Cabinet 26 September 2018	
Report of: Ann Sutcliffe, Acting Corporate Director, Place	**Classification:** Unrestricted
IMPLEMENTATION OF TRAFFIC MANAGEMENT ORDERS ON HRA LAND	

Lead Member	**Councillor Sirajul Islam,** Cabinet Member for Housing & Statutory Deputy Mayor & **Councillor David Edgar**, Cabinet Member for Environment
Originating Officer(s)	Mark Baigent: Interim Divisional Director Housing and Regeneration Robin Payne: Interim Divisional Director of Public Realm
Wards affected	All
Key Decision?	Yes
Forward Plan Notice Published	28 August 2018
Reason for Key Decision	Significant impact on two or more wards
Strategic Plan Priority / Outcome	**A borough that our residents are proud of and love to live in**

Executive Summary

Since its introduction, parking control on council housing estates (known as HRA land) has been enforced by the use of contract law. Contractors have been appointed to issue Parking Charge Notices when unauthorised parking occurs and the income from this largely covers the cost of providing these services. This arrangement allowed residents living on an estate to apply for a parking permit and be certain of being able to park close to where they live.

For the avoidance of confusion, in this report the term "Parking Charge Notice" refers to a notice issued to a vehicle under contract law (i.e. the current process used by THH), and "Penalty Charge Notice" refers to a notice issued to a vehicle under the Traffic Management Act 2004 ("the 2004 Act"), which is the process of enforcement used for contraventions of Traffic Management Orders.

These arrangements are consistent with the majority of boroughs within the London area, particularly so in inner city areas where the pressure for parking is felt most acutely.

However, in September 2014, the then Under Secretary of State for the Department for Transport (“DfT”) wrote to all councils informing them that the Government did

not recognise local authorities enforcing through the use of contract law on non-highway land. Further, the Minister stated that implementing Traffic Management Orders (“TMO(s)”) under the Road Traffic Regulation Act 1984 ("RTRA 84") was regarded by the Government as the lawful means of parking control.

Following this letter, the Driver and Vehicle Licensing Agency (“DVLA”), under the instruction of the Ministerial letter began to refuse requests for keeper details from Boroughs operating under contract law. In the case of the London Borough of Tower Hamlets (“LBTH”), co-operation was progressively withdrawn from November 2014 meaning that from this date keeper details became increasingly difficult to obtain for those who had failed to pay their Parking Charge Notice within 28 days. As with many other boroughs, this has led to a situation where unauthorised parking can go unpunished on LBTH housing estates and often causes obstruction to those authorised to park on Housing Revenue Account (“HRA”) land.

This report recommends the Council carries out consultation considering the introduction of TMOs under the RTRA 84 on all LBTH HRA land as a means of enforcing parking control. If implemented, this will be rolled out incrementally on an area-by-area basis following an informal and statutory consultation process with all tenants and leaseholders living on LBTH estates.

To allow for the administration of car parking permits by the Council, it is necessary to adopt policy for the allocation of permits that will also form the basis of consultation. The report therefore recommends a Non-residential Assets Policy that sets out interim parking policy for HRA land in Appendix 1 aimed at prioritising those who are THH tenants or leaseholders.

The Council is also reviewing its wider parking policies and Transport Strategy, and the intention will be that as these policies and strategy are adopted they will provide convergence so that where appropriate there will be a single policy approach for Council controlled highways and assets. To allow for this convergence and to allow the council to proceed to consultations, it is proposed that the Mayor and Cabinet delegate authority to the Acting Corporate Director for Place to establish a decision-making framework against which officers will determine applications for borough residents who are not THH tenants or leaseholder during a transition phase.

Recommendations:

The Mayor in Cabinet is recommended to:

1 Approve the Non Residential Assets Policy set out in Appendix 1 which includes the following;
   a. The introduction of a 6 or 12 month permit system operating to the proposed parking space charges set out in 3.4.16
   b. The withdrawal of the Any Other Vehicle Permit
   c. Limits of parking permits on housing land to two per household
   d. That nomination of car spaces to those living out of the borough is stopped.
   e. That staff affected by this change will be able to apply for a space under an essential car user policy and criteria (see 3.4.16).

2 To approve changes outlined in the main report specifically;

   a. The process set out in 3.4.17 for managing the loss of garages and car spaces on infill sites where the development of affordable accommodation is proposed
   b. That TMOs are used on all new car free development sites

3 Authorise the Divisional Director of Public Realm to undertake informal and statutory consultation under the provisions of the RTRA 84 on a phased area by area or estate by estate basis in relation to introducing controlled parking on HRA land.

4 Delegate to the Divisional Director of Public Realm under powers commensurate with the RTRA 84, the decision making ability to make the necessary Traffic Management Order on HRA land and to consult with the Mayor and Lead Member for Housing if any objections/representations are received during the consultation period;

5 Authorise the Divisional Director of Public Realm to make the appropriate contractual arrangements to enforce the TMOs by providing a contractor with the authority to issue Penalty Charge Notices on behalf of the Council;

6 Authorise the Acting Director of Place to establish a decision making framework against which officers will determine applications for borough residents who are not THH tenants or leaseholders during a transition phase. Permits allocated will be for one year and may be reallocated under the policy in Appendix 1, priority letting list.

1. REASONS FOR THE DECISIONS

1.1. Parking control on LBTH estates is delegated to the managing agent, Tower Hamlets Homes (“THH”) and procurement of enforcement services is carried out in liaison with Parking & Mobility Services.

1.2. LBTH has over 5,000 parking spaces on HRA land licenced as individually numbered bays to both residents and non-residents. Amongst London boroughs, only LBTH and Islington now use such a system (with Kensington and Chelsea having recently changed). The majority of boroughs now use a “Courtyard system” where a set amount of space is made available for a fixed number of residents to park in.

1.3. With regards to on-street parking control, the Council manages traffic control through the use of its own Civil Enforcement Officers and penalties are administered and challenged through the statutory appeals process set out in the 2004 Act.

1.4. On LBTH estates, Parking Charge Notices are issued by the contractor NSL, who also operates the appeals process. Those wishing to challenge an appeal further can escalate their case to POPLA (Parking on Private Land Appeals). This is the independent appeals service for PCNs issued on private land that was instigated by the Protection of Freedoms Act 2012.

1.5. As stated above, all councils received a ministerial letter in September 2014 stating that in the view of the DfT the use of contract law to control parking on HRA land was unlawful.

1.6. From November 2014, the DVLA began to refuse requests for keeper details made by the contractor. This meant that the parking enforcement contractor acting on behalf of Tower Hamlets Homes and the Council were unable to follow up and chase Parking Charge Notices which had been ignored by the vehicle owner. By late 2015 all further co-operation in terms of providing vehicle details was wholly withdrawn.

1.7. Working with an inter-borough forum established through London Councils, the Council sought to make the Department of Communities and Local Government ("DCLG") aware of the consequences of the ministerial position both in terms of the impact this may have on residents and with regards to what was seen as the unnecessary costs of implementing TMOs (especially as legal advice obtained by boroughs suggested that contract law was legal).

1.8. Following a meeting with the DCLG, the DfT and the British Parking Association ("BPA") held in October 2016, it became clear that the Government was not going to change the position it took on this matter. Additionally, all requests for a follow-up meeting have been refused. At this point, LBTH along with other boroughs such as Islington and Westminster began to consider the use of TMOs as the means of re-establishing parking control on HRA land.

1.9. In this period, unauthorised parking on LBTH estates has increased with PCN notices being routinely ignored by many. The level of compliance following the issue of a Parking Charge Notice has also fallen dramatically. Additionally customer satisfaction in this area has been affected with a rising number of complaints about thoughtless and inconsiderate parking.

1.10. Like a number of other inner-London boroughs such as Islington and Westminster who are experiencing escalating traffic management problems as a result of the Ministerial adjudication, TMOs under specific sections of the RTRA 84are recommended as the best way to re-establish parking control on LBTH estates; however, the Council will be consulting on a wider set of options. This enables estate by estate parking enforcement to be established based on issuing a specific number of permits within each estate area.

2. ALTERNATIVE OPTIONS

2.1. Retaining the use of contract law as a means of parking enforcement would lead to a situation where parking contraventions could not be effectively controlled on LBTH estates. Following an assessment process, the implementation of TMOs is proposed as the necessary route for tackling this problem.

2.2. The following options were also assessed as impractical:

- Housing Estates to become part of the wider Controlled Parking Zones (CPZ) operated by the Council- *This would lead to anyone with a LBTH permit parking on Housing Estate Land. High demand for parking "on street" would spill into housing estate car parks and fuel dissatisfaction amongst THH residents*

- System of gates and barriers - *This would be hugely costly and easily abused by those who can still obtain access to the estates. Furthermore, once unauthorised access was gained no legal means of removing a vehicle would be available to the Council*

- No controls at all- *The lack of any control would have consequences in terms of attracting a high level of irresponsible parking from anyone living outside the Estates as well as those who do not live in the Borough*

3. DETAILS OF REPORT

3.1. IMPLEMENTING TRAFFIC MANAGEMENT ORDERS ON LBTH HOUSING ESTATES

3.1.1. The consequence of the Ministerial letter received in September 2014 has been a considerable rise in inconsiderate parking on LBTH estates. There is an increasing difficulty with enforcement amidst a growing awareness amongst residents or "visiting drivers" many who have no connection with the area that they are able to park without sanction on LBTH estates. Although, PCNs continue to be issued, vehicle and address details are not available making enforcement difficult to follow through.

3.1.2. The TMOs under the RTRA 84 will allow rigorous enforcement through accessing keeper details made available by the DVLA. Penalties for parking contraventions will then be able to be enforced effectively.

3.1.3. The implementation of a TMO requires the Local Authority to comply with a set of required standards such as the provision of notices, the drawing up of yellow lines and ensuring the estate roads meet minimal standards. Additionally, there are expectations around road or bay width and "turning circles" which will need to be examined on an estate by estate basis as the programme develops.

3.2. REMOVAL OF INDIVIDUAL BAYS

3.2.1. LBTH along with Islington are the only Boroughs which currently allocate "individual" bays to a named licensee. Legal and Counsel Advice suggests that individually allocated bays may have to be discontinued under a TMO (see below).

3.2.2. Current LBTH advice states that though individual bays under a TMO may be legal, the position is not certain and therefore there is a strong chance of challenge either from an individual or an organisation. If the challenge was successful, there is a likelihood that all penalty charge income collected from the advent of the scheme would have to be refunded.

3.2.3. Furthermore, chances of resisting a legal challenge would not be helped by the fact that LBTH could be an "outlier" in that it may be the only Borough operating "individually allocated bays" under the provisions of a TMO.

3.2.4. Legal advice states that should the Council's need to move from the use of individual bays to a new courtyard permit (see below) would be "a significant change in the service and warrants consideration of obligations under section 105 of the 1985 Housing Act". The current legal advice on section 105 states that the main driver for this requirement is the change from individual bays to courtyards permits (see below).

3.3. CONSULTATION

3.3.1. Following legal advice (see above 3.2.4), the Council will ensure that the requirements outlined above under Section 105 of the Housing Act 1985 are fully incorporated into the consultation process under the RTRA 1984 as and when each phase of TMOs is considered.

3.3.2. Once agreement of these recommendations to implement TMOs under the RTRA 84 is given, consultation will take place as each TMO is proposed. This consists of the following actions:

TMO Timescales

- Stage One-a test of opinion through informal consultation-6 weeks
- Consideration of Stage One representations-2-4 weeks
- Stage Two-assuming positive outcome of Stage One, THH residents would be sent details of proposals for comment-6 weeks
- Consideration of Stage Two representations-2-4 weeks
- Final Stage-21 day statutory “Notice of Proposal” published.
- Consideration of statutory representations and decision on TMO order-4-6 weeks
- Implementation of TMO/Estate Improvements-up to 3 months

3.3.3. This consultation will take place area by area and as and when each new scheme is proposed, anyone can comment on or object to the Council. The Council is legally obliged to consider every objection that is sent and the Divisional Director of Public Realm will make the final decision on whether the proposals should proceed (with or without amendment) or not. Following this decision, officers will inform objectors of the Council's decision and reasons. Views will be broken down so as to recognise any differences that may exist from estate to estate.

3.3.4. Consultation will include a consideration of the operational hours with proposals to extend these as far as possible and match this with enforcement.

3.4. IMPLEMENTATION

The scheme will operate in the following way:

3.4.1. Traffic Management Orders will need to be implemented under different sections of the RTRA 84, depending on the use of the land. Sections 32 & 35 can only be used for car parks, i.e. sites where there are no roads. If the estate area does contain roads then, in order to be able to charge for their use (either by selling permits or any other charging scheme), then those areas must be designated as "highway" in order to be able to make TMOs under sections 6 & 45.

3.4.2. It is important to note that any revenue from the sale of permits on land where a section 6 / 45 order is in place must accrue to the Parking Control Account in the general fund, as these orders are covered by section 55 of the RTRA 84.

3.4.3. Orders made under sections 32 & 35 of the RTRA 84, however, are not covered by section 55, with the result that revenue accrued from permits sold in these areas can be allocated directly to the HRA.

3.4.4. On each estate, wherever possible, the same amount of courtyard spaces will be issued as there are currently individual bays so as to eliminate the risk of over subscribing. Parking control will be based on making sure that only those issued with an estate permit are able to park within the area.

3.4.5. Visitor bays and contractor bays on LBTH estates will become THH resident bays. They will not be allocated to an individual therefore anyone using a THH visitor permit or THH resident permit will be able to park. If there is no space, visitors must make alternative parking arrangements. Any vehicle parked in contravention of the relevant TMO will be subject to a Penalty Charge Notice (as opposed to a Parking Charge Notice under Contract law).

3.4.6. Dedicated disabled bays will be maintained and a separate application process for this category will be implemented. Blue badge holders needing to park near their homes will be assessed against similar criteria to those used by the Council for Personalised Disabled Bays. Existing disabled spaces that are available to any disabled driver will be maintained.

3.4.7. With regards to the problem of abandoned vehicles, to be removed a vehicle must meet the same set criteria as are currently in place. It should be noted, however, that enforcement against vehicles parking in contravention of TMO restrictions includes the ability to remove vehicles under the 2004 Act.

3.4.8. All estates must comply with the requirements of a TMO, and some will require additional works so as to meet the standards. This might mean additional road surfacing works, painting of yellow lines and the putting up of notices that consult upon the TMO.

3.4.9. A possibility exists that in a small number of areas there may be a reduction in the number of spaces available on an estate due to a failure of bay spaces to meet width requirements. In such circumstances every effort will be made to find alternative spaces however if this is not possible then bays will be withdrawn according to the following priorities:

- Non-THH-residents will lose their spaces
- Followed by Households with more than 2 bays
- Followed by Households with more than 1 bay

3.4.10. Some THH residents have also suggested that they wish to lose parking spaces in the hope of developing increased environmental provision. Such decisions will be influenced by the feedback from responses to the consultation process. If fewer parking spaces are required as a result then the priority will be to introduce car club bays, cycle hangars and electric vehicle charging bays.

3.4.11. Some estates may also gain increased provision as the process will enable an assessment of the existing layout of an estate. In this case, THH residents who do not already have a bay will receive first priority for these spaces.

3.4.12. Feedback from THH residents has suggested there is considerable demand from them for parking spaces and that there is some dissatisfaction with the level of provision accorded to non-THH-residents through the current application process which operates on a combination of a deadline and a set of criteria based on priority.

3.4.13. At present, about 30% of available spaces are let to those who are not a tenant or a leaseholder. Of these, around 21% (1100) are living in the Borough and 9% (436) are listed as coming from outside the Borough. Some THH residents are therefore displaced from parking on their estates and may be using on-street permits.

3.4.14. It is therefore proposed that the process allows a re-configuration of existing licences. As each TMO is implemented all licences will be ended and:

- Re-offered to existing tenant and leaseholder licence holders where license terms have been complied with
- Spaces will then be offered to existing tenants or leaseholders living on the estate.
- Where there is parking space not allocated above Officers will look at options for the use of space including applications from borough residents from the immediate area who are non THH residents. Allocations made on this basis during implementation will be time limited of no more than one year so that spaces after implementation can be reoffered to THH tenants and leasholders where there is a need.

OTHER CHANGES REQUIRED

3.4.15. Ensuring interim fire-access on LBTH housing estates

The tragic events at Grenfell have highlighted the need for emergency vehicles to secure immediate access to our estates in the event of a call-out. The introduction of TMO's will allow a thorough review of accessibility for emergency vehicles as the new scheme is implemented. Where necessary, TMO powers allow the use of tow-away services for vehicles that are obstructing access.

3.4.16. Changes in policy

If it is to work effectively, the roll-out of TMOs will require changes to many existing processes.

As a result a new policy has been developed (see appendix one) covering all non-residential estate assets which makes the following recommendations.

The principles of the policy have been introduced to 20 Tenant and Resident Associations following two meetings in June 2017 and have been discussed at the resident led Service Development Group in September 2017.

Further soundings are also being taken from an online consultation that is being run by THH.

- **Withdrawal of allocations to Out of Borough Drivers**

  Section 1.5 of the Policy (Appendix One) sets out the Council's intention to desist from letting car spaces to applicants from outside the Borough. Currently, there are 436 "out of Borough" licence holders and amongst this number there are staff users. It is proposed that in future essential staff users should be designated as such by a Director who will determine an application against criteria set out in the Council's essential car user policy and entitled to public service permits. This does have the potential to cause staff dissatisfaction to those employees to commute using their car. Managers will work with staff affected to mitigate concerns and encourage use of alternative travel options.

- **Future Policy and Transitional Arrangements**

  The Council is developing its wider Transport Strategy and Parking policies which it expects to have in place within 2019. These will be consistent with stated ambitions to introduce low traffic neighbourhoods, encourage cycling and walking, and improve air quality. Where the introduction of new parking controls creates the opportunity the Council will want to use this opportunity to look at how this space can support our wider policy ambitions.

- The approach here also allows us to ensure our policies are fair and that the essential needs of residents for cars is supported. As a transitional measure, and until we have completed our wider policy review, applications from non THH residents in the immediate vicinity of estates will be considered. Officers will agree a framework against which these applications can be determined during a transitional period with the Mayor and Lead Member for Housing and Regeneration, and the Lead Member for Environment. It is anticipated that applications here will be for one year only.

- **Withdrawal of "Any Other Vehicle Permits"**

  All THH residents have been provided with an "Any other vehicle" permit to use in the event they change their car or lose their principal permit. This has been subject to widespread misuse throughout the Borough with some using this on Visitor bays. The successful implementation of a TMO is dependent on a clear allocation process that ensures that only one permit is issued for each vehicle. Losses or changes of permit will need to be reported to THH.

- **Limits to number of permits available by household**

  In recognition of the demand for parking, it is recommended that the number of permits is restricted to two per household. Discretion will be available to consider applications above this where there is exceptional need. The existing necessity for Leaseholders to live on an estate when they make an application will also be reintroduced and enforced.

  It is not proposed that this is retrospective so that the small number of existing households with more than this number of permits can remain

subject to the provisions that they are living on the Estate and there being no strong demand from THH residents without spaces. Any decision on this matter will be made by THH.

- **More effective administration of permits**

  THH deals with over 12,000 car space applications a year, (including 5,000 renewals) many of whom have only a small chance of obtaining parking. To reduce administrative costs and provide a more seamless service to THH residents, a separate online application system will be introduced backed by a phone service for those who have difficulty in "getting access". This will ensure that residents living on estates have a greater chance of obtaining a space.

- **Introduction of 6 or 12 monthly permits**

  THH will follow the Council and many other Boroughs, in introducing an annual permit process for car spaces similar to that run by the Council which allows once or twice yearly in advance payments and reduces the heavy administration associated with the current system.

  It is proposed that a permit should initially be available on the following charges:

  6 month permit=£50 or ***12 month permit***=£100 and is a slight reduction on the existing weekly charge. Existing concessions for disabled tenants or leaseholders will be maintained.

  This compares with the following from a number of other London Councils which are weekly unless otherwise stated;

Council	***Tenants/Leaseholders***	***Non resident***
LBTH	£2.08	£2.50 LBTH resident/£6.00 Out of Borough
Hammersmith	£71 for 6 months £119 for 12 months	Not available
Camden	£2.78-£5.92 (based on emissions) Up to 12.75 for covered areas	£16.17-£48.34(based on emissions)
Kensington	£2.47-£6.69	£7.41-£20.07
Islington	£2.39 - £5.23 (based on emissions)	£5.34-£15.64 (based on emissions)
Hackney	£37.45	Not available

Charges will be subject to review as new parking and air quality policy is developed and as part of the appraisal of fees during the annual budget setting process.

- **Changes to the application system to improve access to disabled THH residents**
  THH currently allocate parking spaces through an online inter-active GIS system which has a time limited "bidding process" after which the space is awarded to the applicant with the highest priority (i.e. disabled). Although assistance in making an application is available, it is intended to create a process by which qualifying blue badge holders have a greater chance of a pre-allocated spaces as they become available in the area of choice. This will negate the risk that those with long term illness or conditions may not have the ability to apply for a parking space.

- **Introduction of e-permits to be phased in**
  THH is in the process of finalising the procurement of a back-office system to introduce e-permits. It should be noted that this contract is separate from LBTH.

3.4.17. Loss of parking and garages on infill sites

LBTH is committed to providing more affordable housing for residents and the Cabinet have agreed plans to build new homes on a number of infill sites where there are currently garages or car spaces. This will mean that the current parking or garage space users of identified infill sites will have their licence to occupy terminated (see Recommendation 2a on page 2).

THH, on behalf of the Council, will use its best endeavours to find alternative provision but given the shortage of supply will adopt the following principles:

- Those who are non-Tenants/Leaseholders will have their Licences terminated in the first instance.
- Tenants and Leaseholders will have the first priority with regards to accessing another facility
- In areas surrounding the infill sites, non-resident spaces or garages will be terminated to make way for tenants and leaseholders requiring space.
- There is no obligation to re-offer facilities to those tenants and leaseholders where it is evident they are using the space for storage rather than parking a car.
- Where there is no garage provision available for tenants and leaseholders, car spaces may be offered as an alternative.

3.5. DRAFT IMPLEMENTATION TIMETABLE

West of Borough wards -	Q3 18-19 to Q2/3 19-20
Central Borough Wards -	Q2/3 19/20 to Q1 21/21
East of Borough Wards -	Q2 20/21 to Q4 20/21

3.5.1. Upon Cabinet approval, it is recommended that all applications for new parking on an estate be suspended once THH residents have given their views through the informal consultation. When implementing a TMO, this will allow any returned parking spaces either to be used to ensure that existing permit holders are still able to park on their estates or that this additional space can be used to offer existing THH residents with no current estate facility a provision. (See 3.4.11 above). Where an application is made from a disabled tenant or leaseholder who is a blue badge holder, if available, a parking space will continue to be let.

3.5.2. Subject to the outcome of consultation, a proposed timetable would be to begin implementing TMOs in a chosen ward between Q4 2018 and Q1 2019.

3.5.3. The ward chosen will be reflective of current parking arrangements within the borough and present a range of different challenges. The process will involve a comprehensive consultation process with THH residents.

3.5.4. The process makes a distinction between the consultation period and the time that actual implementation takes. The ability to implement a TMO quickly following a consultation will be dependent on the scale of works required to ensure an estate meets the requirements of the TMO (See 3.4.8).

4. EQUALITIES IMPLICATIONS

4.1 An Equalities Impact Assessment (EIA) has been carried out and made recommendations as regards to the access of Disabled tenants to Parking Spaces on LBTH estates.

4.2 The EIA also includes information on the impact of the proposals in terms of ethnicity. It shows that only a small percentage of households in Tower Hamlets own more than two cars (0.7%). This is reflected in the low percentage of Tower Hamlets Homes' residents who are currently renting more than two spaces (0.6%). Therefore, the proposal to restrict the number of permits to two per household will not have a significant impact on any particular ethnic group. Furthermore, the proposal will be fairer and more inclusive as it will give more households the opportunity to rent spaces.

4.3 With regards to the proposal to withdraw spaces from people living outside of the borough, only a small percentage of existing permit holders living outside of the borough have provided ethnicity details and therefore this makes it difficult to carry out meaningful analysis. However, based on the limited data available, there is no indication that the proposal will disproportionately affect any particular ethnic group. The proposal will give greater priority to Tower Hamlets' residents and therefore will have a positive impact in terms of One Tower Hamlets considerations.

4.4 The Non-residential assets policy has been designed to ensure a clear, fair, and consistent process for THH residents when applying to park

4.5 The implementation of the TMO scheme involves a comprehensive and statutory consultation with tenants, leaseholders and freeholders. Report authors should identify from analysis and engagement how the proposals will address equality implications arising from the proposal.

5. OTHER STATUTORY IMPLICATIONS

5.1 **Best Value (Bv) Implications:** The delivery of the TMO and the subsequent management will need to be formalised in a contract with the relevant supplier(s). The appointment of these suppliers will be subject to procurement processes which will ensure the Council receives the best value in delivering services which meet the Council's requirements. The implementation of a TMO will enable the Council to enforce parking contraventions under Part 6 of the Traffic Management Act 2004 and recover the revenue which will fund this scheme.

5.2 Environment (Including Air Quality): The determination to give priority to tenants when re-allocating car spaces will discourage drivers who are appear to be commuting into the Borough and parking on an LBTH estate. It is also the case that some- non-residents are living in car free developments but have exploited a loophole in the system that allows them to park off-street on HRA land. As the terms of car-free agreements specify that those residents are not allowed to obtain permits, these residents will no longer be able to obtain permits under this scheme.

5.3 **Risk Management Implications**

5.3.1 Other Boroughs who have carried out similar consultations have experienced a small minority of estates that have chosen to opt out from any form of Parking Control and there is a risk that this may occur in Tower Hamlets. To mitigate this risk, the Council will enter into a process of continuous dialogue with those estates, to seek enhanced knowledge of the conditions on the estate and to manage this risk. It must be noted that most estates in other boroughs that initially opted out have subsequently returned to the Council to ask for the scheme to be implemented.

5.3.2 Changes in parking enforcement increase the risk of judicial challenge. However, the Government has clearly stated their view that Local Authorities should use TMOs as the means of control. Additionally, the adoption of TMOs is likely to end an existing judicial challenge about the use of Contract Law to enforce parking.

5.3.3 This report and Policy (Appendix One) sets out the Council's intention to desist from letting car spaces to drivers from outside the Borough. This will include staff that commute into the borough by car. Work will be undertaken with staff in line with the staff travel plan to mitigate service disruption and to encourage alternative methods of transport. Consideration will also be given to leasing electric vehicles for essential operational car use.

5.4 **Crime and Disorder Reduction Implications**: The lack of parking control allows easy access to those who drive on to LBTH estates to engage in criminal activity. The establishment of parking controls using TMO's will allow the Council to tackle and track such illegal parking and link up with the current initiative led by THH to tackle anti-social behaviour directly on LBTH estates.

5.5 **Safeguarding Implications**: There are no specific safeguarding implications arising from this report.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

6.1 This report seeks the approval of the Mayor in Cabinet to the implementation of Traffic Management Orders on Council owned housing estates in order to enable the introduction and enforcement of controlled parking measures.

6.2 The Council currently has separate parking enforcement contracts in place for the removal of nuisance vehicles on its public highways and for parking enforcement on land managed by Tower Hamlets Homes. Both contracts are administered by NSL Ltd. The Housing Revenue Account element of the contract is valued at approximately £378,000 per annum.

6.3 Capital resources of £3.3 million were set aside to finance the introduction of new off-street parking arrangements on housing estates as part of a Mayoral priority growth bid in the 2017-18 budget process. The expenditure has been re-profiled and is expected to continue in 2018-19: £686,000; 2019-20 and 2020-21: £1.3 million. These resources will fund the configuration of the estate parking areas, road surfacing works, and the appropriate signage and bay marking. The costs of consultation will be met from within existing HRA revenue resources.

6.4 Over recent years the changes in the ability of councils to pursue enforcement action (paragraph 1.5) has meant that unauthorised parking on estates has increased with PCN income significantly reduced (paragraph 1.9). The implementation of the Traffic Management Orders and associated controlled parking measures will enable enforcement action to be undertaken. The report proposes that a charge of £50 and £100 is made for a 6 month and 12 month permit respectively. These charges compare favourably with those made in other boroughs. The resulting income stream from the issue of parking permits will accrue to either the HRA or the Parking Control Account in the general fund, in accordance with the RTRA legislation, after deducting the costs of issuing the permits.

6.5 All penalty charge notice income will be credited to the Parking Control Account in the general fund to offset the cost of enforcement under the TMO. It is anticipated that the process will be self-financing, with the contract costs and the revenue generated being broadly similar.

6.6 Any net costs will be borne by the HRA therefore the consultation will need to be mindful of the potential financial implications of any change to parking arrangements on the Council's housing estates. These will include but not be limited to consideration of the HRA business plan and the nature of additional costs of monitoring and managing parking arrangements. Any surpluses generated under the accounting rules that govern the treatment of income and expenditure from the issue of permits and other parking related income will be dealt with under the RTRA 84 (Section 55 of which governs what the surplus from on-street parking and on and off-street parking enforcement can be spent on).

7. COMMENTS OF LEGAL SERVICES

7.1. The Council has the power to make a TMO to provide off street parking places under sections 6, 32 and 35 of the RTRA 1984 and to provide on street parking places under section 45 of the RTRA 1984. Section 124 of the RTRA 1984 requires the Council to have regard to Schedule 9 of the same act which sets out the procedure for making a TMO.

7.2. Part III of Schedule 9 gave the Secretary of State the power to make regulations which set out the procedure that must be followed before a TMO can be made. These regulations are in the form of the Local Authorities' Traffic Order (Procedure) (England and Wales) Regulations 1996 ("the Regulations") which explain in detail the procedure that must be followed before and after a TMO has been made.

7.3. On the face of it the details of this report comply with the RTRA 84and the Regulations.

7.4. However, as the Council goes through the process outlined in this report it will still have to ensure that it complies with the technical aspects of this law such as advertising requirements, periods of consultation etc all of which is stipulated under the law.

7.5. In addition to the statutory consultation required under the RTRA 1984, the Council is also required to consult under section 105 of the Housing Act 1985 ("HA 1985") as a result of the proposal to remove individual allocated parking bays.

7.6. The HA 1985 requires a landlord authority to consult where its secure tenants are likely to be substantially affected by a matter of housing management. The alteration of a secure tenant's parking arrangements is a matter of housing management for these purposes.

7.7. Logistically, consultations under the HA 1985 and the RTRA 1984 may be carried out as one simultaneously under the law.

7.8. When considering the recommendations in this report, regard must be given to the public sector equalities duty to eliminate unlawful conduct under the Equality Act 2010 ("the 2010 Act"). The duty is set out at Section 149 of the 2010 Act. It requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination (both direct and indirect discrimination), harassment and victimisation and other conduct prohibited under the 2010 Act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. The equalities issues which arise in respect of this project have been considered in the Equalities Impact Assessment appended to this report.

7.9. It is likely that the changes detailed in this report may have a significant impact on persons who share one or more protected characteristics under the 2010 Act. Therefore, the Council should take all necessary steps to properly understand how such persons are impacted which could include consultation. Again this can form part of the consultations.

7.10. In any event in order to be lawful all consultation (where necessary) should be undertaken whilst the decision is still at a formative stage to be legally compliant.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

Appendix 1 Non-Residential Assets Policy

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012: NONE

Officer contact details for documents: Simon James & John Kiwanuka ext 2616

A**ppendix One**

Non-residential assets policy

This policy affects:				
	Tenants	X	Leaseholders	X
	TMO Tenants		TMO Leaseholders	

Related policies/procedures:

Author: Savio Fernandes
Department: Neighbourhood Services
Approved by:
Date Approved:
Date of Equality Impact Assessment: N/A
Policy review date:
EIA review date: N/A

LBTH NON RESIDENTIAL STOCK LETTING POLICY AND PROCEDURE

Definition

Non-residential stock lets include garages, store-sheds (pram-sheds), parking spaces and other miscellaneous non-residential facilities managed by the Council and let through a licence agreement.

1. LBTH POLICY

1.1 The Council will seek to ensure that non-residential stock is allocated in a fair and timely manner, so as to maximise the use of facilities for the benefit of residents.

1.2 Priority for letting non-residential assets will always be given to Residents of the estate in which the facilities are situated i.e. Council tenant, leaseholder or freeholders (liable for payment of service charges).

1.3 Where any member of a household already licences a parking facility, precedence will be given to waiting list applicants on the same banding level to whom a let has not already been made.

1.4 Garages, store-sheds and parking bays that form an integral part of an individual dwelling will be let as part of the tenancy.
Garages, store-sheds and parking bays that are separate from individual dwellings are currently let on weekly licence agreements. However, a new system for car spaces will be introduced in 2018/19 which will mean that 6 monthly or Annual permits will be allocated to applicants.

1.5 Permits for car spaces or garages will not be available to those who do not live in the Borough.

1.6 On Council estates where there is a constant demand from residents For garages, parking spaces and store-sheds, the following restrictions will generally apply:

Maximum of 2 parking spaces per household
Maximum of 1 garage per household
. Maximum of 1 store-shed per household

Where there is no demand,(i.e. a space is empty for more than 4 weeks) the Service Manager has the discretion to increase this threshold although this will be on the basis that any subsequent and substantial increase in estate based demand will lead to these lettings being revoked.

This policy is not retrospective and will not affect those who already have over this number of facilities.

1.7 Where proven demand exists of an estate based resident or tenant with a disability requesting a facility, to whom a let has not already been made, the managing agent may at its discretion take action to terminate licences and re-allocate facilities. This may involve removing a permit from a non-resident who does not live on the estate or a household who already rents a number of facilities

1.8 Permit charges associated with non-residential stock are set by the Council.

1.9 Where it is discovered that a garage, store-sheds, parking space has been illegally sub-let by the licence holder to another person, the licence will be terminated and the licence holder will be permanently excluded from renting further estate facilities.

Where a leaseholder or freeholder sub-lets their property and is no longer resident on the estate, any existing facilities licence ends.

Any estate facility cannot be 'sub-let 'by a leaseholder to their sub tenant', for financial gain. The sub tenant should apply for a space in their own right where their application would be processed, in accordance with the existing banding system (priority 3)

1.10 No alterations to non-residential stock are permitted and in such circumstances the Council will revoke a licence.

1.11 In Estates that are controlled utilising contract law, THH will not let any non-residential facility to any household where a tenant, leaseholder or freeholder has an outstanding debt with the Council

1.12 Currently, a Notice to Quit will be served on any facility let, where a licensee has licence fee arrears of 4 or more weeks and action will be taken to repossess the facility. No previous applicant with unpaid arrears or costs will be allowed to re-apply for non-residential stock.

1.14 The Council will move towards implementing a six monthly or annual permit issuing process where payment for a car space is made in advance.

1.13 Where the parking facility is in a controlled access car park, the resident may be required to pay a refundable deposit for any security keys/fobs that are needed.

1.14 Requests to changes their 'personal vehicle during the period of the permit will be subject to an administration fee. THH will not generally agree requests to move personal bays on the same estate and should this be agreed it will be subject to a charge. This charge will be removed when an online application system is introduced.

2 LETTING PRIORITIES

2.1 The letting of Garages, Store-sheds and Parking spaces are based on the following priority bands:

Priority list for allocating parking on applications received

1 Tower Hamlets Homes (THH) residents/carers with a Disabled Blue Badge/Medical evidence

2 Tower Hamlets Homes (THH) tenants leaseholders or freeholders and their family members

3 Other LBTH Blue Badge holders

4 Other LBTH residents including sub-tenants in THH properties will be considered during initial implementation of the Traffic Management Order. Permits here will time limited to no more than 1 year after which they may be revoked and reallocated in accordance with the priority list.

Some additional provisions may apply for Store-sheds-see section 6

In order to apply for a store-shed;

Proof of identity and address will be required and applicants will be placed on a waiting list

2.1 No allocations will be agreed to those who live outside the Borough

2.1 In order to secure a car space or a garage the resident will need to provide information below.

- **Insurance Certificate and ONE required from the list below:**
  - **second page** of Vehicle Registration Document (V5C). This must be registered to you at your current address
  - Completed New Keeper Supplement (V5C/2) dated within the last eight weeks (making sure date, name and address are filled in)
  - Motability Insurance Certificate
  - Lease or Hire Agreement (must be signed) showing contractual start date and length of agreement
  - **Signed** company letter on headed paper dated in the last 28 days of the application confirming; your name and address, vehicle details, you are an employee, you are insured to drive the vehicle and you have the permission to drive the vehicle for business and personal use.
  -
- **Proof of Residency ONE required from the list below:**
  - Driving licence registered at your current address
  - Signed tenancy agreement
  - DWP Letter
  - Council Tax Registration
  - Electoral Registration
  - Copy of Lease

- Utility Bill (dated in the last 6 months)

2.2 THH will issue one permit per vehicle.

In the event of a lost, damaged or stolen permit, a replacement permit will issued for an administration charge of £10

In the interim period, the Parking contractor will be informed and no penalty charge action will be taken pending arrival of the new permit.

Should the car owner change their vehicle-on notification a new permit will be issued and the Parking Contractor informed. The existing permit can be used until the replacement is received after which it must be returned.

When the Council introduces the new online application process, these changes can be made online by the Resident and no charges will apply.

2.3 Where applications from tenants are made from vehicles which are not registered to the address, THH reserve the right to seek additional proofs from residents and will not let a space when the evidence suggests that there has been a contrivance to obtain a facility

3 Applications from Disabled tenants

- Disabled LBTH residents who are blue badge holders will be entitled to one space that is free of charge

- Applications from all disabled LBTH residents with a blue badge (both tenants and non-residents) will receive a 100% discount for a car-space and a 50% reduction for a garage

- Where there is a named resident or non-resident carer who is receiving a Carers Allowance, the allocated parking bay will be let at no charge to them assuming that the tenant or leaseholder is a blue badge holder. Where appropriate, cases may be referred to a Neighbourhood Housing Officer to carry out a vulnerable customers visit.

- Applications from a blue badge holder for a 2nd garage or car-space will be chargeable and any arrangement that reduces the weekly charge or annual permit charge will only apply to the first let.

Any application from a disabled customer is dependent on proof of address and provision of the blue badge.

4 Applications from residents living in a Car-free development

Residents living in properties that are subject to a 'Car-Free' development agreement are not able to apply for a permit to park in the estate that they live. If a resident who is a Blue badge holder moves into a Car–Free' home on a Council estate, they will be permitted to apply for a parking bay if there are designated spaces available.

5. Provisions specific to Garage Lettings

5.1 Unless designated suitable for storage by THH, garages should only be used for the purpose of storing a private motor vehicle or a motor cycle and a licence can be revoked if a unit is being used for another purpose.

5.2 The Council is not responsible for any loss or damage caused to any property brought into the garage. The Licensee is also responsible for any damage that they may cause to the Garage

5.3 Licences are only offered to individuals and will not be let in the name of private businesses

5.4 In the event of an incident where a garage suffers malicious damage, the Council is not obliged to undertake repairs should they prove too costly. Where-ever possible, it may offer an alternative garage.

5.5 Hazardous materials such as petrol cannot be stored within a garage and any breach of health and safety regulations will mean the licence is revoked.

5.6 THH is aware that power points and lights were once installed in some of the Council's garage stock. The Council is not obliged to provide this facility free of charge and it is not a condition of the Garage Licence. Additionally, the Licence states that the garage must be used solely for the storage of a car so there should be no situation where a power supply is required and then supplied at the Council's cost.

It follows that as and when such installations are found, the Council is within its rights to withdraw the power source if it is practical to do so.

5.7 When a garage facility is vacated, the premises must be received empty of possessions and rubbish. Should this not be the case, the licence holder will continue to be charged for use and occupation of the facility. If an occupant fails to return garage keys and a lock change is necessary, this will be classed as a rechargeable payment.

5.8 Garages will not generally be let, if a licence holder is in debt to the Council-(this includes rent and service charges)

5.9 Motability Scooters holders are able to let a garage to store their vehicle. The Council cannot provide a power supply especially for the purpose of electrically charging the vehicle. In the small number of facilities where there is an established individual supply, the vehicle may be charged subject to the fitting of a charging timer device on the Scooter.

6 Provisions specific to store-sheds

6.1 As there is no facility on GIS allocations portal for store-sheds, THH will maintain a separate estate-based waiting list using a standard format across all Housing. Allocations will be based on the lettings priorities set out in section 2

6.2 THH Residents with children under 5 or who are overcrowded will be treated as being in the first priority band. Within this band;

Priority will be given to THH Residents living on higher floors than those living on the Ground floor

Those who are living on the ground floor with garden space will not be considered a priority for storage space.

6.3 If there is availability and there is more than one application coming from the same band, the applicant who has been identified within the above categories will receive priority.
Should a number of applicants be in the same situation, the allocation will be determined by waiting time.

6.4 Store-sheds are intended for the use of residents within the block or estate and are not available for non- tenants or able to be

"inherited" by sub tenants of leaseholders who have let their premises.

6.5 Applications from sub-tenants will be treated in the third priority category set out in Section 2.

7 Provisions specific to Car spaces

7.1 All vehicles parked on land managed by THH should be in a roadworthy condition and be fully road taxed and insured. SORN or abandoned vehicles are not permitted on THH car-space or land.

7.2 The parking space can only be used for accommodating one registered motor vehicle that is in the ownership of the Licensee or their family

7.3 All vehicles will be issued with a valid six month or one year permit. Should a valid permit not been in place, a vehicle will be issued with a Fixed Penalty Notice.

7.4 If the licence holder uses the facility to carry out re-occurring or extensive maintenance work or repair work to a vehicle on THH car space the licence will be revoked.

7.5 The Council will not fit locking posts to any new car spaces. Any damage to an existing locking post will mean that the facility is removed and when TMO's are introduced no locking bars will be used.

7.6 The Council is not responsible for any damage to a Licensees car and the vehicle is parked entirely at the risk of the owner.

7.7 The Council will endeavour to remove unauthorised users who park in an allocated bay but can take no responsibility in the event that they are unsuccessful in achieving this.

7.8 A licence holder cannot holds two facilities (i.e a garage and a car space) for the storage of one vehicle.

8 Motor cycles, Bike sheds.

8.1 Wherever possible, THH will provide 'free of charge' bicycle storage facilities. Where there is controlled access to a bicycle store, the resident will be required to pay a refundable deposit for any security keys/fobs that are issued.

8.2 Due to space constraints, if a bicycle is considered to have been abandoned, it will be removed;

- A sticker will be placed on the bike giving one month's notice prior to removal.
- Bicycles not claimed will be donated for charity (the Mayors Fund)

8.3 Bicycles are stored at the Owner's own risk and THH will take no responsibility in the event that damage to a bike-shed leads to the loss or damage.

8.4 THH will have no responsibility for repairing or replacing individual locks

8.5 Repairs in a Bike shed will only be carried out if they are economically viable.

8.6 Spaces will be let on a "first come, first served" basis under the terms set out in the Bike shelter licence agreement

8.7 For reasons of fire safety, motor-cycles should not be left near a block and may be moved if it is thought that they may pose a risk to residents

8.8 Where possible, THH will endeavour to create provision for the parking of motor-cycles on LBTH estates.

9 Contractor spaces

9.1 Where possible, LBTH will provide assistance to contractor parking within estate parking arrangements to assist with asset management. Charges may be levied as a part of this arrangement.

9.2 During major works, a parking space may be needed by the contractor to erect scaffolding or carry out other works. Where possible, a licence holder will be transferred to an alternative space

10 Visitor Bays

10.1 On the majority of LBTH estates, there is provision for visitor parking. This allows visitors to the estate to park using permits purchased from LBTH. Where there are no available spaces (and on some estates, residents opted against having visitor space) the same permits can be used to park on on-street areas.

10.2 Visitors to the estate will not be allowed to use spaces used by allocated bay-holders and in these circumstances will be liable for a PCN.

11 Developments involving the demolition of non-residential assets

As a part of its commitment to maximise the availability of affordable accommodation, the Council may require the return of non-residential assets to enable property development

Under licence arrangements, the Council have the right to re-possess these facilities but will;

- If there is capacity to re-locate licence holders, THH will use its best endeavours to re-site those tenants and leaseholders who are affected.
  However, the Council will not guarantee that a replacement facility can be found and there is no requirement on the part of the Council to do so

- There is no obligation on the part of the Council to re-locate licence holders who are non-resident

- There is no obligation to re-situate those who are using garages for storage.

- If necessary, THH will end licences of non-residents in areas around infill sites to facilitate a supply of parking for tenants and leaseholders

- Traffic Management Orders will be used on all new Council built Car free developments.