

<b>MAYOR AND CABINET</b>			
<b>Report Title</b>	London Councils and POPLA Contact		
<b>Key Decision</b>	Yes	Item No.	
<b>Ward</b>	Borough Wide		
<b>Contributors</b>	Head of Law, Executive Director for Customer Services		
<b>Class</b>	Part 1	Date:	4 March 2015

## **1 Summary**

- 1.1 This report seeks the agreement of the Mayor to formally resolve to expressly delegate the exercise of section 1 of the Localism Act 2011 to the London Councils' Transport and Environment Committee (TEC) joint committee for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract.
- 1.2 At present the Council does not have Traffic Management Orders (TMOs) in respect of any non highway land in place nor does it use the POPLA service. Parking on housing estates is currently contracted out by Lewisham Homes to Ace Securities.
- 1.3 Any decision as whether the Council chooses to use the POPLA service in the future will be a separate matter and not one that will be dealt with in this report.

## **2 Recommendations**

The Mayor is recommended to;

- 2.1 formally confirm that the functions delegated to the London Councils' Transport and Environment Committee (TEC) joint committee to enter into the existing arrangement with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011; and
- 2.2 resolve to expressly delegate the exercise of section 1 of the Localism Act 2011 to the TEC joint committee for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract.

## **3 Policy Context**

- 3.1 Lewisham's Sustainable Community Strategy 2008-2020 contains the shared priorities for the borough. It sets out a framework for improving the quality of life and life chances for all who live in the borough. This approach works

towards meeting the 'Clean green and liveable' priority to enable people live in high quality housing and can care for and enjoy their environment.

- 3.2 The Council has outlined ten corporate priorities which enables the delivery of the Sustainable Community strategy. Continuing the arrangement with the British Parking Association addresses the corporate priority of inspiring efficiency, effectiveness and equity.

## **4 Background**

- 4.1 On 15<sup>th</sup> March 2012 TEC agreed that London Councils should provide an appeals service for parking on private land for the British Parking Association (BPA) under contract. This was on the basis that this would complement the service provided by the Parking and Traffic Appeals Services (PATAS) which deals with appeals made against parking enforcement on the highway. It was considered at the time that providing the service on a cost-recovery basis would be in the public interest as: restrictions on parking within London on private land would have a direct impact upon London local authorities, their resources and residents; a significant proportion of the public affected and inclined to avail themselves of the POPLA service were likely to come from the Greater London area. On 14<sup>th</sup> June 2012, TEC received a report to say that the basis for providing such a service had been accepted by the BPA and agreed that a contract should be entered into to provide the service.
- 4.2 The service, known as POPLA (Parking on Private Land Appeals) started on 1<sup>st</sup> October 2012 and has since provided the appeals service to more than 25,000 motorists. The service operates on a full cost recovery basis and at no cost to the London Council Tax payer.
- 4.3 An objection was raised on the London Councils' consolidated accounts by an interested person (residing within London) that TEC did not have the legal power to provide the service. London Councils' auditors, PWC, have, for some time, been investigating this and numerous other objections submitted by the same individual.
- 4.4 PWC informed London Councils of legal advice it has had from the Audit Commission on the Commission's view on the power of London Councils to provide the POPLA service. In essence, the Audit Commission advice accepts that the London local authorities have the power under Section 1 of the Localism Act 2011 to provide the service and that the exercise of these functions could be delegated to TEC. However, no formal delegation has been made to date. This raises an issue regarding the lawfulness of income and expenditure relating to the POPLA service
- 4.5 The TEC is therefore securing delegation from all 33 participating boroughs to the Transport and Environment Committee (TEC) for the provision of POPLA, with the agreement of PWC, to put this matter beyond legal doubt in terms of following through on the decisions previously reached by the TEC, without objection, on this matter.

- 4.6 In Lewisham, 18 sites on housing estates are currently patrolled for Lewisham Homes by Ace Securities. Enforcement is by way of a charge notice (£130) and all revenue from the enforcement is retained by the contractor. As part of the service being operated by Ace Securities they are responsible for dealing with all aspects of enforcement, appeals and collection. The Council does not currently use the POPLA service.
- 4.7 There are currently a range of different legal issues and challenges in relation to enforcement of parking on private land and the basis upon which this is carried out by local authorities. Although the POPLA service relates to parking on private land, the purpose of the delegation in this report is simply to enable the concerns of the TEC's auditors in relation to the London Councils' accounts to be addressed so that the accounts can be signed off. Any other decisions or actions required to address any legal issues or challenges arising in respect of these matters will be the subject of separate reports to the appropriate decision maker.

## **5 Financial Implications**

- 5.1 There are no specific financial implications arising from this report.

## **6 Legal Implications**

- 5.1 Under Section 101 of the Local Government Act 1972 a local authority may arrange for the discharge of any of their functions by a committee or any other local authority. For the purpose of discharging any functions in pursuance of arrangements made under Section 101 two or more local authorities may appoint a joint committee of those authorities. These powers have been used to establish the London Councils' Transport and Environment Committee (TEC) joint committee of which the Council is a participating borough.
- 5.2 The Council has a wide general power of competence under Section 1 of the Localism Act 2011 to do anything that individuals generally may do. The existence of the general power is not limited by the existence of any other power of the Council which (to any extent) overlaps the general power. The Council could therefore rely on this power to provide the POPLA service and can delegate the function to the TEC joint committee.
- 5.3 A local authority may, in addition to the powers under the Traffic Management Act 2004 and the Road Traffic Regulation Act 1974, exercise other functions and powers to create parking spaces. It is a matter for each local authority to determine whether or not it is appropriate to use its traffic management powers to 'designate' parking places in their local authority area (whether on or off street) for the purpose of controlling or regulating vehicular and other traffic, relieving or preventing congestion of traffic, maintaining reasonable access to premises etc.

**6. Crime and disorder implications**

6.1 There are no specific crime and disorder implications arising out of this report.

**7. Equalities Implications**

7.1 There are no specific equalities implications

**8 Environmental Implications**

8.1 There are no specific environmental implications arising out of this report.

**9. Background documents and originator**

None

9.1 If you would like any further information on this report please contact Kath Nicholson, Head of Law 0208 3147648.