

# REPORT TO COUNCIL

**28 OCTOBER 2009**

**LEADER**

*Councillor Stephen Greenhalgh*

**DEPUTY LEADER  
(+ENVIRONMENT)**

*Councillor Nicholas Botterill*

**LONDON LOCAL AUTHORITIES AND  
TRANSPORT FOR LONDON ACT 2008 –  
APPOINTED DAY. ADOPTION OF POWERS  
UNDER PART 5 – NON PAYMENT OF  
PENALTY CHARGE NOTICES.**

**WARDS**

**ALL**

**Summary**

This report details new powers that the Council is able to utilise in order to deal with Persistent Evader vehicles (i.e. those with multiple unpaid Penalty Charge Notices) under the legislation detailed above.

The report also seeks a resolution by Full Council that the 'Appointed Day' on which these powers will be adopted shall be the 4<sup>th</sup> January, 2010.

**CONTRIBUTORS**

DENV  
DFCS  
ADLDS

**RECOMMENDATION:**

**That Council resolves 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 the London Borough of Hammersmith and Fulham is the Highways Authority shall be the 4<sup>th</sup> January, 2010.**

## **1.0 BACKGROUND**

- 1.1 The London Local Authorities and Transport for London Act 2008 received royal assent on 21<sup>st</sup> July 2008.
- 1.2 Part 5 of the Act provides further powers allowing authorities to recover unpaid penalty charge notices (PCNs) issued for parking contraventions committed by persistent evaders. A persistent evader is defined as a vehicle that has three or more PCNs unpaid that are not the subject of appeal.
- 1.3 The Act requires London local 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.
- 1.4 The adoption of these powers will allow authorities, in London, to locate, immobilise, remove and impound persistent evader vehicles that are legally parked. It also allows authorities to require the payment of all outstanding penalties before a vehicle is released.
- 1.5 The Act allows that enforcement action may be undertaken by one local authority on behalf of another. For example; a persistent evader for borough "A" could be located within the boundaries of borough "B". Borough B may immobilize and impound that vehicle on behalf of borough A and commence the debt recovery action. It is envisaged that this type of enforcement action will be the exception rather than the norm due to possible financial accounting problems. However, one of the aims of the pilot is to test this aspect of the legislation by carrying out "cross border" joint operations during phase 2 of the pilot.
- 1.6 The Act also allows for the provision of a bond (in an amount to be fixed by London Councils TEP) to be paid by the owner of the vehicle, on the provision of verifiable proof of an address, similar to the scheme operated by DVLA for untaxed vehicles. Payment of this bond will allow the registered keeper/owner of the vehicle to make any representations or appeals against the enforcement action and will assist authorities in establishing the ownership and location of the owner of unregistered vehicles.
- 1.7 The City of Westminster, Royal Borough of Kensington and Chelsea, the London Boroughs of Ealing, Camden, Hackney, Wandsworth and Hammersmith and Fulham have been asked by London Councils to carry out a pilot project using the new powers. The experience from this pilot project will be used to provide guidance to other boroughs when the powers are fully rolled out.

## **2.0 PILOT SCHEME STRATEGY**

- 2.1 London Councils is currently running phase 1 of a pilot scheme concerned with the new powers provided by the Act. The aim of phase 1 of the pilot is to:

- evaluate the legislation and how it can be applied operationally to enforce against persistent evaders;
- produce a framework agreement document so that all authorities using the legislation may do so effectively and lawfully and to enforce on each others behalf;
- produce a Code of Practice in accordance with Part 5 of the Act;
- Identify and document procedures and processes for the operational phase of the pilot;
- Identify and source any resources required for phase 2 of the pilot.

2.2 The initial meeting of the pilot group took place at London Councils offices on Tuesday 12<sup>th</sup> May 2009. It is envisaged that phase 1 will take approximately 6 months to complete.

### **3.0 PILOT SCHEME – PHASE 2**

3.1 Phase 2 of the pilot will be the operational phase and will commence on completion of phase 1.

3.2 The provisional date set for the commencement of phase 2 is Monday 4<sup>th</sup> January 2010. This should be the “Appointed Day” approved by the Council for the adoption of the new powers under the Act.

3.3 The aims and objectives of Phase 2 of the pilot are as follows:

- To test the procedures and processes produced in phase 1
- To test the legislation by evaluating each stage of the procedure through to the adjudication stage
- To amend procedures where problems are encountered
- To roll out the powers to all London authorities on completion of the pilot.

### **4.0 BENEFITS OF THE POWERS PROVIDED UNDER THE NEW ACT**

4.1 At present we are unable to take any enforcement action against a persistent evader vehicle if it is legally parked.

4.2 If a persistent evader vehicle is removed under existing legislation we are restricted to collecting the release fee and current PCN only. The new Act requires the payment of all outstanding penalties before release.

4.3 The Act provides for (and encourages) closer working between Local Authorities and the sharing of information to achieve a common aim to target persistent evader vehicles.

4.4 Bailiff companies acting on behalf of Councils are increasingly using ANPR (automatic number plate recognition) technology to identify vehicles with outstanding warrants. This technology lends itself to the powers provided by the Act in that it can also be used to identify persistent evader vehicles.

- 4.5 The powers provided to Councils under the Act provide an opportunity to provide a clear deterrent message to persistent offenders and the general public in that Councils are joining forces to tackle the issue, making detection (and consequently enforcement action) against such vehicles much more likely.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 Phase 1 of the pilot is being funded by London Councils
- 5.2 In phase 2 London Councils will cover the costs of the nominated Project Manager. Authorities participating in the pilot will be required to provide resources from their existing infrastructures. It is anticipated that any costs will be minimal.
- 5.3 One of the purposes of the pilot scheme is to establish an indication of the likely costs involved when Councils undertake enforcement action on behalf of another Authority.

## **6.0 RECOMMENDATIONS**

- 6.1 It is recommended that the Council resolves 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 Hammersmith and Fulham is the Highways Authority shall be 4<sup>th</sup> January 2010.

## **7.0 COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

- 7.1 "As set out in the body of the report, the costs of phase one of the pilot are being met by London Councils. From January 2010 the Council will be expected to contribute towards the costs of the project manager, although these costs are anticipated to be minimal and should be offset by income received that the Council would otherwise have had to write off. Officer will need to monitor the impact of the pilot to ensure that all costs are contained within existing resource levels."

## **8.0 COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

- 8.1 The legal implications are set out in the body of the report.

## **9.0 PREDICTIVE EQUALITY IMPACT ASSESSMENT (PEIA)**

- 9.1 A PEIA in respect of this report has been submitted.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<i>Name/Ext of holder of file/copy</i>	<b>Department/ Location</b>
1.	London Local Authority and Transport for London Act 2008	Steve Higgins X3275	Environment Services/ Highways & Eng/ Parking Services
2.	London Councils (TEP) – Advisory Memorandum and Reports	Steve Higgins X3275	Environment Services/ Highways & Eng/ Parking Services
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