

CABINET

20 MARCH 2012

Title: Parking and Traffic Enforcement Policy	
Report of the Cabinet Member for Environment	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Director: Darren Henaghan, Corporate Director of Housing and Environment	
Summary: This report sets out the policy for the parking and traffic enforcement in Barking and Dagenham. Detailed in policy documents are the statutory processes that govern parking and traffic enforcement under the Traffic Management Act 2004 (TMA) and how it is proposed these are applied in Barking and Dagenham. The main Parking and Traffic Enforcement Policy (Appendix A) covers the enforcement of parking contraventions within the borough. This Policy has four annexes for consideration. These are as follows: <ul style="list-style-type: none">• Annex 1 - Cancellation Guidance – these guidance notes are statutory in accordance with the TMA on what customers can appeal against.• Annex 2 - Description of Traffic Signs – this document is a graphical description to highlight moving traffic contraventions.• Annex 3 - Discretion Policy – this policy specifies the grounds under which the Council may exercise discretion and the Officers with delegated authority who can exercise discretion on behalf of the Council.• Annex 4 - Vehicle Removals Policy – this policy enables the ability for better network management in that vehicles can be lifted and removed for causing serious obstructions. This policy will also help manage the enforcement of persistent evaders. This report also includes a policy for parking debt write-off (Appendix B). This policy links to the Corporate Debt Management Policy which covers all debt relating to the Council. The intention for this policy is that it will be incorporated into the Corporate Debt Management Policy which is due to be reviewed in October.	

Recommendation(s)

The Cabinet is recommended to:

- (i) Adopt the Parking and Traffic Enforcement Policy attached at Appendix A and the associated annexes listed below:
 - Cancellation Guidance (Statutory Guidance revised)
 - Description of Traffic Signs (Statutory)
 - Discretionary Policy (revised)
 - Vehicle Removals Policy (new)
- (ii) Adopt the revised Write-off Policy attached at Appendix B in respect of Parking and Traffic Enforcement and note that this policy will be incorporated into the Corporate Debt Management Policy later this year.

Reason(s)

The Parking Policies are a series of statutory guidance and policies with the objective of securing a safe, sustainable and accessible transport system. This is part of delivering the Policy House objective through developing good quality transport, including public transport, roads and footpaths by improving road safety and assisting traffic flow.

By adopting the Policies enables the Council to generate additional income and supports the policy of the Council being a “well-run organisation”.

1. Introduction and Background

- 1.1 The legislative framework for local authorities to carry out parking enforcement changed to the Traffic Management Act in 2004 (TMA) Part 6 on 31 March 2008, replacing parts of the Road Traffic Act 1991 (as amended) and the Local Authorities Act 2000 (as amended). Legislation covering bus lane, moving traffic contraventions remains unchanged.
- 1.2 The TMA was introduced to improve public perception of parking enforcement by providing greater consistency of nationwide parking regulations and providing a fairer and more transparent system. It also brought consistency to parking enforcement regulations for London and non-London authorities.
- 1.3 The TMA strengthens the requirements for local authorities to have consistent and transparent enforcement policies.
- 1.4 Subsequent legislation in the London Local Authorities Act in 1995, 2000 and the London Local Authorities and Transport for London Act 2003 modified the 1991 act introducing new categories of contravention, such as ‘double parking’ and parking on pedestrian crossings.
- 1.5 The London Local Authorities Act 1996 provided the authority for local authority enforcement of bus lanes. The joint 2003 act provides for the decriminalised enforcement of other moving traffic offences such as box junctions and no entry signs and also empowered the Council to take enforcement action against vehicles parked by dropped kerbs.

- 1.6 The parking regulations as prescribed by the 1991 Road Traffic Act and consolidated in the Traffic Management Act 2004 decriminalised parking contraventions. This means that they are no longer dealt with under Criminal Law in the Magistrates Courts but come under the jurisdiction of Civil Law. In effect the act gave powers to Local Authorities to enforce parking restrictions previously the responsibility of the Police i.e. traffic wardens.
- 1.7 Since Barking and Dagenham adopted the aforementioned Acts it has continued to develop additional enforcement powers. Through its enforcement, 'prohibited' and 'permitted' parking contraventions are enforced.
- 1.8 Over the last few years, traffic in Barking and Dagenham has increased as have car free developments and the demand for parking space is increasing steadily. The net result is that the Council's parking responsibilities have grown significantly as a priority and there are effects on all Barking and Dagenham residents and the business community, directly or indirectly.
- 1.9 To address these growing needs the Council has introduced and continues to introduce initiatives such as Controlled Parking Zones, pay and display parking at smaller retail centres, localised parking plans i.e. marked bays, double yellow lines on corners and contract parking for car free developments and businesses. All of these need to be enforced effectively to add any benefit.
- 1.10 Parking and traffic enforcement is central to the Councils overall approach to transport and has as its primary purpose, the achievement of traffic management objectives by encouraging compliance with traffic regulations. Effective enforcement assists the Council in delivering its wider transport objectives :
 - i. Managing the safe and free movement of vehicles, pedestrians & cyclists
 - ii. Improving road safety
 - iii. Improving the local environment including air quality
 - iv. Maximising the use of parking space to balance the needs of road users, including residents, businesses and visitors
 - v. Improving the movement and accessibility of public transport
 - vi. Meeting the needs of people with disabilities

2. Proposal and Issues

2.1. Parking and Traffic Enforcement Policy (PEP)

- 2.1.1. The purpose of the PEP is to provide a comprehensive reference guide to the strategy and policies laid down by the Council for everyone with a vested interest in parking enforcement within the borough. It is required to assist the enforcement service in the high quality decision making process, and also to ensure consistency.

Parking policy does not override the Traffic Management Act 2004, the Highway Code or any related regulatory framework. Where there is any contradiction the Department for Transport (DfT) and Secretary of State Guidance (Feb 2008) takes precedent on statutory matters.

The policy outlined in the PEP does not differ greatly from what we have been applying up to now. There are some minor changes proposed which will enhance the Councils ability to enforce parking and traffic regulations these are detailed below.

2.2. Removal of vehicles from the highway (Annex 4 to Appendix A)

New to the policy is the adoption of power that will allow us to remove vehicles from the highways. Local Authorities have the power to remove vehicles causing obstruction and persistent evader's vehicles if they are in breach of parking contravention at the time of removal.

The proposal set out in the policy is that the vehicle will be removed on the issue of the fourth PCN only if previous PCN's remain unpaid and not going through the appeals process.

The ability to lift vehicles and take them to holding place, is an essential tool to help us manage the traffic network during the Olympic Games when we anticipate a greater degree of traffic and parking issues. Vehicles that are obstructing the highways or are parked in such a way that they are dangerous, will be lifted from the highway and taken them to a place that we agree is a suitable vehicle pound.

The charge for removals is not set by the Council, but by a London-wide body called London Councils. The charge is currently set at £200.00 and will incur storage fees per day. These fees are subject to change.

2.3. Clamping

Barking and Dagenham Council no longer clamps vehicles and there is no intention to do so in the future. However, contractors for the Driver and Vehicle Licensing Authority (DVLA) clamp untaxed vehicles and also bailiff companies who are contracted by the Council as part of the debt recovery process.

2.4 Discretion Policy (Annex 3 to Appendix A)

The Council has the discretion to cancel a PCN at any point in the appeals process and has set out the Discretionary policy with regards to the handling of appeals and to give guidance on what and who can exercise discretion.

The policy sets out examples for illustrative purposes only and cannot cover every situation that may arise or every situation in which we may exercise discretion to cancel a PCN; therefore each case will be considered on its own merits. Any decision to exercise discretion to cancel a PCN which falls outside of the statutory guidelines must have approval from the Parking Manager or Divisional Director only.

The policy also outlines the vehicles we class to be exempt from liability to receive or pay a PCN.

In some instances Corporate Complaint investigations or Elected Member casework may illustrate the need to review parking controls in a particular area. Of course this will never apply to the issue of an individual ticket but could illustrate the need to

review a series of tickets issued in a particular location and could require discretionary cancellation. In all instances this decision is only taken by authorised and trained parking staff and the reasons for cancellation in line with the policy recorded.

2.5 Write-Off Policy (Appendix B)

This report recommends that parking services adopt the Corporate Debt Management Policy. However, there are some specific procedures and guidelines for dealing with Penalty Charge Notice Debt. These have been modified within the parking write-off policy.

3. Options Appraisal

- 3.1 The two options are to set out and agree policy or to do nothing. Doing nothing would mean that parking services would not have robust procedures in place that they were working to and would therefore lack consistency and transparency

4. Consultation

- 4.1 Informal consultation has taken place with the Corporate Director of Housing and Environment, the Divisional Director of Environment and the Portfolio holder for Environment.

5. Financial Implications

Implications completed by: Jo Moore, Finance Group Manager

- 5.1 The main financial implications arising from this report are in relation to the Debt Write off policy in respect of the write-off of unpaid Penalty Charge Notices (PCNs). The collection of parking debt rests with the Revenues & Benefits service and although there is already an approved debt write-off policy there are a number of key differences between the collection of generic and PCN related debt. For this reason it is felt necessary to highlight those differences and attach a separate parking appendix to the Revenues & Benefit write-off policy. It is anticipated that going forward these differences will be amalgamated into the main policy.
- 5.2 The parking service operates a stand-a-lone parking system for the administration of PCNs and this system does not interface into the Council's main financial system (Oracle). For this reason when a PCN is issued it is not recorded in Oracle as a debtor. However, this follows normal practice as the non-payment of a PCN issued does not necessarily constitute a "debt".
- 5.3 A PCN that has been issued can be subsequently cancelled (appeal and/or representation allowed i.e. ticket not valid) or withdrawn for a number of reasons (e.g. vehicle not match to DVLA records) outlined in the Cancellation and Withdrawn policy attached to this report. It is only once the ticket has reached the debt registration stage and been approved by TEC (Traffic Enforcement Court) that it becomes enforceable and collectible.

- 5.4 At the end of the financial year a debtor will be brought into Oracle based on the value of tickets at the debt registration stage and on the likely recovery rate i.e. net of any bad debt provision. For this reason there is no clear audit trail in Oracle of any write-offs of outstanding PCNs and therefore reporting information is not available to the Revenues & Benefits service.
- 5.5 The individual value of a PCN at the debt registration stage will vary (depending on the reason that it was issued) but is relatively low in value at approximately £200 and therefore falls below the individual £2,000 limit for service authorised write-off. However, due to the nature of the PCN debt collection process, it is possible that a large number of PCNs fall to be written-off at any one time which may have a fairly significant value in total. For this reason, and the lack of audit trail in Oracle, it is proposed that quarterly PCN write-off information will be included, going forward, within the quarterly debt write-off report approved by PAASC.
- 5.6 It is also proposed that information relating to the number of tickets cancelled and withdrawn will be made available within the annual parking report.
- 5.7 This report also seeks approval to introduce the removal of vehicles in relation to specific parking contraventions in addition to the Council's current removal of abandon vehicles. The contract for this service is currently being tendered but from the specification provided indicates that there will be no cost to the Council in undertaking this function and that any financial risk will rest with the appointed contractor.

6. Legal Implications

Implications completed by: Paul Field, Senior Lawyer

- 6.1 The exercise of the parking enforcement function requires the highest standards of governance and performance delivery. As a front line service which carries out enforcement tasks it is vital that the processes are transparent and fair to ensure there is public confidence.
- 6.2 The parking enforcement function is subject to external scrutiny by means of appeal to the Parking and Traffic Appeals Service (PATAS) established by The Road Traffic Act 1991. This is a form of tribunal for the Parking and Traffic Adjudicators. Parking Adjudicators can set aside penalty notices. Errors in administration can also lead to challenges by means of judicial review and findings of maladministration by the local government ombudsman.
- 6.3 Short comings in enforcement and administration can have further implications in terms potentially being required to make payments back to persons subject to a sanction and the obvious reputational damage that can occur. The measures that have been taken as outlined in this report as a result of the Audit feedback are likely to strengthen and improve the service leading to a significant reduction of the risk of successful challenge going forward and enhancing public confidence that the service is acting professionally and fairly.

7. Other Implications

- 7.1 **Risk Management:** Audit assurance activity supports and independently verifies the risk management framework of the Council
- 7.2 **Contractual Issues** The policies will be reviewed on an annual basis to ensure it is in keeping with current legislation.
- 7.3 **Staffing Issues** Some changes will be necessary in that staff will need to develop their skills and knowledge to ensure Penalty Charge Notices are issued and dealt with in an appropriate manner.

Staff will experience better support and guidance to ensure parking delivers a quality consistent service. Having robust policies in place will allow staff to know how and when to enforce, this will improve the perception of the service and help to deliver a clear, concise and consistent message to customers.

- 7.4 **Customer Impact:** The policies are intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations. This is consistent with current best practice and aims to provide clarity, consistency and transparency within the enforcement process and compliance with the aspirations of the Independent Parking Adjudication Service and the Local Government Ombudsman.

Background Papers Used in the Preparation of the Report:

Representation and Appeals Process
Fees and Charges 2012
Differential Parking Observation Times
CCTV Codes of Practice
Codes of Practice on Civil Parking and Traffic Enforcement
Local Implementation Plan (LIP)
Parking Permits Procedures and Guidance
Debt Management Policy Final approved 18 October 2011

List of appendices:

- Appendix A - Parking and Traffic Enforcement Policy, incorporating:
 - Annex 1: Cancellation Guidance
 - Annex 2: Description of Traffic signs
 - Annex 3: Discretion Policy
 - Annex 4: Vehicles Removals Policy
- Appendix B - Write-Off Policy