

<b>6 August 2008</b>	<b>ITEM No 13 0803034</b>
<b>Cabinet</b>	
<b>Traffic Management Act 2004 – Parking and Traffic Regulations Adjudications Outside London Joint Committee - PATROLAJC</b>	
Portfolio Holder: Cllr Neil Rockliffe, Portfolio Holder for Highways and Transport	
Report Author: Lyn Meadows, Deputy Head of Legal Services	
Accountable Head of Service: Michelle Sacks, Head of Legal Services	
Accountable Director: Andrew Hardingham, Director of Resources	
<b>Purpose:</b> To seek authority for the Council to become a member of the Parking and Traffic Regulations Outside London Adjudication Joint Committee (PATROLAJC).	
<b>Wards affected:</b> All	<b>Key decision:</b> No
This report is public	

**1. RECOMMENDATIONS:**

- 1.1 That the Council agrees to become a member of the Parking and Traffic Regulations Outside London Adjudication Joint Committee (PATROLAJC) on the terms and conditions set out in the report.**
- 1.2 Subject to 1.1, that Cabinet nominates Councillor Neil Rockliffe, portfolio holder for Highways and Transport, as the Council’s representative on the Joint Committee until the date of the next annual meeting of PATROLAJC in June 2009.**
- 1.3 That Cabinet decides whether it wishes to appoint a substitute representative to the Joint Committee.**

**2. INTRODUCTION:**

- 2.1 The Council took over responsibility for the enforcement of parking contraventions from the police on 1<sup>st</sup> April 2005.**
- 2.2 Part 6 of the Traffic Management Act 2004 (the 2004 Act) came into force throughout England and Wales on 1<sup>st</sup> April 2008. This extended the civil enforcement of a number of parking and traffic contraventions to all highway**

authorities; a process commonly referred to as decriminalisation.

- 2.3 Under the Traffic Management Act 2004 there are rights of appeal, on certain grounds, against the issue of parking contravention notices (PCNs). Such appeals are considered internally in the first instance but there is a further right of appeal to an adjudicator. Adjudicators operate independently of the local authority and must currently be solicitors or barristers with at least 5 years experience.
- 2.4 The future management of parking services and civil enforcement in Thurrock is also under review and will be the subject of a report to a future meeting of Cabinet. Whatever decision is taken concerning the future management of parking services, the Council will still need to set up mechanisms for dealing with adjudications which comply with the 2004 Act. The proposal set out in this report will not restrict the options open to Cabinet when considering how best to manage parking services.

### **3. BACKGROUND:**

- 3.1 Cabinet has received a number of previous reports concerning the local arrangements for implementation of the 2004 Act and various orders have been made to bring the new regime for the civil enforcement of parking and traffic contraventions into force. The recommendations in this report will ensure the final arrangements for compliance with the 2004 Act are put in place.
- 3.2 Sections 80 and 81 of the 2004 Act set out the basis for making appeals and for the making of regulations concerning the appointment of adjudicators. The regulations made under section 81 require adjudicators to be appointed by a joint committee established by at least three non-London authorities. To date the Council has received 1 appeal against a PCN since 1<sup>st</sup> April 2008: this was not contested by the Council.
- 3.3 The arrangements proposed in this report are a continuation of the arrangements which were in place prior to 1<sup>st</sup> April 2008 which have been amended and updated to reflect the fact that all local authorities are responsible for the civil enforcement of parking and traffic contraventions.

### **4. ISSUES AND/OR OPTIONS:**

#### **THE JOINT COMMITTEE**

- 4.1 PATROLAJC has been established to provide an adjudication service for all civil enforcement authorities outside London. Manchester City Council acts as lead authority for the Joint Committee providing administrative and other support services to the Committee. The agreed objectives of the Joint Committee are the provision of:
  - 4.1.1 A fair adjudication service for appellants, including visible independence of the

adjudicators from the authorities in whose areas they are working;

4.1.2 Consistency of adjudication;

4.1.3 A cost effective and equitable adjudication service for all local authorities; and

4.1.4 Flexibility to deal with a wide range of local authorities with varying levels of demand for adjudication.

4.2 The functions of the Joint Committee include: -

- Appointing adjudicators to deal with adjudications under the 2004 Act;
- Providing or making arrangements for the provision of accommodation and administrative staff and facilities for adjudicators;
- Determining where adjudicators are to sit, following consultation with member authorities;
- Commissioning and receiving an annual report on the adjudication service from the adjudicators;
- Reporting annually to the Secretary of State on how the adjudication service has discharged its functions;
- Paying the remuneration and expenses of adjudicators;
- Setting an annual budget and receiving regular monitoring reports on expenditure.

4.3 All local authority members of PATROLAJC are required to make an agreed contribution towards the costs of running the committee and administering the adjudication service. Currently the costs are calculated on the basis of a fixed fee of 60p for each PCN issued by a local enforcement authority, an estimated total of £4,680 for Thurrock in the current financial year. The basis of charging is reviewed annually in January as part of PATROLAJC's budget setting process.

4.4 Should Cabinet decide to join PATROLAJC and to use its adjudication service, the Council will have the right to appoint one member to represent it on the joint committee.

4.5 The arrangements embodied in PATROLAJC continue the arrangements which previously existed for adjudication in the case of authorities, like Thurrock, which had taken over responsibility for enforcement of parking from the police.

4.6 No other joint committee has been established to deal with adjudications under the 2004 Act. In the absence of any alternative arrangements which comply with section 81 of the 2004 Act, the Council will not be able to deal with any appeals against or adjudications on PCNs issued by the council's civil enforcement officers.

## **THE ADJUDICATION PROCESS**

- 4.7 The adjudication process begins once the council has considered and rejected an appeal against a PCN. Details of the parking adjudication service will be included in the notification rejecting the appeal as well as information about the timescale for making an appeal.
- 4.8 A further appeal can then be made by sending a notice of appeal to the proper officer of the adjudication service with details of the grounds of the appeal and any representations that the appellant wishes to make. The proper officer reviews the notice of appeal and decides whether the appeal should be accepted. The Council is notified of the appeal and has seven days to send detailed information concerning the original PCN and appeal to the adjudication service. Both the appellant and the Council can send further representations to the adjudication service up to the date when a decision is made.
- 4.9 An adjudicator can ask the appellant and/or the Council to make representations on a particular matter and can also require the attendance of witnesses and the production of documents to assist him/her in reaching a decision.
- 4.10 Adjudications will be decided at hearings where they raise issues of general public importance or where one of the parties to the appeal requests a hearing. In most cases the appeal will be decided on the basis of the written information submitted to the adjudication service.
- 4.11 Where hearings take place, these are in public unless information of a private and confidential nature is likely to be disclosed or commercially sensitive information may be disclosed. Normally 21 days notice of a hearing must be given, but the timescale can be shorter if both parties agree.
- 4.12 Any decision on an adjudication will set out the reasons for the decision. Only in exceptional cases can an adjudicator make an award of costs: if s/he considers that an appeal is unreasonable or has been pursued frivolously or vexatiously or if the decision to reject the original appeal was unreasonable.
- 4.13 Currently, only a limited number of parking and traffic contraventions are subject to civil enforcement under the 2004 Act but it is envisaged that further functions will become the responsibility of local authorities over the coming years. The arrangements set up by PATROLAJC will be capable of providing an adjudication service in respect of these additional functions as they are devolved.
- 4.14 Members will be aware that day-to-day responsibility for the Council's functions under the 2004 Act has been devolved to the Head of Strategic Planning and Delivery. This report has been referred to Cabinet because the decision to participate in a joint committee exercising an executive function is a function reserved to the Cabinet under the Council's Constitution.

## **5. IMPACT ON CORPORATE PRIORITIES:**

5.1 Membership of PATROLAJC will support the corporate priorities of a Safer Environment and a Cleaner and Greener Environment. Joining a national joint committee will offer the benefits of economies of scale and avoid duplication and overlapping of resources and so contribute to the priority of delivering excellence and achieving value for money.

**6. OVERVIEW AND SCRUTINY:**

6.1 This report has not been considered by overview and scrutiny to date.

<p><b>RELEVANT POLICIES</b></p> <p>Thurrock Parking Strategy Local Transport Plan</p>	
<p><b>FINANCIAL IMPLICATIONS</b></p> <p>(Prepared by: Michael Jones <span style="float: right;">01375 652772)</span>  <span style="float: right;">e-mail: mxjones@thurrock.gov.uk</span></p> <p>There will be an estimated cost of £4,680 for this service, based upon an average of 7,800 notices being issued. There is provision within the existing budget held by Vertex to meet this cost.</p>	
<p><b>LEGAL IMPLICATIONS</b></p> <p>(Prepared by: Lyn Meadows <span style="float: right;">01375 652822</span>  <span style="float: right;">e-mail: lmeadows@thurrock.gov.uk</span></p> <p>The legal implications are contained within the body of the report.</p>	
<p><b>DIVERSITY &amp; EQUALITY IMPLICATIONS</b></p> <p>(Prepared by: 01375 65) <span style="float: right;">e-mail:</span></p>	
<p><b>OTHER IMPLICATIONS</b></p>	
<p><b>BACKGROUND PAPERS</b></p> <p>Draft Memorandum of Participation in the Parking and traffic Regulations Outside London Adjudication Joint Committee</p>	<p><b>Report Author Contact Details:</b>  <b>Name:</b> Lyn Meadows  <b>Telephone:</b> 01375 652822  <b>E-mail:</b> lmeadows@thurrock.gov.uk</p>