

PARKING POLICIES – PETITIONS PROCEDURE

To: **Highways and Community Infrastructure Committee**

Meeting Date: **12th January 2016**

From: **Executive Director: Economy, Transport & Environment**

Electoral division(s): **All**

Forward Plan ref: **N/A** *Key decision:* **No**

Purpose: **To clarify how petitions on parking issues are to be dealt with, in response to new statutory guidance.**

Recommendation: **It is recommended that the Committee agrees and notes the clarification to current processes in response to the statutory guidance on how to deal with petitions on parking issues, as set out in the report.**

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1. Background

- 1.1 A report was submitted to the Constitution and Ethics Committee on 23rd June 2015 detailing new requirements under Network Management Statutory Guidance. The Guidance stated that local authorities should have a petitions procedure in place to enable residents to challenge on-street parking policies or request an amendment to existing local parking provisions. The statutory guidance had been issued in March 2015 by the Secretary of State under Section 18 of the Traffic Management Act 2004 (“the Act”) stating that it applied to Local Traffic Authorities in England, *“which must have regard to this guidance when exercising their Network Management Duty under the Act”*. The report proposed the introduction of a separate petitions procedure with a lower number of signatures to be able to present petitions on parking issues at a Committee, in addition to the current, petitions procedure.
- 1.2 Constitution and Ethics Committee Members expressed strong reservations about the changes proposed, and as a result, rejected the report’s recommendation to agree a new, separate Petitions Scheme to enable residents to challenge parking policies and recommended that the matter should be taken to the relevant Committee for consideration if it was established that there was a statutory requirement to have such a scheme.

2. Key Issues

- 2.1 According to legal advice subsequently received, there is a duty to “have regard” to statutory guidance in the course of making decisions or exercising other functions. Although statutory guidance from the Secretary of State is not binding in the legal sense, case law affirms that a local authority should have regard to the reasons which underlie a policy and the impact of these in making a decision. Statutory guidance does not form part of the law in the same way as primary or secondary legislation does, but it is up to the courts to decide whether or not the guidance has any legal effect.
- 2.2 The guidance in this case has been consulted on widely and Section 18 of the Traffic Management Act 2004 provides that regard must be given to this guidance when local authorities are exercising their network management duty. The guidance itself explicitly defines what the local authority should and should not do in terms of a petition scheme. It is also very clear on the reasons for this in terms of meeting the best interests of road users, communities and businesses whilst having a workable parking strategy. The view of Legal officers is that – unless a very good reason can be demonstrated why this guidance should not be followed, or at least considered and an acceptable alternative implemented – there is a risk of challenge by people affected by parking restrictions if they are not given the right to petition.

Current procedures for dealing with Highways Issues, including parking

- 2.3 Objections to Traffic Regulation Orders (TROs) in Cambridge are determined by the Cambridge Joint Area Committee (CJAC). Elsewhere in the county, Highways & Community Infrastructure Spokes receive a verbal update of all upcoming TROs where objections have been received. Spokes then decide whether they are determined between the relevant local member and the Head of Local Infrastructure and Street Management, which is the case for the majority of TROs, or whether the TRO needs to be referred to Committee.

Proposed Way Forward

- 2.4 Economy, Transport and Environment officers have consulted with colleagues in other authorities and the consensus has been that if there is already an existing Council Petitions Procedure this should be utilised wherever possible. In view of this and also taking account the views expressed by the Constitution and Ethics Committee, it is now proposed that the petition process should be the same for all petitions. The Council's current petition arrangements adequately cover the requirement of the statutory guidance and it is not necessary to have a separate process for parking-related petitions.

3. CLARIFICATION OF CURRENT PROCESSES

Cambridge City Parking Issues

- 3.1 One area of practice that needs to be clarified is that within its current terms of reference, it is appropriate for all operational petitions on parking and highways issues in Cambridge city to go to the Cambridge Joint Area Committee rather than Highways and Community Infrastructure Committee.
- 3.2 As with petitions that go to Service Committees, petitions received by CJAC will receive a response from the Chairman/woman within ten working days.
- 3.3 On a related issue of practice, Economy, Transport and Environment Officers recommend that once a parking policy is agreed / a parking issue is determined, there should be a minimum period of 18 months before a review should be permitted. This is in line with the length of time an experimental traffic regulation order is valid before it has to be reviewed.

4. ALIGNMENT WITH CORPORATE PRIORITIES

4.1 Developing the local economy for the benefit of all

There are no significant implications for this priority.

4.2 Helping people live healthy and independent lives

There are no significant implications for this priority.

4.3 Supporting and protecting vulnerable people

There are no significant implications for this priority.

5. SIGNIFICANT IMPLICATIONS

5.1 Resource Implications

There are no significant implications within this category.

5.2 Statutory, Risk and Legal Implications

Specific legal issues are detailed in paragraphs 2.1 and 2.2 above.

5.3 **Equality and Diversity Implications**

There are no significant implications within this category.

5.4 **Engagement and Consultation Implications**

There are no significant implications within this category.

5.5 **Localism and Local Member Involvement**

Local Members, and in the case of Cambridge petitions, the Cambridge Joint Area Committee, will continue to be involved in any parking petition.

5.6 **Public Health Implications**

There are no significant implications within this category.

| Source documents | Location |
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| Statutory Guidance issued March 2015 | https://www.gov.uk/government/publications/right-to-challenge-parking-policies |