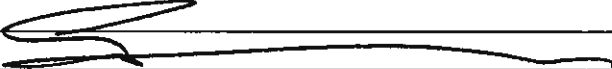




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| <b>Report for:</b>                               | Full Council - 21<br>November 2011  | <b>Item<br/>number</b> |  |
| <b>Title:</b>                                    | London Local Authorities and Transport for London Act 2008 – Appointed Day for adoption of powers under Part 5 – Non payment of Penalty Charge Notices. |                        |  |
| <b>Report authorised<br/>by :</b>                | Lyn Garner, Director of Places and Sustainability<br> 09.11.11        |                        |  |
| <b>Lead Officer:</b>                             | Ann Cunningham , Head of Traffic Management   |                        |  |
| <b>Ward(s) affected:<br/>Specify ward(s) All</b> | <b>Report for Non Key Decision:</b>   |                        |  |

**1. Describe the issue under consideration**

To seek approval to adopt the new powers provided in part 5 of the London Local Authorities and Transport for London Act 2008, and Council resolution to fix an 'Appointed Day' for bringing those new powers into operation.

**2. Recommendations**

That Council resolve that the appointed day for which Part 5 of the London Local Authorities and Transport for London Act 2008 shall come into operation on public highways for which London Borough of Haringey is the Highways Authority shall be 1st March 2012.

**3. Other options considered**

There are no other options for consideration.

**4. Background information**

The London Local Authorities and Transport for London Act 2008 received Royal Assent on 21 July 2008. Part 5 of the Act allows London Authorities to enforce against vehicles that have 3 or more outstanding penalty charge notices (PCNs).



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The Act allows the clamping and removal of those vehicles, even in cases where the vehicle is legally parked. Those vehicles are commonly referred to as persistent evaders. A persistent evader is defined as a vehicle that has three or more outstanding PCNs that are not being challenged through the statutory appeals process.

If a vehicle is clamped or removed under those powers, it will only be released to its owner under one of the following circumstances;

- Where the keeper details are not known; upon evidence of the identity of the keeper of the vehicle;
- Where the keeper details are known; when all outstanding penalty charges and additional parking charges are paid; or
- A bond is paid. A bond may only be paid once in relation to a penalty charge and is only payable on the basis that the person claiming the vehicle subsequently makes representations against the enforcement. If a representation or appeal is unsuccessful, the bond is set against outstanding charges. If representations are not made the bond is forfeit. The amount of the bond has been set by the London Councils Transport and Environment Committee at £250.

The London Councils asked a number of boroughs to carry out a pilot project in accordance with the provision of the Act. The experience from this project would then be used to provide guidance to other boroughs when the powers are fully rolled out. Phase 1 of this pilot looked at the legislation and how it could be applied operationally. This included producing a draft Code of Practice and identifying document procedures and processes.

Haringey have now been invited to join phase 2 of this pilot project, which is the operational phase. There are clear benefits associated with adopting those new powers. In Haringey there are currently in excess of 3000 vehicles that can be considered as persistent evaders. At present the Council is unable to take any enforcement action against a persistent evader vehicle if it is legally parked. In addition if a persistent evader is removed under existing legislation the Council is restricted to collecting the release fee and current PCN only. The new powers allow collection of all outstanding charges.

Under existing legislation the Council removes an average of 34 vehicles of persistent evaders monthly. The removal trucks (provided by our Contractor) are already equipped with ANPR (automatic number plate recognition) software and can easily identify those vehicles once the necessary files are downloaded. Under the new legislation the Council would expect this to increase to at least 70 vehicles a month.



Where any vehicle is removed under this legislation a statutory appeals process can be followed by anyone wishing to challenge previously issued PCNs. The process is the same as for a normal PCN and can involve an appeal to an independent adjudicator at the Parking and Traffic Appeals service.

No vehicle where an appeal is made can be disposed of and any appeal to the Parking and Traffic Appeals service will require the vehicle to be kept for at least a further 35 days from the date of the unsuccessful appeal.

In adopting those new powers, the Act requires London Authorities to make a resolution fixing an 'appointed day' from which the authority will begin to bring into operation the powers under Part 5 of the Act. This must be advertised in local papers and in the London Gazette. The 'appointed day' must not be earlier than the expiration of one month from the publication of the notice in the London Gazette.

#### **5. Comments of the Chief Financial Officer and Financial Implications**

The costs associated with implementing the new powers will be met from existing budgets and the project should help support parking income levels longer term.

#### **6. Head of Legal Services and Legal Implications**

The Head of Legal Services notes the contents of this report and confirms that the legal implications are as set out in the report.

#### **7. Equalities and Community Cohesion Comments**

There are no specific equalities issues arising from proposals in this report. Parking controls and enforcement benefit the community as a whole by improving road safety, and traffic flow in and around the borough.

#### **8. Policy Implications**

There are no specific policy issues arising from this report. Statutory Guidance and borough policy in general make it clear that removals should be targeted at persistent evaders, particularly those where there are no recorded keeper details.

#### **9. Use of Appendices**

#### **10. Local Government (Access to Information) Act 1985**



**Haringey** Council

- a) London Local Authority and Transport for London Act 2008.
- b) London Councils – Advisory documents and memorandums