


<p>Cabinet</p> <p>26 July 2016</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Stephen Halsey, Corporate Director, Communities, Localities and Culture</p>	<p>Classification: Unrestricted</p>
<p>Controlled Parking Zone and Parking Policy Review</p>	

Lead Member	Councillor Ayas Miah, Cabinet Member for Environment
Originating Officer(s)	Mirsad Bakalovic, Head of Parking, Mobility & Transport Services
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Great Place to Live

Executive Summary

Parking, Mobility & Transport Services has conducted a full review of all existing parking and mobility policies in order to ensure that services provided are open, transparent, fair and consistent, and that they support the Mayor's and the Council's transport priorities and plans. It should be noted that no policy amendments have been identified with respect to mobility services.

Recommendations:

The Mayor in Cabinet is recommended to:

1. To agree to the reduction of the number of free bays available for domestic bay suspensions from three to two (as per section 3.5).
2. To agree to the amendment of the Penalty Charge Notice ('PCN') cancellation criteria for vehicles in contravention that are displaying valid Blue Badges such that:
 - 2.1. the first PCN to such vehicles is no longer cancelled automatically but that representations are assessed on a case-by-case basis; and
 - 2.2. a warning notice is issued instead of a PCN where the vehicle is seen in contravention within seven days of the expiry of the Blue Badge.
(as per section 3.6)
3. To agree to the amendment of the terms and conditions for all permit types whereby, following a three month notice period given in writing, the Council can revoke any current permit without a refund and / or withhold issuing further permits issued to Persistent Evader Vehicles (as per section 3.7).
4. To agree to the amendment of the removals priority list such that vehicles that have remained in a permit or pay and display bay, whilst contravening the restrictions in place, for more than two consecutive days are removed as a primary priority (as per

section 3.8).

5. To agree to recommence enforcement against vehicles parked across a demarcation line between two individual parking bays (as per section 3.9).
6. To agree to reintroduce pay & display charges for vehicles parking at weekends in market areas (as per section 3.10).
7. To agree to introduce an all-zone multi-purpose permit type for the use of car club companies whose business model permits vehicles to be picked up and dropped off at any location in Tower Hamlets or other participating authorities (as per section 3.11).
8. To agree to introduce a maximum limit of three permits per household and to introduce surcharges for second and third permits, with concessions for Blue Badge holders and a grace period for households with more than 3 cars of one permit renewal cycle (as per section 3.12).
9. To consider the introduction of an all-day visitor's voucher at the full pay and display rate (as per section 3.12.9).
10. To agree the introduction of a petition scheme framework and assessment criteria for the implementation of parking restrictions as well as the formalisation of current arrangements. (as per section 3.14).
11. To agree that a maximum period of time should be implemented for any advisory relaxation of enforcement arrangements. It is suggested that this be a maximum of two days over a weekend (including Bank Holiday weekends) or one working week day
12. Note that officers intent to engage the Market with respect to electric vehicle charging point bays and to implement such arrangements as are considered the best technical and strategic fit for the Borough subject to further Executive Review (as per section 3.15).
13. To choose one option and agree to consult with residents regarding amending the restricted parking times (as per section 3.16).

1. REASONS FOR THE DECISIONS

- 1.1. These proposals are being made in order to ensure that current policies are in line with the Mayor's manifesto commitments, the Council's transport policies and government guidance.
- 1.2. These proposals are also intended to further improve public perception and transparency in parking operations.
- 1.3. Parking policies are used to define the operational balance between public safety, controlling the level of demand for parking, promoting more sustainable methods of Travel and meeting residents and business aspirations for ease of vehicular parking.
- 1.4. Some current processes and policies are no longer fit for purpose as the nature of parking provision, demand and enforcement have changed in recent years.
- 1.5. Some other policies have come about as a result of ad hoc practices and demands, with the result that there is a risk that they may not be seen to be consistent, open or fair due to not having been formally considered before implementation.

2. ALTERNATIVE OPTIONS

- 2.1. Without amending these policies the service may be unable to ensure that the Mayor's and the Council's priorities are effectively delivered.
- 2.2. Furthermore, in order to maintain ISO 9001 accreditation of our Parking and Mobility Quality Management System we must have all policies formally approved and readily available to the public.

3. DETAILS OF REPORT

- 3.1. The policy recommendations provided here have been proposed with reference to the following:
 - Adherence to legislation, including the requirement to have regard to Statutory Guidance
 - Operational Guidance
 - The Council's Local Implementation Plan (LIP) priorities
 - The Council's duties regarding parking and traffic enforcement
 - Reducing the cost of the providing the service
 - Consistency of policies, practices and enforcement across the service and in London
 - Other regional and national policies on the environment and transport
- 3.2. The Council's priorities, as set out in the Second Local Implementation Plan, are to:
 - promote sustainable transport choices;
 - reduce the impact of transport on the environment and wellbeing, in particular air quality and pollution issues affecting the health of residents of and visitors to the borough; and
 - encourage smarter travel behaviour.

- 3.3. The Council's duties regarding parking and traffic enforcement are to ensure:
- road safety and access of vehicles; particularly in case of emergency where fire brigade vehicles and / or ambulances may need urgent access;
 - access to parking space for the disabled, residents and businesses; and
 - adherence to national and London-wide policies on the environment and transportation.
- 3.4. It should be noted that it is unlawful to set parking policies for the purpose of raising revenue, as has been reinforced by two judicial reviews¹.
- 3.5. Domestic Bay Suspensions
- 3.5.1. ***Reduce the number of free bays available for domestic bay suspensions from three to two***
- 3.5.2. At the moment up to three bays are provided free of charge for residents who wish to move house, to ensure that they have space to park moving vehicles, although it should be noted that an administration fee has been agreed by Cabinet as part of the changes to Fees and Charges on a cost recovery basis. Complaints received by the service from members of the public regarding bay suspensions indicate a perception that the use of suspended bays is not efficient.
- 3.5.3. The general policy of free domestic bay suspensions is considered to be sound however reducing the number of bays provided will help towards the Mayor's pledge to make more parking spaces available in the borough. This is important as increased residential density is moving the Council closer to on street parking saturation.
- 3.5.4. It is assumed that most applicants automatically request the maximum number of bays possible, whether they need them or not.
- 3.6. Disabled Badge Holders
- 3.6.1 ***Amend the Penalty Charge Notice ('PCN') cancellation criteria for vehicles in contravention that are displaying valid Blue Badges such that:***
- ***the first PCN to such vehicles is no longer cancelled automatically but that representations are assessed on a case-by-case basis; and***
 - ***a warning notice is issued instead of a PCN where the vehicle is seen in contravention within seven days of the expiry of the Blue Badge***
- 3.6.2 Disabled Person's Badges (otherwise known as Blue Badges) are provided to residents with disabilities and give exemptions to a variety of parking restrictions.
- 3.6.3 There are restrictions that Blue Badge holders must comply with and if they contravene those restrictions then they will be liable for Penalty Charge Notices.
- 3.6.4 Currently, Tower Hamlets' policy requires the cancellation of the first Penalty Charge Notice (PCN) in a rolling 12-month period issued to a vehicle that is displaying a valid Blue Badge but that is still in contravention.
- 3.6.5 The vast majority of contraventions involving Blue Badges take place where the Blue Badge does not convey an exemption to park, for example on loading restrictions or in resident bays. Particularly in the case of loading restrictions, these contraventions can cause serious obstruction of the highway.

¹ Cran v Camden 1998 and Attfield v Barnet 2013

- 3.6.6 The current policy, however, takes no account of the circumstances of the case, with the result that more serious contraventions may result in the PCN having to be cancelled whereas less serious contraventions may still be pursued if they are second or subsequent contraventions.
- 3.6.7 In comparison, the current policy regarding permits (e.g. for residents and businesses) is that all cases are assessed on their individual merits in line with criteria for cancellations set out to cover the situation at the time of parking.
- 3.6.8 There is also currently a policy regarding permits that, where a vehicle is seen in contravention within seven days of the permit having expired and the vehicle would not have been in contravention if the permit had been valid, then a Warning Notice is issued to the vehicle instead of a Penalty Charge Notice. This Warning Notice carries no penalty but serves to remind the driver that their permit is out of date and that it needs to be renewed as soon as possible.
- 3.6.9 There is therefore clearly an inconsistency between enforcement of vehicles displaying permits and vehicles displaying Blue Badges that is arguably not supportable. Complaints have been received from permit holders that their first PCN has not been cancelled when they are aware that a Blue Badge holder's first PCN will be cancelled, and they consider this to be inconsistent and unfair.
- 3.6.10 There is no evidence to suggest that Blue Badge holders are less able to abide by parking restrictions than able-bodied drivers who might contravene the parking restrictions. As a result the current policy could be interpreted as either perpetuating the discriminatory notion that people with physical disability are less able to make value judgements or, conversely, that the position discriminates against able bodied permit holders or drivers using pay & display.
- 3.6.11 If this inconsistency were removed and Blue Badge contraventions were judged on their merits as with standard permit holders this would make the rules fairer, easier to understand, more consistent and easier for the service to manage within the legislative and policy framework.
- 3.6.12 It should be noted that the current policy regarding the removal of vehicles displaying Blue Badges is that if the vehicle is parked causing a serious obstruction or safety hazard then it will be relocated to the nearest available legal parking place. Otherwise a vehicle displaying a Blue Badge will not be moved. This removal policy is not affected by the proposed policy change.

3.7. Enforcement against Persistent Evaders

- 3.7.1. ***Amend the terms and conditions for all permit types whereby, following a three month notice period given in writing, the Council can revoke any current permit without a refund and / or withhold issuing further permits issued to Persistent Evader Vehicles***
- 3.7.2. Persistent Evaders Vehicles (PEVs) are those with three or more outstanding Penalty Charge Notices (PCNs)². Such vehicles consistently flout parking restrictions and reduce the amount of space for drivers who follow the rules and pay the relevant charges in order to park legally.
- 3.7.3. The Traffic Management Act 2004 makes provision for more strict enforcement of PEVs by reducing the minimum time which must lapse between a PCN being issuing for a contravention and the vehicle being removed, if the vehicle is

² Outstanding PCNs are those that have progressed beyond the point at which representations can be made, or the vehicle does not have an address which is registered with the DVLA, or that address is incorrect.

committing a further contravention when it is found. Statutory Guidance states that PEVs should be subject to the strongest possible enforcement, i.e. clamping or removal³. As a result current Tower Hamlets policy is that if a PEV is found in contravention then it is a high priority for removal, no matter the contravention, unless it is displaying a Blue Badge.

- 3.7.4. In order to achieve a more effective deterrent against PEVs, officers propose that terms and conditions for all permits, other than Blue Badges (as these form part of a statutory scheme), be amended such that a formal notice is issued to the owners of PEVs. This notice would state that unless the permit holder contacts Parking, Mobility & Transport Services in order to deal with all outstanding PCNs within three months of the letter being issued then any current permits will be revoked without a refund and that no further permits will be issued until all outstanding PCNs are closed.

3.8. Vehicle Removal Priorities

- 3.8.1. ***Amend the removals priority list such that vehicles that have remained in a permit or pay and display bay, whilst contravening the restrictions in place, for more than two consecutive days are removed as a primary priority***
- 3.8.2. As part of the contract with the removals service provider, Parking & Mobility Services removes vehicles according to a two-tier priority list. Vehicles committing primary priority contraventions are removed before those committing secondary priority contraventions.
- 3.8.3. In 2011 following concerns that vehicles committing contraventions in permit and pay & display bays were being removed as a primary priority when there were more dangerous and obstructive contraventions that could be enforced, such as parking on yellow lines and in suspended bays Parking & Mobility Services amended the priority list such that the removal of vehicles in permit and pay & display bays was reduced to a secondary priority.
- 3.8.4. As a result of this change officers have since found that some vehicles remain in permit bays for up to two weeks as the removals vehicles are not always able to remove secondary priority vehicles. This has had the consequence that our only option has been to issue Penalty Charge Notices on consecutive days. Although this practice does not go against current Statutory Guidance, the government's Operational Guidance states that PCNs after the first should be cancelled⁴, with the result that officer time is often wasted due to having to cancel PCNs subsequent to the first. It also means that such vehicles remain in the bays for lengthy periods of time, thereby stopping vehicles with valid permits from being able to park.
- 3.8.5. The benefits to both the Council and residents of the above policy would be:
- The deterrent from parking illegally for long periods would be more effective.
 - The time wasted by Civil Enforcement Officers issuing multiple PCNs that would subsequently be cancelled would be substantially reduced, if not eliminated.
 - More space would be available to park legally.

³ The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions, para. 66

⁴ Operational Guidance to Local Authorities: Parking Policy and Enforcement, para. 8.46

3.8.6. There is a small risk that the service may receive more challenges against the removals, however where a PCN is issued in these circumstances the vehicle cannot legally be removed before 30 minutes have expired from the PCN being issued⁵. In these cases, as the vehicle would have been in place for over two days the policy is reasonable, proportionate and in accordance with legislation.

3.9. Parking Outside Bay Markings

3.9.1. ***Enforce consistently against vehicles parked across a demarcation line between two individual parking bays***

3.9.2. The majority of drivers use kerb space much more efficiently without bay markings than can be achieved with individual bays. This is due to the fact that there is currently a legal minimum bay length that is long enough to accommodate all passenger vehicles, no matter the size. In other words, a small car such as a Fiat 500 has the same amount of space available as a Range Rover.

3.9.3. In instances where the council has marked out bays, in addition to the inefficiency reference above, bay markings cause other enforcement problems. The Council encounters complaints from drivers who received PCNs for parking outside the markings of a bay, stating that they were forced to park across two bays as other vehicle had already done so, resulting in a "knock-on" effect of them also having to straddle two individual bays. Political feedback regarding the policy position specific to enforcement of bay markings has not been consistent in the past with some suggestions that enforcement be relaxed in such circumstances. There is a risk that a lack of enforcement would result in even more inefficient use of kerb side parking space in the medium to long term. There is a clear need to be consistent and for a clear policy line to be established. Officers therefore propose that enforcement of vehicles parked over the demarcation lines of two separate individual bays be agreed as that clear policy position.

3.10. Free Parking in Pay & Display Bays at Weekends in Market Areas

3.10.1. ***Reintroduce pay & display charges for vehicles parking at weekends in market areas***

3.10.2. As a result of the economic downturn at the time, Members agreed in April 2009 that two hours free parking should be allowed in pay & display bays at weekends in market areas and shopping hubs in order to boost trade.

3.10.3. The market areas subject to this suspension of charges were as follows: Bethnal Green, Brick Lane, Crisp Street, Columbia Road, Petticoat Lane, Roman Road, Sclater Street and Whitechapel.

3.10.4. This policy was introduced on a temporary basis using experimental Traffic Management Orders, which have a maximum life of 18 months. These experimental orders were not, however, formally made in to permanent Traffic Management Orders. Despite this, the policy remained in place.

3.10.5. Due to the improvement in the economy in recent years officers are now aware that the popularity of the market areas has returned, with the result that amount of vehicles searching for parking spaces in market areas has increased.

3.10.6. Unfortunately this increase in the number of vehicles has resulted in there being insufficient turnover of vehicles, causing an adverse effect on traffic flow and

⁵ The Removal and Disposal of Vehicles Regulations 1986, Regulation 5C(3)

public safety as extra vehicles search for available space. This then causes both an increase in illegal parking and congestion that is likely to have an adverse impact on market trade in the longer timer whilst making it difficult for residents living close to the Markets. .

- 3.10.7. This issue is further exacerbated by the fact that enforcement cannot be performed properly due to the requirement for Civil Enforcement Officers having to observe a vehicle twice, which is not always possible due to the majority of vehicles arriving or departing between beats.
- 3.10.8. In view of the above it is proposed that pay & display charges be reintroduced to market areas in order to reduce demand to a manageable level, improve the turnover of parking space and improve public safety and traffic flow. This reintroduction would be preceded by a strong communications strategy to ensure that stakeholders are properly and fully informed of the change.
- 3.10.9. The pay and display hourly charges in these areas would be as follows:

Area	Zone	Charge
Bethnal Green	A3	£3.80
Brick Lane	A2 / A6	£4.40
Chrisp Street	B3	£3.40
Columbia Road	A1 / A5	£4.40
Petticoat Lane	A2 / A6	£4.40
Roman Road	B1	£3.40
Sclater Street	A2	£4.40
Whitechapel	A3	£3.80

3.11. All-zone Multi-purpose Permits

- 3.11.1. ***Introduce an all-zone multi-purpose permit type for the use of car club companies whose business model permits vehicles to be picked up and dropped off at any location in Tower Hamlets or other participating authorities***
- 3.11.2. Historically, car clubs have operated on the basis of a vehicle being collected from and returned to a defined place. Over the last five years the Council has provided a number of car club companies with specific bays in order to support this more sustainable form of transport which is also beneficial to those on lower incomes.
- 3.11.3. More recently, the Council has been approached by a number of companies wishing to operate a more open strategy whereby a vehicle can be picked up in one street anywhere in London and left at any other in London. These companies have, therefore, asked for permits to be issued that can be used in any resident, business or pay & display bay in the borough.
- 3.11.4. Officers are aware that companies have also approached other authorities, who have granted such permits, however officers do not know how many authorities have done so.
- 3.11.5. Officers have considered these requests and are generally supportive, in particular as these permits would be permitted in any resident bay they would be very helpful to residents in car-free areas, allowing them to use such vehicles instead of a vehicle of their own.

- 3.11.6. The purpose of pay and display bays however is to provide a limit to the amount of time that a vehicle can park, based on cost. Officers believe that permitting use of these permits in pay and display bays would negate this purpose, resulting in a reduction of available space.
- 3.11.7. Although the new strategy has been implemented successfully in cities in Europe, the United States and other countries, it has not been in place for long enough in the UK for UK and in particular London local authorities to assess the levels of risk attached to the concerns mentioned above. For this reason, officers recommend that the permits be introduced for resident and business bays only at this time.
- 3.11.8. Car club permits issued under the single-bay strategy are currently charged at £200 / permit due to the fact that the vehicles each have a bay for the purpose. If the bay is occupied when the vehicle is returned then it is permitted to park in another nearby bay.
- 3.11.9. Officers believe that this price would be disproportionately low for permits under the new strategy due to the much greater parking flexibility provided by such a permit. Officers have therefore discussed the level of charge with the appropriate companies and recommend that such permits should be charged at £1,300 each, based on the fact that the vehicles can be parked in any resident or business permit bay across the borough.

3.12. Surcharges for Households Requesting Multiple Resident Permits

3.12.1. ***To agree to introduce a maximum limit of three permits per household and to introduce surcharges for second and third permits, with concessions for Blue Badge holders and a grace period for households with more than 3 cars of one permit renewal cycle.***

3.12.2. Permits are currently charged on the basis of the vehicle's CO₂ emissions however this only provides a deterrent from using more polluting vehicles; there is no deterrent from owning multiple vehicles. In order to reduce congestion and the demand on parking space in the borough it is considered that some deterrent on multiple car ownership is appropriate.

3.12.3. Approximately 21% of households hold more than one permit. The table below shows a snapshot taken on 6 April 2016 of the number of active permits per household:

Permits / household	1	2	3	4	5+
# households	16,482	3,490	725	169	42
% households	78.8%	16.7%	3.5%	0.8%	0.2%
# permits	16,482	6,980	2,175	676	223
% permits	62.1%	26.3%	8.2%	2.6%	0.8%

3.12.4. Households that do have access to more than three vehicles can be covered by the use of multi-vehicle permits, meaning that up to three vehicles can be used on the road at any time and any others must be kept off the road, thereby minimising congestion and parking demand.

3.12.5. There is a strong argument for a surcharge for having more than one vehicle in a household. Due to the significant percentage of households that possess two or three permits, a balance needs to be struck between deterring the use of more than one vehicle and making the charges excessive however multiple car ownership in a Borough like Tower Hamlets is ultimately unsustainable.

3.12.6. Based on the percentage differences between the numbers of permits per household, officers believe that a second resident permit should incur a surcharge of £50 and that a third resident permit should incur a surcharge of £150. The following table shows the current and proposed costs for a three-permit household with all vehicles in Emissions Band E:

Permits	Current costs	Proposed costs
Band E vehicle 1	£103	£103
Band E vehicle 2	£103	£153
Band E vehicle 3	£103	£253
Household Total	£309	£509

3.12.7. Officers have investigated the potential effects on Blue Badge holders and have noted that 92 households have two resident permits issued free of charge and that four households have three resident permits issued free of charge.

3.12.8. It is recommended, therefore, that resident permits issued free of charge to Blue Badge holders should be excluded from counting toward the surcharge but should be included in counting toward the total number of permits allowed per household. This means that no household will have to pay for more permits issued as a result of the applicant holding a Blue Badge. This will therefore have the following effects on charges as follows:

Permits	Current costs	Proposed costs
Band E vehicle 1 (BB holder)	£ 0	£ 0
Band E vehicle 2 (chargeable)	£103	£103
Band E vehicle 3 (chargeable)	£103	£153
Household Total	£206	£256

3.12.9. In order still to provide a control on the number of vehicles, however, any permits issued free of charge as a result of being issued to a Blue Badge holder will count towards the three-permit limit.

3.12.10. A grace period for households with more than three cars is proposed set at one permit renewal cycle to allow time to down size their car ownership or find off street parking should they wish to retain them.

3.13. All-day Visitor Parking

3.13.1. ***To consider the introduction of an all-day visitor's voucher at the full pay and display rate only.***

- 3.13.2. Concerns have been raised in recent months regarding the requirements for visitor scratchcards, in particular that the scratchcards are limited to six hours per card and that the cards expire after twelve months.
- 3.13.3. The purpose of a scratchcard is to provide parking for people who are visiting residents at their homes for relatively short periods of time. The purpose of a scratchcard is not, however, to allow drivers to park in Tower Hamlets and visit other areas such as central London or surrounding boroughs, as this would create greater pressure on parking in the area for residents who need to park in the vicinity of their homes.
- 3.13.4. In order to ensure that this purpose is applied, visitor scratchcards are limited to six hours per card and vehicles are not permitted to display more than one scratchcard at a time. This therefore means that drivers cannot travel too far from their vehicle, thereby reducing the ability to leave the vehicle and commute in to central London or travel to other areas.
- 3.13.5. Visitors who choose to drive in and travel out on public transport have the ability to do so by paying the relevant charges in pay & display bays. This is applied to all such drivers (including residents' visitors) as their vehicle will have the same effect on parking availability, no matter what the purpose of their visit.
- 3.13.6. There are two reasons for having an expiry date on scratchcards, namely reducing the potential for fraud and ensuring that customers have up-to-date information regarding the use of the cards.
- 3.13.7. Due to the high allocation rate of scratchcards and the number that are issued free of charge, the expiry date makes it less likely that books will be purchased and stockpiled for fraudulent sale on to drivers seeking cheaper parking in the borough, as has happened in the past. The approach is consistent with the Council's Best Value Duty in this respect.
- 3.13.8. It should be noted that the expiry date on scratchcards used to be six months from issue however this was deemed to be too short a period. As a result this limit was extended to one year, which was assessed as being enough time for practical use of a full book of scratchcards while still maintaining the ability to supply up-to-date information on the terms and conditions.
- 3.13.9. At the moment Resident's Visitor Scratchcards cost £1.50 for 6 hours, i.e. 25p per hour, which is the second cheapest parking rate in comparable boroughs in London. Scratchcards are also provided free of charge to residents over 60 years old and to residents who require carers. In 2014-15 approximately 69,400 books of scratchcards were issued by the Council, 45,900 (66%) of which were issued free of charge. This makes scratchcards a very attractive alternative to pay & display, which costs between £3.80 and £4.40 per hour, and therefore liable to fraudulent use.
- 3.13.10. The most effective way to control both abuse and demand is by charging at an appropriate level. If all-day scratchcards are to be introduced then, in order to protect residents from fraudulent use, officers believe that the appropriate level would have to be the same as pay and display so that there would be no financial advantage in purchasing a virtual scratchcard.
- 3.13.11. Parking restrictions across the majority of the borough last from 8.30am to 5.30pm during the week and vary at weekends. As a result, nine hours of the relevant pay and display rate for that zone would result in the following charges:

Zones	Charge
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A1, A2, A5, A6, C1, C2	£39.60
A3, A4, C3, C4	£34.20
B and D	£30.60

3.13.12. These charges are based on current restricted times and would need to be amended in line with any changes to restricted times arising from the consultation proposed in section 3.15.

3.13.13. Members should note that the Parking services is also investigating the potential for the introduction of virtual permits which would do away almost altogether with the need for scratch cards.

3.14. Statutory Guidance on Challenging Parking Policies

3.14.1. ***Introduce a petition scheme framework and assessment criteria for the implementation of parking restrictions as well as the formalisation of current arrangements***

3.14.2. In March 2015 the Department for Communities and Local Government ("DCLG") published Statutory Guidance under Section 18 of the Traffic Management Act 2004 to authorities regarding exercising their Network Management Duties under Part 2 of the Act in relation to parking.

3.14.3. The Statutory Guidance states that authorities should have in place a petition scheme that allows people and businesses to raise petitions about the parking restrictions in place for a specified location. It goes on to make a number of recommendations on the criteria for petitions and how local authorities should deal with them.

3.14.4. *Minimum Threshold for the Number of Signatures*

3.14.4.1. The Guidance recommends that authorities should set a minimum threshold of signatures for a petition but that it should be flexible, depending on the size and population density of the area being petitioned, with details of such thresholds being published.

3.14.4.2. Current working practice within Parking, Mobility & Transport Services is to review parking arrangements where a minimum of either 10 residents or 5 businesses have requested the review, with consideration given to special cases such as individual businesses requesting loading bays.

3.14.4.3. Due to high population density and the work involved in assessing petitions being likely to be more involved than the current process, officers recommend that a minimum of 10% of households and / or businesses in the affected area (i.e. the area specified in the petition – see paragraph 3.14.5.2) sign up in order for the petition to be considered under the scheme.

3.14.5. *Minimum Information Requirements*

3.14.5.1. The Guidance states that petitioners should accurately describe the area and the issue being petitioned as well as provide contact details in order to liaise with the petitioners regarding further information and progress of the petition.

3.14.5.2. Officers believe that the minimum requirements for a petition should be:

- a clear description of the geographical area covered by the petition ("the affected area");

- a clear description of which aspects of parking policy and / or restrictions are being challenged, with a justification for the challenge;
- names, dates, addresses and Council Tax / Business Rates reference numbers for all households / businesses signing the petition; and
- contact details for one or two signatories, who can act as main liaison(s). These people would be the first point of contact for follow-up questions and notification of progress.

3.14.6. *Inappropriate Reviews*

3.14.6.1. The Guidance recommends publication of circumstances in which a petition may be refused and suggests a number of criteria for refusal, such as requests made over too wide an area and requests made in an area where there has been a recent review.

3.14.6.2. Due to the size of the borough, officers believe that reviews should be kept to relatively small areas. Although the Parking Development Team receives requests for a wide variety of different sizes of area, from individual bays to whole zones, most of the requests actually considered are for a maximum of one or two streets as amendments to larger areas could have a serious impact on the surrounding area. An appropriate area to be considered for petitions would be a maximum of two streets not exceeding 200m in total length and a surrounding area not exceeding 100m radius of those streets.

3.14.6.3. In order to avoid repetition of work and to allow proper assessment of any restrictions only recently put in to place, officers believe that petitions should only be accepted once six months have passed since the completion of the last review of parking in the area, whether this review was as a result of a petition or a wider parking review.

3.14.6.4. There may be circumstances that require an urgent review, for example in cases of road safety or serious obstruction to the flow of traffic. In these cases discretionary arrangements would be put in place along with relevant guidance to support a decision as to whether to agree to the review.

3.14.7. *Review of Parking Policies in Response to a Petition*

3.14.7.1. The Guidance recommends that local authorities should be clear and transparent in their petition process. In particular, the Guidance states that authorities should:

- provide petitioners with a clear timescale of the review process;
- provide petitioners with regular updates on progress, particularly with respect to details of any consultations;
- include petitioners in any discussions surrounding the petition;
- produce a report of the review, on which petitioners should have an opportunity to comment before a final decision is made;
- publish the petitions, reports and final decisions.

3.14.7.2. The Guidance recommends that decisions on petitions should not be delegated to officers or to a single executive member, but should be made by councillors. Officers believe that, in order to avoid unnecessary bureaucracy, such decisions should not be required to be made by the full Council.

3.14.7.3. In order to comply with the Guidance it is recommend that decisions be made by a panel of at least two Elected Members from the following:

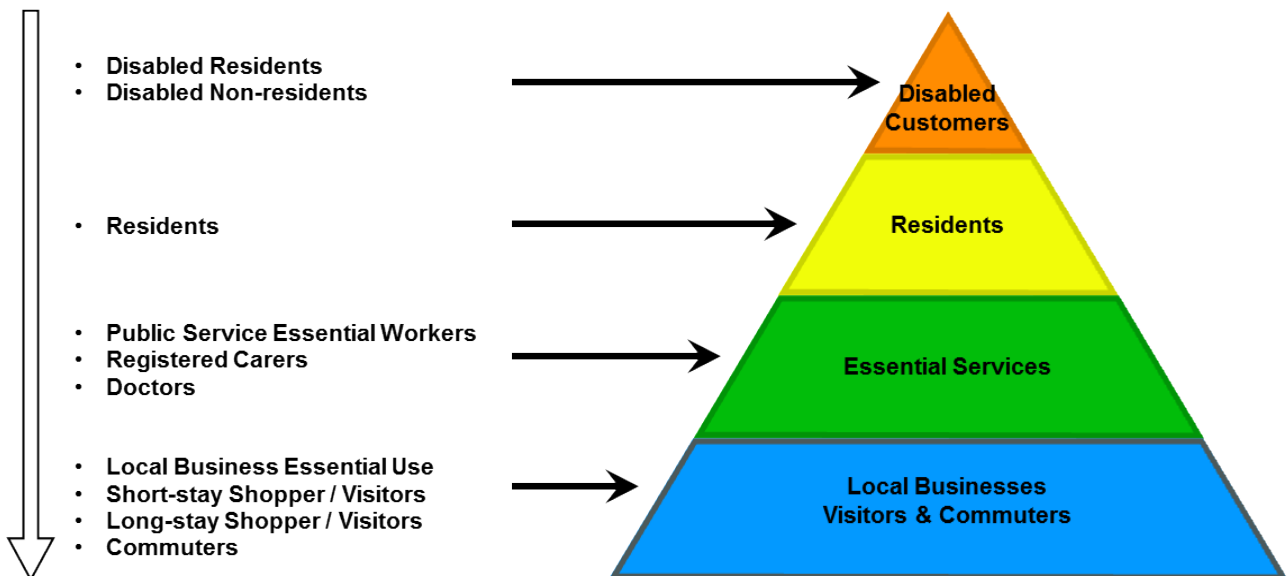
- Councillors whose ward(s) are in the affected area.

- The Lead Member for Clean and Green.
- The Mayor.

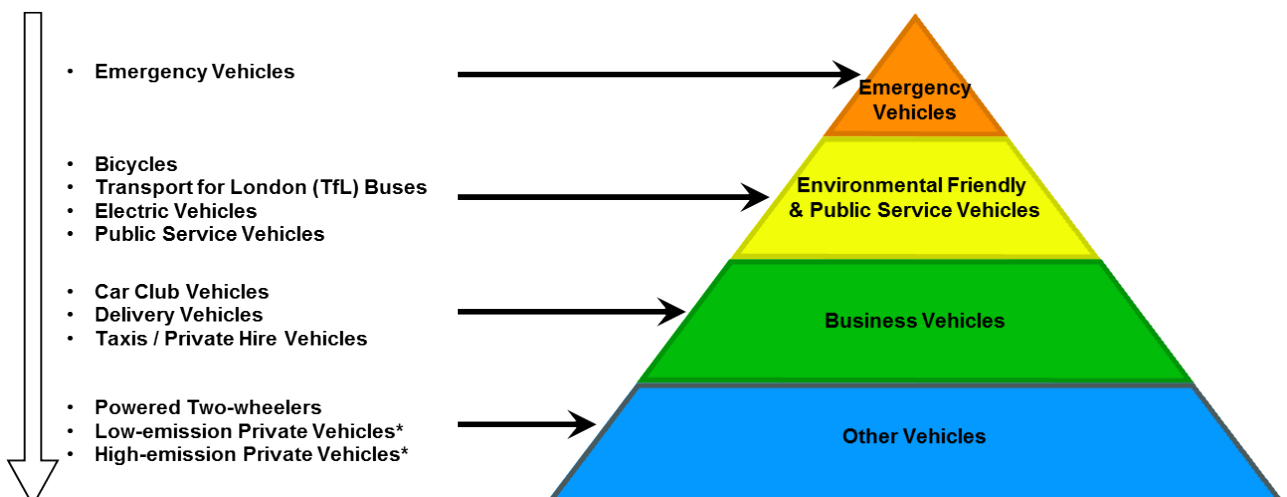
3.14.8. Policy Framework Assessment Criteria for Petition Scheme and other Reviews

3.14.8.1. The Statutory Guidance does not include any suggestions for what criteria should be assessed in any review. An appropriate hierarchy of need based on best practice and discussions with other authorities is set out below:

Hierarchy of Need - Road Users



Hierarchy of Need - Vehicle Types



* Based on the vehicle's CO₂ emissions band. Low-emission vehicles are those in bands A, B, C and D and high-emission vehicles are those in bands E, F, G1 and G2.

3.14.8.2. Although these hierarchies prioritise the need of the users and vehicles, assessments will also require a review of the traffic conditions, particularly with respect to congestion and the safety of all other road users. As a result, it may not be possible to implement a high priority case if the road safety and traffic flow

conditions are deemed to outweigh the needs set out in the petition. In such cases officers would look at alternative solutions in the area and would provide feedback to the organiser in order to come to a compromise.

3.14.9. *Application of Policy Framework to Existing Advisory Arrangements*

- 3.14.9.1. ***A maximum period of time should be implemented for any advisory relaxation of enforcement arrangements. It is suggested that this be a maximum of two days over a weekend (including Bank Holiday weekends) or one working week day.***
- 3.14.9.2. It is important that any arrangements made are fair and equal to all those who make them. The lack of a consistent policy framework has in the past caused confusion and undermined community cohesion. All advisory arrangements need to be reassessed in order to ensure fairness, consistency, transparency and equality.
- 3.14.9.3. The fundamental purpose of parking restrictions is to comply with the priorities and duties set out in paragraphs 3.2 and 3.3. It should be noted that resident permit holders who wish to attend events or services are able to use the three-hour concession with their permit.
- 3.14.9.4. When festivals, large-scale celebrations or religious services are taking place, many streets in the borough become heavily congested, resulting in extra pressure on parking space. Where formal event planning arrangements with the Council and the Police are not required (in which case parking arrangements would form an integral part of that process) it may be appropriate, following a parking risk assessment, for some reduction in the parking enforcement regime depending on the level of visitor numbers anticipated. However, in order to reduce the impact of events stretching over a number of days and to balance the needs of the residents, road safety and the environment with those of the event goers, it is recommended that that a maximum period of time should be implemented for any relaxation of enforcement arrangements. It is suggested that this be a maximum of two days over a weekend (including Bank Holiday weekends) or one working week day, the overarching aim being to discourage commuting / driving in to the borough from those living outside it.
- 3.14.9.5. Most advisory bays currently in place are on yellow lines in the vicinity of mosques and churches, meaning that the bays can only be used during the times on the associated plates. Officers will assess which bays can be implemented full-time and which need to be removed.
- 3.14.9.6. From the point of implementation of the changes outlined above all advisory arrangements falling out side this framework would be voided and standard enforcement prevail which in most cases will enable resident permit holders to park free on the basis of cross-zonal parking.

3.15. Electrical Charging Points

- 3.15.1. ***Engage the Market with respect to electric vehicle charging point bays and to implement such arrangements as are considered the best technical and strategic fit for the Borough subject to further Executive Review.***
- 3.15.2. Officers have been approached by BluePoint London regarding the implementation of electric vehicle charging bays. After some initial discussions

officers are satisfied that the proposals made do not seem to cause any issue with respect to monopoly of parking space.

3.15.3. In order to ensure transparency and compliance with procurement and best value duties, all potential charging point providers must be given an opportunity to present their products to the Council. It is therefore intended that market providers be approached to test a range of criteria for charging points and subject to the conclusion of that wider market testing to move forward procurement arrangements to implement such arrangements as are considered the best technical and strategic fit for the Borough subject to further Executive Review.

3.16. Consultation on the Review of Restricted Hours in Controlled Parking Zones

3.16.1. ***To choose one option and agree to consult with residents regarding amending the restricted parking times***

3.16.2. The current restricted hours for parking across Tower Hamlets were introduced in 1997. Over the last 20 years the pressures on road space and parking have increased dramatically as a result of increasing population leading to greater regeneration.

3.16.3. Since the Olympic Games the Council has received an increased number of requests for changes to the restricted hours and, with the implementation of the Fish Island CPZ (B4) in January 2016, officers believe this to be an ideal time for a review of the rest of the borough. A map of the Controlled Parking Zones in the borough is attached as Appendix 1.

3.16.4. Any wide-scale change to parking restrictions requires a larger consultation than is carried out with minor amendments, in order to ensure that all stakeholders have as much opportunity as possible to have their say.

3.16.5.

3.16.6. **Three options for consultation of new restricted hours are proposed, as follows:**

3.16.6.1. *Consult across the whole borough, except Fish Island.* This has the advantage of simplicity from an organisational perspective but arguably might lack sensitivity to specific localised issues. Proposed Time: Monday to Saturday from 7:30am to 10pm, and Sunday 11am to 4pm.

3.16.6.2. *Consult in the relevant main zone, i.e. zone B.* In practice this option would be a consultation across zones B1, B2 and B3 only. This has the advantage of focusing consultation on the areas we already know are under the most pressure and would therefore be more efficient use of consultation resource but would not capture wider concerns across the Borough. Proposed Time: Monday to Saturday from 7:30am to 10pm, and Sunday 11am to 4pm.

3.16.6.3. *Consult solely across mini-zones B1 & B2, being the most affected areas.* This presents the most targeted use of resource based on current analysis but also the most limited in terms of feedback. Proposed Time: Monday to Saturday from 7:30am to 10pm, and Sunday 11am to 4pm.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1. The Mayor in Cabinet is asked to approve the recommendations set out in this report following the review of all existing policies. The proposals are aimed at bringing existing policies in line with the Mayor's manifesto commitments, the Council's transport policies, and government guidance whilst improving transparency in parking operations.
- 4.2. Any amendments to existing policies will impact on the income generated from fees and charges and Parking Control Notices (PCN) which will need to be considered as part of the Medium Term Financial Strategy process. However, the Road Traffic Regulation Act 1984 provides the legislation for undertaking parking enforcement, which sets out that in all cases the purposes behind setting parking charges are:
- a) To control and manage parking demand.
 - b) To ensure road safety in the borough.
 - c) To regulate traffic flow and reduce congestion.
 - d) To cover the cost of providing the service, as the Government strongly recommends that any shortfall in operations should not be funded through the General Fund.
- 4.3 The Parking Control Account generated total income of £17.7m in 2015/16 resulting in a surplus of £9.4m. The proposal to reintroduce pay & display charges for vehicles' parking at weekends in the market areas is estimated will generate income of up to £150,000 pa.
- 4.4 There are 3 options for consideration on the proposed consultation, at this stage the financial impacts cannot be quantified with certainty. It is anticipated however, that changes in the restricted hours of the control parking zone will result in additional income to the parking account after taking into account any increased enforcement costs.
- 4.5 The proposed consultation on the review of restricted hours in the control parking zones is expected to costs between £10,000 and £50,000. The cost will be dependent on option selected and scope of engagement. If the decision is made to consult with residents, provision will need to be made available within the budget to accommodate this one off costs which can be funded from income. The other proposed amendments in this report are not expected to impact significantly on income currently generated from parking enforcement activities.

5. LEGAL COMMENTS

- 5.1 The Council is a parking authority for the purpose of the Road Traffic Regulation Act 1984 ('the 1984 Act'). Under sections 45 and 46 of the 1984 Act, the Council may by order: (1) designate parking places on highways in Tower Hamlets for vehicles or vehicles of any class specified in the order; (2) make charges for vehicles left in a parking place so designated; (3) limit the use of designated parking places for specified persons or vehicles or classes of persons or vehicles authorised by permit; and (4) make charges in connection with the issue of such permits.

5.2 The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 ('the 1996 Regulations') apply to any order made or proposed to be made pursuant to sections 45 and 46 of the 1984 Act by virtue of regulation 4 of the 1996 Regulations. Regulation 6 of the 1996 Regulations requires consultation as follows:

Case	Consultee
Where the order relates to, or appears to the Council to be likely to affect traffic on a road which is included in the route of a London bus service	The operator of the service and TfL
Where it appears to the Council that the order is likely to affect the passage on any road of ambulances and/ or fire fighting vehicles	The chief officer of the appropriate NHS trust and/ or the fire and rescue authority
All cases	The Freight Transport Association; the Road Haulage Association; and such other organisations (if any) representing persons likely to be affected by any provision in the order as the order making authority thinks it appropriate to consult

5.3 There is no statutory requirement to consult with anybody else but the Council must consider whether a common law duty arises. This common law duty imposes a general duty of procedural fairness upon public authorities exercising a wide range of functions which affects the interests of individuals (see *R (Moseley) v Haringey London Borough Council* [2014] UKSC 56, [2015 1 All ER 495 at [35] per Reed LJ).

5.4 In considering whether a common law duty arises, has there been a promise that the Council would consult on a particular issue. This can be as a result of a decision or statement by Members (or an officer). This gives rise to a legitimate expectation. Specifically, the decision or statement must be clear, unambiguous, and not have any relevant qualification. The decision or statement must also have been made by someone who had actual or apparent authority to make that decision or statement. If it is not then the decision is *ultra vires*. This would also arise where the Council does not have the legal power to act in the way proposed.

5.5 Further has the Council's past practice been to consult on such proposal? If so, then again a legitimate expectation arises and which has been induced based upon the Council's past behaviour.

5.6 The common law duty would also arise where, in exceptional circumstances, a failure to consult would lead to conspicuous unfairness. Specifically a legitimate expectation can arise even without a decision/ statement or past practice, so as to prevent a public authority from acting so unfairly that its conduct amounts to an

abuse of power. For example, is what is proposed likely to have a harmful impact on service users?

- 5.7 This decision to consult would also apply to changes in parking policy. On balance, it may be considered advisable to generally consult in addition to consulting with the statutory consultees referred to in the above table.
- 5.8 The consultation should comply with the following common law criteria:
- (a) it should be at a time when proposals are still at a formative stage;
 - (b) the Council must give sufficient reasons for any proposal to permit intelligent consideration and response;
 - (c) adequate time must be given for consideration and response; and
 - (d) the product of consultation must be conscientiously taken into account.
- 5.9 The duty to act fairly applies and prior to undertaking a consultation exercise, it does needs to be considered whether the matter to be consulted on impacts on those with protected characteristics. If it does then the method of consultation can be adapted to ensure that those persons are able to respond to the consultation so as to inform the decision making process. For example, if a group of persons with a protected characteristic is a 'hard to reach' group then they may not be reached by traditional consultation techniques.
- 5.10 When deciding whether or not to proceed with the proposals, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). To inform the Council in discharging this duty an Equality Analysis has been completed and a copy is attached to this report.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The proposals will have a positive or neutral impact on equalities and diversity as they will establish a fairer and more transparent and consistent policy base for parking enforcement and are mindful of equalities considerations in respect of implementation approaches.
- 6.2. A full Equalities Impact Assessment is attached as Appendix 2 to this report.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1. These proposals support the Strategic Milestone to complete the development of the Parking Policy by 31 March 2017. The proposals are consistent with and support the Councils best value duties.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1. The proposals have been considered in line with the Council's Local Implementation Plan priorities to promote sustainable transport choices, reduce the impact of transport on the environment and to encourage sustainable travel behaviour. They support Air Quality and carbon reduction objectives.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 Risks will be managed in accordance with the Councils risk management procedures and project management arrangements.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1. The proposals have been made in order to improve the efficiency of parking and traffic enforcement in Tower Hamlets. Fraud prevention is a feature of the recommendations where appropriate.

11. SAFEGUARDING IMPLICATIONS

- 11.1. Maintaining the free flow of traffic, enabling parking for carers and vulnerable adults whilst ensuring a safer environment for all road users has a positive impact on safeguarding. The equalities implications are dealt with as outlined above.
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Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix 1 Map of Controlled Parking Zones as of January 2016
- Appendix 2 Equalities Impact Assessment
- Appendix 3 Equality Analysis Quality Assurance Checklist

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- NONE

Officer contact details for documents:

- Colin Sims, colin.sims@towerhamlets.gov.uk, 020 7364 2164.