisation for other persons to drive a vehicle is involved.

14. Our investigation revealed that TD had approved an application for Parking Certificate on compassionate grounds in exceptional circumstances where the applicant was not the registered owner of the vehicle to be used. To avoid queries about TD's deviation from the established requirements, this Office considers it essential to spell out the consideration factors for approval on compassionate or discretionary grounds. TD should also draw up the approval conditions and criteria to ensure that the procedures are fair and impartial.

Failing to Prescribe Maximum Number of Vehicles Listed on Each Parking Certificate

15. TD accepts applicants for Parking Certificate to register more than one vehicle in one application, but requires that only one of the vehicles should use the certificate at any given time. Upon approval of application to change information (such as changing the vehicle registration mark, adding or reducing the number of vehicles registered on a Parking Certificate, etc.), TD would request the holder to surrender the old certificate and then issue a new one. Yet, if TD mishandles the surrender of old certificate, it might create a loophole for abuse of DPS. Moreover, TD would not examine why Parking Certificate applicants needed to register three or more vehicles, nor has it set a clear standard on the maximum number of vehicles to be registered on each certificate.

16. We urge TD to prescribe a clear and uniform standard on the maximum number of vehicles registered for each Parking Certificate, and draw up operational guidelines for handling applications with multiple vehicles, including in what circumstances such applications are acceptable.

No Restriction on Vehicle Types and Specifications

17. Unlike DPPP holders who are bound by the Regulations to use particular types of vehicles (i.e. private cars, motor cycles or motor tricycles), Parking Certificate holders are not restricted as to the types or specifications of vehicles they would use. We are of the view that TD should consider objectively whether certain types of vehicles are suitable for general use by people with LLMD (for example, whether they can easily get on/off a sports car with very small space), thereby minimising abuse.

18. We urge TD to step up scrutinising such applications and draw up reasonable standards on the vehicle types used by Parking Certificate holders. TD can also consider requiring attachment of photographs of the relevant vehicle with new or

renewal applications for verifying that the vehicles used are suitable for carrying the specified persons with LLMD.

(IV) Measures to Prevent and Tackle Abuse

To Consider Imposing Limitations on the Use of Designated Parking Spaces to Benefit More Drivers and Passengers with Disabilities

19. Currently, DPPP holders are entitled to use DPS for free, while Parking Certificate holders must have the person with LLMD on board when driving in and/or out of those spaces. For holders of both documents, parking in a DPS should not exceed a continuous period of 24 hours. We note that at times the person with LLMD carried by the Parking Certificate holder when driving into a DPS might not return there to get back on the vehicle, and the same vehicle would occupy DPS for a long time in the interim. Despite no breach of the conditions of use (i.e. the person with LLMD named on the Parking Certificate must be on board when the vehicle was driven in and/or out of the space), the situation was unsatisfactory and not conducive to promoting the turnover of DPS.

20. In our view, TD should not only adopt effective measures to closely monitor the usage of DPS, but also explore the feasibility of imposing certain limitations. For instance, it can set a time limit or charge fees after the time limit for parking, so as to promote the turnover of DPS.

Failing to Investigate and Handle Complaints Systematically

21. According to its procedures for handling complaints about Parking Certificate abuse, TD would issue a warning letter to the holder for the first violation. Where repeated or persisting abuses are found, TD would cancel the Parking Certificate. To prevent holders suspected of violating the conditions of use from taking advantage of time difference or other excuses (such as before TD could issue a warning letter or holders denied having received the warning letter) and continuing with the abuse, TD should review its current procedures in handling abuse cases and clarify the definition of “repeated abuse” and the enforcement procedures, including the warning letter system, the consequences of holders not replying by deadline, etc.

22. On the other hand, TD conducted regular surveys, mostly on weekdays (i.e. Mondays to Fridays), in the vicinity of Parking Spaces with high usage rates and

frequent complaints or reports by the public. Considering that TD has been allocated more resources for on-site surveys, we urge it to, besides stepping up monitoring, increase the number of surveys at weekends to obtain a more comprehensive understanding of the actual usage of DPS at those locations.

Improper Arrangement for Recalling Parking Certificates

23. Our case studies revealed that some holders had put off surrendering invalid Parking Certificates to TD. Another case showed that TD had issued a new certificate before the old one was surrendered, resulting in two certificates being used concurrently by different holders claiming to carry the same person with LLMD. These cases reflected serious inadequacy in TD's procedures for handling the surrender of Parking Certificates.

24. On the contrary, the Regulations stipulates the duties of DPPP holders after cancellation of DPPP (either in paper or electronic form) and the penalties for non-compliance. With the introduction of e-Permits, the need for TD to recall paper Parking Certificate would be reduced. Still, as the Parking Certificate is issued by administrative means, the fact that non-compliant holders are not liable to any legal consequences calls into question the fairness of the policy.

Penalties Carrying Insufficient Deterrence

25. Both DPPP and Parking Certificate could be cancelled if their holders violate the conditions of use. However, unlike DPPP holders, Parking Certificate holders are not liable to any sanctions for such violation. We consider that TD should fully recognise the fact that there is no law that regulate non-compliance by Parking Certificate holders, continue to use new technology (e.g. smart monitoring system) to monitor the usage of Parking Spaces and step up enforcement against various forms of abuse. In the long run, TD should consider and explore strengthening the regulatory measures by legislative amendments.

Exploring Other Practical Solutions

26. We urge TD to continue exploring other practical solutions to prevent and address abuse of DPS. It should also coordinate and sort out different solutions jointly with stakeholders, thereby fostering a consensus. On the front of new technology application, TD may consider providing real-time information about the availability of

DPS via the “HKeMobility” application, similar to that of general on-street parking spaces, facilitating the instant search of DPS by DPPP/Parking Certificate holders.

Recommendations

27. In the light of the above, The Ombudsman makes eleven recommendations to TD:

- (1) clarify the policy and positioning of having DPS, fully assess their supply and demand, draw up a schedule for various tasks and regularly review progress of the tasks;
- (2) regularly survey the usage rates of DPS, and release the data to the public;
- (3) comprehensively review the eligibility and approval criteria for Parking Certificate, especially in cases where the applicant, the registered vehicle owner and the person to be carried are different parties and authorisation for another person to drive a vehicle is involved, as well as the consideration factors and conditions for approval on compassionate and discretionary grounds;
- (4) review and strengthen measures against various forms of Parking Certificate abuse;
- (5) when processing applications for Parking Certificate with multiple vehicles, step up scrutinising whether the applicants have a genuine need to use multiple vehicles, and draw up operational guidelines for handling such cases;
- (6) draw up reasonable standards on the vehicle types used by Parking Certificate holders, and take proper measures to ensure that application is made with vehicles suitable for carrying the specified person with LLMD;
- (7) explore setting limits on the use of DPS to promote turnover, such as setting a time limit of parking or charging fees after certain time limit;

- (8) review existing procedures for handling parking abuse, clarify the definition of “repeated abuse” and the enforcement procedures;
- (9) proceed with the installation of smart monitoring system at DPS to step up monitoring their usage;
- (10) in the long run, consider and explore legislative amendments to address the discrepancies between DPPP and Parking Certificate in terms of approval procedures, eligibility criteria and conditions of use; and
- (11) use various communication channels to engage and collect views extensively from stakeholders regarding the usage of DPS and the scope of Parking Certificate, thereby exploring and drawing up more comprehensive and proper solutions.

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