



Leicester
City Council

WARDS AFFECTED
All

Cabinet

12th May 2008

TRAFFIC MANAGEMENT ACT 2004 – ADJUDICATION JOINT COMMITTEE

Report of the Corporate Director Regeneration & Culture

1. Purpose of Report

1.1 Changes in parking enforcement have been brought about from 31st March by implementation of the provisions contained within Part 6 of the Traffic Management Act 2004. This report is to inform members of the need to join a new Adjudication Joint Committee Agreement for the civil enforcement of Parking and Traffic Regulations Outside London, which is shortly to replace the existing National Parking Adjudication Service Joint Committee Agreement to which the City Council is already a party to.

2. Summary

2.1 Since the City Council took over enforcement of the on-street parking restrictions from the Police in January 2007 it has been a member of the National Parking Adjudication Service. This provides motorists who have been issued with a penalty charge notice (PCN) with a mechanism to appeal against the Council's decision in the matter.

2.2 From 31st March new provisions for the civil enforcement of parking enforcement came into force. Although the Traffic Management Act 2004 regulations contain a saving for the current Joint Committee unfortunately they do not make any provision for Councils deriving parking enforcement powers under the Act to become party to the existing Joint Committee Agreement. The Dept for Transport have now advised that if new Councils are to be able to use the adjudication service a new Adjudication Joint Committee Agreement has to be entered into under the new TMA 2004 powers. This means that all existing members of the National Parking Adjudication Service Joint Committee including this Authority need to rejoin the arrangements.

3. Recommendations

3.1 Cabinet is recommended to:

- Authorise the Service Director (Legal Services) to make the necessary arrangements for the City Council to enter into a new Adjudication Joint Committee Agreement for the Civil Enforcement of Parking and Traffic Regulations Outside London.
- Appoint a Cabinet member representative and a substitute Cabinet member to serve on the Parking and Traffic Regulations Outside London Joint Committee

4. Report

Background

- 4.1 Under the Road Traffic Act 1991 the City Council obtained decriminalized parking enforcement powers and has been responsible for the civil enforcement of the on-street parking restrictions since January 2007. As part of the rules governing civil enforcement there is a process prescribed in law to allow a motorist to appeal against the issue of a PCN.
- 4.2 In the first instance, an informal challenge can be made by a member of the public to the Council against a PCN prior to a notice to owner seeking payment. A formal representation can also be made to the Council against the PCN once the notice has been served. Suitably trained and authorized officers are employed to consider each challenge and representation. They decide on the merits of each one in a timely and professional manner, having followed the prescribed appeals procedure and considered all of the circumstances and evidence. If the circumstances provide genuine grounds for cancellation, then the PCN will be cancelled and the motorist informed. If there are no grounds for cancellation the motorist will be given the reasons for that decision.
- 4.3 Once the Council has rejected a formal representation the motorist may appeal further to an independent parking adjudicator. The parking adjudicators have been provided through the National Parking Adjudication Service and are appointed to provide a fair, consistent and equitable adjudication service to the public and local authorities in deciding the outcome of a PCN appeal. The City Council is presently a member of the National Parking Adjudication Service Joint Committee Agreement.

Replacement Joint Committee

- 4.4 New provisions for the civil enforcement of parking enforcement came into force on 31st March. Although Part 6 of the Traffic Management Act 2004 regulations contain a saving for the current Joint Committee unfortunately they do not make any provision for Councils deriving civil parking enforcement powers under the Act to become party to the existing Joint Committee Agreement. The Dept for Transport and Leading Counsel have advised that if new Councils are to be able to use the adjudication service a new Joint Committee Agreement has to be entered into under the new Traffic Management Act 2004 powers. At the present time there are new Councils whose Orders will come into force in May 2008 needing to join the arrangements.
- 4.5 The necessity to provide a new Joint Committee Agreement means that all existing members of the National Parking Adjudication Service Adjudication Joint Committee Agreement need to rejoin the arrangements. The procedure for this involves four Councils signing the new Agreement and the remainder joining by means of signing a Memorandum of Participation shortly afterwards. It is necessary for this to be signed and returned by 15th May for the Council to be able to continue uninterrupted use of the appeals service after this date.
- 4.6 We have been informed that the terms of the replacement agreement (which is anticipated shortly) are very similar to that of the existing 2001 Agreement set up under the provisions of the Road Traffic Act 1991. There are minor amendments primarily to take into account of the new legislation and to clarify the functions of the new Joint Agreement for the Civil Enforcement of Parking and Traffic Regulations Outside

London. These functions are incidental to the efficient operation of the adjudication service including for example the production of a website. The new agreement has been drafted in such a way that it is intended to cover the appointment of adjudicators for bus lanes and moving traffic offences when the necessary enforcement powers are granted to authorities outside of London in the future. This is to remove the need for another new agreement but is subject to how the Dept for Transport word the future regulations to include the moving traffic offences.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1 Financial Implications

The Council's share of cost of the new Adjudication Joint Committee Agreement for the Civil Enforcement of Parking and Traffic Regulations Outside London is funded from a levy imposed on each PCN issued and currently stands at 60p on each PCN. Annually on average 67,000 PCN's are issued, meaning our share of cost is about £40,000 p.a, this is built into the PCN of £70 Higher penalty and £50 Lower penalty in operation from 31 March 2008.

(Paresh Radia – R & C Finance. Tel.296507)

5.2 Legal Implications

New legislation, The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, made under s 81 Traffic Management Act 2004) has made it necessary to re-join the Adjudication Service Joint Committee now to be known as the Parking and Traffic Regulations Outside London Joint Committee by entering a Memorandum of Participation in a new Adjudication Joint Committee Agreement. This is because the Committee will exist under new powers, which also have the potential to extend to deal with other traffic offences. The new Agreement will come into force on 15 May 2008 and it is important that the Council completes and returns the Memorandum of Participation by this date, in order that use of the appeals service continues without interruption.

(Jamie Guazzaroni, Greg Surtees – Legal Services. Tel.296350 & 296453)

6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	YES	2.1 Effective enforcement of parking contraventions helps the Council discharge its duty to promote equality of opportunity between the disabled and other people.
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	

7. Risk Assessment Matrix

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (If necessary/appropriate)
The inability to use an appeal service over disputed PCNs could lead to a loss of income.	L	L	Project Management in place to ensure arrangements include for joining new Adjudication Joint Committee.

L – Low
M – Medium
H - High L – Low
M – Medium
H - High

8. Background Papers – Local Government Act 1972

- I. Traffic Management Act 2004 Parking Policy & Enforcement Operational Guidance to Local Authorities issued by Dept for Transport. – March 2008
- II. Report to Cabinet – Traffic Management Act 2004, 31st March 2008

9. Consultations

Regeneration & Culture Head of Finance Section and Resources Access & Diversity
Greg Surtees and Jamie Guazzaroni, Solicitors, Legal Services.

10. Report Author

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Executive