

Sustainable Development Select Committee		
Title	Response to the Department of Transport's Consultation on Local Authority Parking	
Contributors	Head of Public Services, Service Group Manager - Parking	Item: 3
Class	Part 1 (open)	4 February 2014

Reason for urgency

It is requested that the Committee considers this report as an urgent item. A response is required to the Department of Transport by 14 February 2014.

Reason for lateness

Due to the short timescales involved in preparing the submission to the consultation additional time was required to draft the report.

Purpose

To set out the response to the Department for Transport's (DfT's) consultation on behalf of the Council.

1. Summary

- 1.1. This report details the Council's response to the DfT 'Consultation on local authority parking'.
- 1.2. The consultation asks a number of questions concerning the recommendations made by the Transport Select Committee and on the joint announcement by DfT and DCLG on parking reforms.
- 1.3. The report describes the rationale for managing parking in the borough. In some areas of the borough demand exceeds available space and controlled zones have been implemented to protect residents, ensure safe and sustainable access, balance the needs of all road users and meet environmental objectives.
- 1.4. Parking charges are set at an appropriate level to achieve these objectives.

2. Recommendation

The Committee is recommended to:

Endorse the Council's response to the DfT's consultation.

3. Policy context

- 3.1. Parking regulation is governed by the Road Traffic Regulation Act 1984. The Council's local transport and parking policy objectives comply with this legislation and are set out in the Local Implementation Plan (LIP). The goals,

objectives, and outcomes for the LIP have been developed within the framework provided by the Mayor of London's Transport Strategy, but they also reflect local policies and priorities and as such are aligned with the Council's Corporate Priorities and the Sustainable Community Strategy.

3.2. The new parking policy is placed within this broader policy framework. Parking has a borough-wide impact, and has particular relevance to the many economic, environmental and social objectives of a modern transport system. To varying degrees, parking impacts on all 8 of the objectives in the Council's LIP:

- Reduce the number of road traffic collisions and improve safety and security on the public transport network;
- Enhance Lewisham's natural environment and open spaces;
- Create a low emissions transport system and a resilient transport network;
- Support and promote healthier and more physically active lifestyles;
- Improve the quality and connectivity in and around town centres;
- Reduce congestion and maximise efficiency of the transport network;
- Improve access to jobs, training and services, regardless of social background and physical and mental health;
- Improve the urban environment, including the design and condition of highways and footways.

4. Background – Department for Transport's Consultation Document

4.1. The Traffic Management Act 2004 provides the regulatory framework which gives local authorities the option of adopting civil parking enforcement (CPE) powers. Most local authorities in England (over 90%) have now taken up these powers. This means that they, rather than the police, can issue parking tickets for on-street parking contraventions, and in local authority off-street car parks.

4.2. By taking up civil parking enforcement powers local authorities have full responsibility for the design, implementation and enforcement of parking policies in their area. This makes good sense and allows them to design and deliver parking strategies that are appropriate for their areas. In permitting local authorities to use such powers, the Government expects them to seek the best solutions, reconciling the needs of different road users (including pedestrians, cyclists and people with disabilities), and the needs of residents, shops and businesses. It is essential that authorities implement and enforce their parking policies fairly and proportionately to deliver the best solutions for communities, businesses and road users in their area. In particular the law is clear that local authorities must not use their civil parking enforcement powers to raise revenues.

4.3. Despite this the Government is aware of concerns that some local authorities appear not to be using their powers to meet the best interests of road users, communities and businesses in their area. There are concerns about over-zealous parking enforcement and high parking charges driving people out of town centres, pushing up the cost of living and making it harder for people to park responsibly and go about their everyday lives. These concerns were

expressed most recently in evidence to the Transport Select Committee (TSC) during its inquiry into local authority parking enforcement. Many of the TSC's recommendations are considered in the consultation paper.

- 4.4. The Government recognises that there are increasing concerns about the direction of many local authority parking strategies, and agrees that the time is now right to review how local authority parking is being managed and enforced, and to take action to ensure that parking strategies are properly focused on supporting communities, businesses and road users in a fair and proportionate way, and not being used simply as a source of revenue. To support this the revised Code of Transparency for local authorities issued by DCLG includes mandatory requirements to publish specific information on parking, as well as a list of recommendations which represent good practice.
- 4.5. The Government is now inviting views on amending significant elements of local authority parking policy including:
- Stopping the use of CCTV for on-street parking enforcement
 - Giving local communities and businesses new rights to require authorities to review aspects of their parking strategies such as the level of parking charges and whether all double-yellow lines are appropriate and necessary at particular locations;
 - Introducing limited "grace periods" where a driver has stayed in a parking place for a short period before issuing a parking ticket; and
 - Updating statutory guidance to local authorities to emphasise a less heavy-handed approach to parking enforcement, and re-emphasise that parking charges and fines cannot be used to as a means to raise revenues.

5. The views invited on local authority parking enforcement and the Council's response to those views:

Q1. Do you consider local authority parking enforcement is being applied fairly and reasonably in your area?

Options

Stopping the use of CCTV cameras to enforce on-street parking

- 5.1. Civil Enforcement Officers (CEOs, although commonly known as parking wardens) do not have the powers that the police have to stop vehicles if they contravene traffic regulations. Without powers to stop vehicles, the most effective way to enforce moving traffic contraventions, such as cars using bus lanes, causing congestion by not exiting a box junction, or undertaking dangerous manoeuvres through banned turns is by using camera enforcement. This frees up police time to deal with crime, but the Government is concerned that, specifically in relation to on-street parking, the use of CCTV (closed circuit television) cameras is no longer proportionate, and local councils over-employ them to deal with contraventions where it would be more appropriate, fairer and straightforward for a parking warden to deal with the contravention. The

Government therefore intends to put an end to this practice by stopping the use of CCTV cameras to enforce on-street parking contraventions.

- 5.2. DfT's statutory guidance already states that CCTV cameras should only be used where parking enforcement is difficult or sensitive and enforcement by a parking warden is not practical. The Home Office Code of Practice on CCTV surveillance published earlier this year confirmed this approach and added that CCTV should only be used where there is a "pressing need." Many local authorities do not use CCTV to enforce parking, but there is increasing concern that, of those that do, a number do not have sufficient regard to statutory guidance and are over-using CCTV. For example Traffic Penalty Tribunal Adjudicators (who consider appeals against local authority parking tickets), in written evidence to the Transport Select Committee earlier this year said that they had found cases "where camera enforcement appears to be used as a matter of routine where the strict requirements in the DfT statutory guidance do not appear to be present. Failure to comply with the DfT guidance is not a ground of appeal and the effectiveness of the adjudication is curtailed in these circumstances."
- 5.3. The Government is concerned that, by using CCTV cameras in areas where enforcement could be undertaken by a parking warden, local authorities undermine public acceptance of their limited use for non-criminal offences. Drivers are also concerned that they may receive a parking ticket in the post weeks later, giving them no opportunity to examine the parking location as it was at the time of the alleged contravention.
- 5.4. The Transport Select Committee has also welcomed the Government's commitment to consult on ending the use of cameras for on-street parking enforcement. They add that "As long as the use of cameras remains legal, local authorities must ensure that they are not used as a matter of routine, particularly where permits or exemptions (such as resident permits or Blue Badges) not visible to the camera equipment may apply." However, the Committee pointed out that cameras can still be helpful for enforcement in some areas where the use of a parking warden is not practical.

The Council's response to Q1: Do you consider local authority parking enforcement is being applied fairly and reasonably in your area?

- 5.5. Yes. Lewisham's parking enforcement is undertaken in accordance with relevant legislation and statutory guidance. The London Council's Code of Practice is applied to ensure a fair and consistent approach to parking enforcement across the borough.

**Q2. The Government intends to abolish the use of CCTV cameras for parking enforcement. Do you have any views or comments on this proposal?
Updating parking enforcement guidance**

- 5.6. DfT issues both statutory and operational guidance to local authorities. This was last updated in 2010/11

- 5.7. Local authorities are required to have regard to the statutory guidance which contains good practice guidelines including, for example, guidance that CCTV should only be used where enforcement by parking wardens is impractical (see previous section on CCTV enforcement). The guidance also makes clear that authorities should design their parking policies to manage the traffic network to ensure the efficient movement of traffic, improve road safety and the local environment, meet the needs of people with disabilities and to manage and reconcile the competing demand for kerb space from road users, businesses and residents.
- 5.8. The recent Transport Select Committee report on local authority parking enforcement published on 14 October 2013 recognised the inherently local nature of parking, but also noted that the Government still has an important role in making sure the parking regulations and guidance are fit for purpose and modifying them promptly when necessary. The Government agrees with this analysis and believes that the time is now right for DfT's statutory guidance to be reviewed and updated. In particular the guidance should emphasise the need for a proportionate balanced and even-handed approach to parking enforcement, and also address areas such as the application of appropriate exemptions and waivers for blue badge holders, and professional care workers engaged in urgent or emergency health care.
- 5.9. Guidance should also reinforce and safeguard the requirement that parking charges and parking fines should not be used to raise revenue. This would be consistent with the Government guidance published in March 2012, which encourages local authorities to set appropriate parking charges that do not undermine the vitality of town centres, and ensure that parking enforcement is proportionate.¹² The guidance should also reflect good practice designed to prevent over-aggressive action by bailiffs when recovering unpaid fines.
- 5.10. Evidence given to the Transport Select Committee by traffic adjudicators expressed concern about instances where it appeared a council had disregarded the statutory guidance, but, because statutory guidance does not have the same weight as law, adjudicators were not able to allow the appeal and could only refer the case back to the Chief Executive of the Council. The Transport Select Committee report recommended that the Government should introduce regulations to enable adjudicators to allow appeals where local authorities have not followed the statutory guidance. The Government believes this recommendation is worth further consideration and will initiate discussions with the parking adjudicators to determine what further regulatory changes may be needed to support motorists in this area. The Government intends to update the statutory guidance to make clear in what circumstances the adjudicators may award costs.

The Council's response to Q2: The Government intends to abolish the use of CCTV cameras for parking enforcement. Do you have any views or comments?

- 5.11. The Council follows both the Statutory and operational guidance issued to all local authorities for the issue of parking penalties using CCTV. Parking and moving traffic enforcement is applied across the borough with the aim of reducing congestion, improving road safety, providing for business activity,

improving access to local amenities, improving journey times. CCTV is an essential tool in meeting the Council's objectives of improving parking compliance, reducing congestion and improving road safety.

- 5.12. In Lewisham we have one CCTV vehicle which is used for parking contraventions. CCTV is only used to enforce serious parking contraventions where the on foot enforcement has proved ineffective – these include parking outside schools, on footways, bus stops, double yellow lines where loading is prohibited. It is not used for less serious contraventions where we rely solely on foot patrolling enforcement officers.
- 5.13. For serious parking and moving traffic contraventions, CCTV is an effective tool for improving compliance levels. If removed there is a danger of reducing the effectiveness of enforcement; especially where foot patrols are less effective such as outside schools, pedestrian crossings and where there are risks to road safety.
- 5.14. This is also fairer to those drivers who do seek to park sensibly and where permissible. A decline in compliance levels will have detrimental impacts on congestion and the environment. Effective parking enforcement for higher level contraventions without the use of CCTV will require increased resources which in turn will increase costs.
- 5.15. Considering the above some regulation restricting the use of CCTV for parking contraventions may be justified. This will ensure a consistent approach in the application of CCTV enforcement for static parking contraventions.

Q3. Do you think the traffic adjudicators should have wider powers to allow appeals?

Q4. Do you agree that guidance should be updated to make clear in what circumstances adjudicators may award costs? If so, what should those circumstances be?

Tackling wrongly-issued parking fines

- 5.16. The latest figures from the parking adjudicators show that, in England in 2011-12, over 8 million parking fines were issued. If a motorist disagrees with a parking fine he or she can make representations, for free, to the local highway authority. The local authority can accept those representations and cancel the parking fine, or reject them.
- 5.17. If the local authority rejects the motorist's representations he or she has the right to register an appeal with the independent parking adjudicator, again for free. In 2011-12 some 59,000 parking appeals were considered by an adjudicator (0.7% of all parking tickets issued). Of those 59,000 nearly 60% were allowed (although a significant number were not contested by the local authority).
- 5.18. Most drivers who accept they are liable for a ticket do not appeal and can take advantage of the 50% discount that authorities are required to offer if the fine is

paid promptly. However there is a concern that some motorists may be put off from appealing because they are concerned about losing the discount. The Government is therefore considering introducing a discount at the appeal stage as well, so that a motorist whose appeal is rejected by a parking adjudicator can still receive a discount for prompt payment.

5.19. The Transport Select Committee report also recognised this issue, but noted that whilst motorists should not be discouraged from appealing, it was reluctant to suggest extending the full 50% discount throughout the appeal process due to the additional administrative burden as this would most probably lead to most, if not all, tickets being appealed, even when there were no reasonable grounds for doing so. Instead the Committee recommended that the Government should work with local authorities to trial the introduction of a lower (25%) discount for motorists who pay within 7 days of losing an appeal.

Councils Response to Q3: Do you think the traffic adjudicators should have wider powers to allow appeals?

5.20. At present the parking and traffic adjudicators are only entitled to consider statute grounds for appeal. To allow appeals for not following guidance misinterprets the differing roles of guidance and Statute. If Government wishes to take this approach the guidance should be made statute this will ensure consistency and clarity for the local authority and for all road users.

Council's Response to Q4: Do you agree that guidance should be updated to make clear in what circumstances adjudicators may award costs? If so, what should those circumstances be?

5.21. Yes, the guidance should be updated to clarify in what circumstances the adjudicators may award costs; this however should apply equally to both the motorist and the local authority.

Q5. Do you think motorists who lose an appeal at a parking tribunal should be offered a 25% discount for prompt payment?

Residents' parking reviews

5.22. Parking strategies should meet the needs of residents and businesses, and contribute to the authority's transport objectives. To encourage councils to review their strategies the Government is considering introducing residents' reviews – allowing local residents and local firms to be able to petition the council to initiate a review.

5.23. Reviews could include looking at the cumulative effect of additional yellow lines on town centres, and the charges for parking. In many cases changing conditions may provide opportunities for authorities to consider other options, for example, replacing yellow lines with short-stay parking places to allow people to pay short visits to local shops whilst avoiding all-day commuter parking.

- 5.24. One way this could be achieved could be by allowing local residents and firms (i.e. local taxpayers) to be able to petition the council to initiate a review of parking policy in a particular area. If a petition reached a particular threshold, the council could be obliged to undertake a review, with the final decision on the outcomes of the review being decided by local councillors. This would allow local residents and local councillors to have the final say on local parking provision in their area.
- 5.25. Mary Portas' independent review on high street policy noted: "Cars are an intrinsic part of the way many people shop and so many of our high streets simply aren't catering for our 21st Century shoppers. The ease with which out-of town retailing can be reached by car means that high streets do not have the luxury of pretending that car-based access is not convenient for shoppers. It is. And yet in many town centres I have visited for this review parking has been run-down, in an inconvenient place, and most significantly really expensive." Localism is not just about power to councils, it is about empowering local communities, neighbourhoods and individuals. The Government believes that it is important that local authorities regularly review their parking policies, and that one way this could be achieved could be by allowing local residents and firms to be able to petition the council to initiate a review of parking in a particular area.

The Council's response to Q5: Do you think motorists who lose an appeal at a parking tribunal should be offered a 25% discount for prompt payment?

- 5.26. No: This would have a detrimental financial impact on all local authorities and could potentially increase appeal levels. In Lewisham it could have a significant impact. The price bands for Penalty Charge Notices (PCN) are set by London Councils. In Lewisham we have two price bands which are set geographically bounded by the south circular. Within these two price bands the higher and lower level contraventions apply. As an example the lowest price PCN in Lewisham is £60. If the 25% discount were to apply to those motorists losing at the tribunal the authority would received £45. It costs each local authority £47 for every appeal heard not including the administration/resources costs.
- 5.27. The financial incentive for progressing through to the tribunal is that the motorist puts forward a successful appeal which results in the PCN being cancelled. A discount incentive is offered at the PCN issue stage where there has been little or no cost to the Authority. The 25% discount has the potential to increase appeal volumes with a direct impact on increased back office administration and resource costs.

Q6. Do you think local residents and firms should be able to require councils to review yellow lines, parking provision, charges etc in their area? If so, what should the reviews cover and what should be the threshold for triggering a review?

"Grace periods" for parking contraventions

- 5.28. DfT's guidance to local authorities suggests that they may wish to set out certain situations where parking wardens could exercise their discretion to issue a verbal warning rather than a parking ticket where they consider only a minor

contravention has taken place. The guidance also explains that parking wardens need to observe a vehicle for a time to ascertain whether certain contraventions are taking place.

- 5.29. The Transport Select Committee has recognised this issue (for example, the frustration felt by motorists when they are issued with a ticket one minute after a parking meter has expired). The Committee has therefore recommended in its recent report that the DfT's statutory guidance should stipulate that local authorities allow a grace period of 5 minutes after the expiry of paid for time on all paid parking places.
- 5.30. This TSC proposal would not cover areas where parking was not already permitted, such as on double-yellow lines or other restricted areas. However, some parties have suggested that the principle of grace periods should be applied more widely to allow motorists to park for free for a limited time at most locations other than a double-yellow line (e.g. on single yellow lines, in loading bays, and in parking meter and pay and display bays, and when overstaying in free parking bays). This could confer considerable freedoms on motorists to park without fear of being penalised, but would be difficult to enforce (particularly without cameras), and if that was the case would result in increased congestion and disruption by inconsiderate drivers.

The Council's Response to Q6: Do you think local residents and firms should be able to require councils to review yellow lines, parking provision, charges etc in their area? If so, what should the reviews cover and what should be the threshold for triggering a review?

- 5.31. The Council reviews its parking provision regularly. The implementation of a formal process could put a significant burden on the Council to investigate all requests for changes, any formal process introduced will need reasonable parameters to review and prioritise before requests are investigated further. In Lewisham a programme for reviewing the implementation of yellow lines has been in existence for many years. This gives the opportunity to review yellow line restrictions when requested in line with budget constraints.
- 5.32. Lewisham is generally responsive to requests. Consideration needs to be given as to why parking controls are initially introduced. The main purposes are for road safety, access or egress issues, or balancing competing demands for limited kerb side parking space. The circumstances surrounding the first two issues rarely change significantly. If parking controls are introduced we are unlikely to implement changes that would affect the safety or access issues.
- 5.33. By its very nature when attempting to balance competing needs, we generally have to compromise, we are unable to increase kerbside parking space. A review of parking provision is normally linked to CPZ consultations or when looking at parking provision around town centres (for shops etc) this is considered as part of an overall town centre strategy. With this in mind, decisions are based on policy and with consultations involving the wider community.

5.34. Annual programmes for the consideration of parking provision already exist and the formulation of the programmes was reviewed as part of the comprehensive parking review undertaken this year. There would be a significant drain on resources if consideration is given to each request in detail, the increase in costs and the volume of work would be restrictive. Attempting to balance the competing needs can significantly increase the costs of any review. Requests should be aligned in accordance with the overall implementation and review programme.

Council's response to Q7: Do you think that authorities should be required by regulation to allow a grace period at the end of paid for parking?

5.35. Yes: A regulatory 5 minute grace period should be implemented to ensure a consistent approach. At present this differs widely amongst Local Authorities. In Lewisham, a five minute grace period has been used for a number of years and works well.

5.36. An extension to the 5 minute period could have repercussions. If it was to be extended to say 15 minutes, and parking is required for one hour, customers would revert to paying for 45 minutes parking time. This would impact on revenue, any extension to the 5 minute period could impact on enforcement resources and enforcement costs.

Councils Response to Q.8: Do you think that a grace period should be offered more widely – for example a grace period for overstaying in free parking bays, at the start of pay and display parking and paid for parking bays, and in areas where there are parking restrictions (such as loading restrictions, or single yellow lines)?

5.37. Consideration needs to be given as to why parking schemes have been introduced. Free time limited parking bays are predominately introduced to provide access to local amenities in the management of the demand for kerbside space. The time limits are normally implemented after consultation with local stakeholders. Free time limited parking bays for longer than a 40 minute period can be difficult to enforce without there being an impact on resources. As soon as motorists become aware of a 'grace period' many motorists will take this as an addition to the existing free parking time period and will adjust their parking habits accordingly. This will ultimately impact on the turnaround of parking spaces reducing the effectiveness of the access to amenities. Something we should aim to avoid.

5.38. A 5 minute grace period for non-parking bays such as yellow lines exist in Lewisham to ascertain whether loading or unloading is taking place. Loading is permissible on most yellow line restrictions. To extend the grace period may impact on road safety and has the potential to increase congestion. Amending this could lead to motorist confusion and in some cases dangerous 'legitimate' parking.

**Q9. If allowed, how long do you think the grace period should be?
Clamping down on anti-social driving and tackling illegal parking**

5.39. As this document has made clear the Government wants to ensure that local authorities do not adopt an overly heavy-handed approach to parking enforcement that unnecessarily impedes the attractiveness and prosperity of our town centres, but it is important that authorities continue to enforce parking appropriately to ensure the flow of traffic, avoid congestion and stop selfish drivers from parking without regard or in a way which is dangerous to other motorists, cyclists and pedestrians – including children, people with disabilities and the elderly. The Government therefore proposes, as part of a balanced review of parking to consider whether any further measures need to be adopted to tackle genuinely anti-social parking, particularly where reckless or selfish behaviour causes inconvenience or danger to others.

The Councils response to Q:9 If allowed, how long do you think the grace period should be?

5.40. A 5 minute grace period at paid for parking locations and yellow lines where loading is permissible.

Q:10 Do you think the Government should be considering any further measures to tackle genuinely anti-social parking or driving? If so, what?

The council's response to Q:10.

5.41. Parking regulation already exists that tackles anti-social parking and driving sufficiently. More needs to be done to tackle non or incorrect registration of vehicles. These vehicles increase anti-social parking and driving and make it impossible for the Authority to pursue against parking or traffic violations. This is not a fair and consistent way to apply parking enforcement and unfair to those motorists that abide by the vehicle registration and parking rules.

5.42. A consistent approach to parking regulation would be beneficial to the motorists if applied across regions. A national approach would be more beneficial but would need to take into account differing needs such as urban or rural environments.

6. Financial implications

6.1 The purpose of this report is to inform members of the Council's response to the DfT 'Consultation on local authority parking. As such there are no financial implications arising from this report.

6.2 In preparing the response, officers have considered the potential financial impact on the Council in broad terms but, at this stage, there is insufficient detail to quantify the potential cost in any detail.

6.3 Once the outcome of the consultation is known the Council will need to consider the impact as a part of its established budget management processes.

7. Legal implications

7.1 These are contained in the body of the report.

8. Crime and disorder implications

- 8.1 Intrusive parking and congestion can have crime and disorder implications. Effective parking enforcement and a good turnaround of parking spaces is essential to the vitality of an area; the lack of which can have a detrimental impact on crime and disorder.

9. Equality implications

- 9.1 There are no equality implications arising from this report.

10. Environmental implications

- 10.1 An increase in congestion and longer turn around for available parking spaces will result in vehicles driving around looking for available parking spaces which can have a detrimental impact on the environment.

Background documents

The full consultation document can be found on:

<https://www.gov.uk/government/consultations/local-authority-parking>

Lewisham Local implementation plan 2011-2031:

<http://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/strategies/Documents/Local%20Implementation%20Plan%202011-31.pdf>

For further information regarding this report please contact Lesley Brooks (Service Group Manager – Parking) 0208 3142126