

# Call-In Sub-Committee AGENDA

**DATE:** Tuesday 5 November 2013

**TIME:** 6.30 pm

**VENUE:** Committee Room 5,  
Harrow Civic Centre

## **MEMBERSHIP** (Quorum 3)

---

**Chairman:** To be confirmed

### **Councillors:**

Chris Mote  
Anthony Seymour

Sue Anderson  
Jerry Miles (VC)

Mano Dharmarajah

### **Reserve Members:**

---

1. Yogesh Teli
2. Amir Moshenson
3. Ramji Chauhan

1. Phillip O'Dell
2. Graham Henson

1. Asad Omar

**Contact:** Una Sullivan, Democratic & Electoral Services Officer  
Tel: 020 8424 1785 E-mail: [una.sullivan@harrow.gov.uk](mailto:una.sullivan@harrow.gov.uk)

## **AGENDA - PART I**

### **1. APPOINTMENT OF CHAIRMAN**

### **2. ATTENDANCE BY RESERVE MEMBERS**

To note the attendance at this meeting of any duly appointed Reserve Members.

Reserve Members may attend meetings:-

- (i) to take the place of an ordinary Member for whom they are a reserve;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) the meeting notes at the start of the meeting at the item 'Reserves' that the Reserve Member is or will be attending as a reserve;
- (iv) if a Reserve Member whose intention to attend has been noted arrives after the commencement of the meeting, then that Reserve Member can only act as a Member from the start of the next item of business on the agenda after his/her arrival.

### **3. DECLARATIONS OF INTEREST**

To receive declarations of disclosable pecuniary or non pecuniary interests, arising from business to be transacted at this meeting, from:

- (a) all Members of the Sub-Committee;
- (b) all other Members present.

### **4. MINUTES (Pages 1 - 18)**

That the minutes of the meeting held on 1 October 2013 be taken as read and signed as a correct record.

### **5. PROTOCOL FOR THE OPERATION OF THE CALL-IN SUB-COMMITTEE (Pages 19 - 20)**

### **6. CALL-IN OF CABINET DECISION (17 OCTOBER 2013) - PARKING REVIEW: 20 MINUTES FREE PARKING INITIATIVE (Pages 21 - 46)**

The following documents are attached:

- a) Notice invoking the Call-in
- b) Draft Minute Extract of the Cabinet meeting held on 17 October 2013
- c) Report submitted to Cabinet on 17 October 2013

## **AGENDA - PART II - NIL**

### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

In accordance with the Local Government (Access to Information) Act 1985, this meeting is being called with less than 5 clear working days' notice by virtue of the special circumstances and grounds for urgency stated below:-

Under Committee Procedure Rule 46.6 a meeting of the Call-In Sub-Committee must be held within 7 clear working days of the receipt of a request for call-in. This meeting therefore had to be arranged at very short notice and it was not possible for the agenda to be published 5 clear working days prior to the meeting.

This page is intentionally left blank

# CALL-IN SUB-COMMITTEE MINUTES

## 1 OCTOBER 2013

**Chairman:** \* Councillor Chris Mote

**Councillors:** \* Sue Anderson \* Jerry Miles  
\* Mano Dharmarajah \* Anthony Seymour

**In attendance:** Bill Phillips Minute 58  
**(Councillors)**

\* Denotes Member present

### 53. Appointment of Chairman and Members

#### RESOLVED:

(1) To note the appointment of Councillors Anthony Seymour and Chris Mote as Members of the Sub-Committee in place of Councillors Osborn and Ferrari and Councillors Teli, Moshenson and Chauhan as Reserves in place of Councillors Wright, Chris Mote and Chana and in accordance with Council Procedure Rule 1.5, following notification from the Conservative Group;

(2) that Councillor Chris Mote be appointed as Chair for the meeting.

### 54. Attendance by Reserve Members

**RESOLVED:** To note that there were no Reserve Members in attendance.

### 55. Declarations of Interest

**RESOLVED:** To note that the following interests were declared:

Agenda Item 6 – Call In of the decision of the Portfolio Holder for Property and Major Contracts – Flash Musicals (Granting of Lease)

Councillor Margaret Davine, who was not a member of the Sub-Committee, declared a non pecuniary interest in that she was the Edgware ward councillor and had done some work with Flash Musicals. She would remain in the room whilst the matter was considered and voted upon.

Councillor Kairul Kareema Marikar, who was not a member of the Sub-Committee, declared a non pecuniary interest in that she had attended film events at Flash Musicals. She would remain in the room whilst the matter was considered and voted upon.

Councillor Chris Mote declared a non pecuniary interest in that he had previous involvement with Flash Musicals whilst he was Leader of the Council in 2006. He would remain in the room whilst the matter was considered and voted upon.

**56. Minutes**

**RESOLVED:** That the minutes of the meeting held on 5 August 2013, be taken as read and signed as a correct record.

**57. Protocol for the Operation of the Call-In Sub-Committee**

The Chair drew attention to the document ‘Protocol for the Operation of the Call-In Sub-Committee’ and drew attention to paragraphs 5 and 8. He outlined the procedure to be followed at the meeting and indicated that, with the Sub-Committee’s agreement, he would permit any members of the public who wished to speak on the issue, although there was no specific provision, to do so, as part of the signatories to the call in time allocation.

In accordance with Committee Procedure Rule 46.5, a notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:-

- (a) inadequate consultation with stakeholders prior to the decision;
- (b) the absence of adequate evidence on which to base a decision;
- (c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
- (d) the action is not proportionate to the desired outcome;
- (e) a potential human rights challenge;
- (f) insufficient consideration of legal and financial advice.

He informed the Sub-Committee that the grounds (a) - (f) had been cited on the Call In notice and had been deemed to be valid for the purposes of Call-In.

**RESOLVED:** That the Call-In would be determined on the basis of the following grounds:

- (a) inadequate consultation with stakeholders prior to the decision;
- (b) the absence of adequate evidence on which to base a decision;
- (c) the decision was contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
- (d) the action was not proportionate to the desired outcome;
- (e) a potential human rights challenge;
- (f) insufficient consideration of legal and financial advice.

## **RESOLVED ITEMS**

### **58. Call In of the Decision of the Portfolio Holder for Property and Major Contracts - Flash Musicals (Granting of Lease)**

The Sub-Committee received the papers in respect of the call-in notice submitted by 6 Members of Council in relation to the decision made by the former Portfolio Holder for Property and Major Contracts on Flash Musicals (Granting of Lease).

The Chair advised the Sub-Committee that the former Portfolio Holder for Property and Major Contracts had indicated that he would not be in attendance at the meeting but that he had submitted a written statement which was available to those present at the meeting and attached at Appendix A to these minutes. The Chair indicated that he would break for five minutes during the meeting to allow reading time.

The Chair invited the representative of the signatories, Councillor Bill Phillips, to present the reasons for the call in of the decision to the Sub-Committee.

Councillor Phillips circulated a written statement to members of the Sub-Committee which he read out and which is attached as appendix B to these minutes. He stated the call in was focused on the process and the importance of treating all organisations equally. It was recognised that there would always be winners and losers in any process but the former Portfolio Holder's decision committed the Council to a 5 year contract and other groups had not been afforded the same opportunity.

Gerry Davine, Chair of Harrow Community Transport, stated that he was in attendance as the representative of an organisation that dealt with the Council in terms of community premises. He expressed his concern about the allocations used to set grants. He explained that his organisation had struggled in terms of community premises since the demise Harrow Association of Voluntary Service (HAVS) and stated that, in his view, there had not been an even handed approach in terms of assistance given by the

Council. He understood that Flash Musicals was an excellent and valued organisation but the process in this instance was of concern as it appeared that the amount being written off was close to the sum removed from the grants budget. As a result of the Council's budget savings several organisations had ceased to exist in Harrow and he stated that one organisation should not be permitted to have an increase in finances as a result. The process for allocating funding should be fair and transparent and had an impact on the morale and effectiveness of the voluntary sector.

After allowing five minutes to allow Members and those present to read and consider the former Portfolio Holder's tabled written statement, the Chair invited Councillor Phillips, as representative of the signatories, to make comments.

Councillor Phillips expressed the view that it would be unfair to comment on the statement in the absence of the former Portfolio Holder but it appeared that there had been a great deal of informality in relation to the arrangements in place. He did accept that the decision appeared to be about tidying up history but stated that he would have liked to have had the opportunity to question the former Portfolio Holder.

Having considered the call in notice, the tabled statement and the representations made, the Sub-Committee made comments and, having clarified that the Corporate Director of Community Health and Wellbeing and Divisional Director of Community and Culture would respond if they were able but were not present to either defend or support the decision, asked questions as follows:

- Clarification was sought as to whether Flash Musicals had provided services to the Council, the Corporate Director outlined the history since 2012 when he and his Divisional Director had begun their involvement. In September 2013 it was clear that the Housing Revenue Account (HRA) was £73,000 in arrears. He had met with the Chief Executive and former Portfolio Holder on 9 August 2013 to consider options and it had been agreed that it would be helpful if Flash Musicals provided details of the services that had been provided. As a result of this enquiry, Flash Musicals had provided an invoice in the sum of £103,000 to the Council. The then Portfolio Holder, Chief Executive and then Deputy Leader had met with the Corporate Director and Divisional Director in early September and cleared the report for publication. Following advice from the Council's Director of Finance and Assurance, the report recommendations indicated that verification be sought as to the services delivered by Flash Musicals.
- A Member questioned whether it was felt that Flash Musicals had provided value for money and was advised that the former Portfolio Holder had considered that the organisation had provided services to the Council.
- Having been the Chair of the Performance and Finance Scrutiny Sub-Committee for some time, a Member expressed her concern at the



practice of raising a purchase order on the system after receipt of an invoice. In this case there appeared to be no purchase order to support the invoice of £103,000.

- In terms of payment of the HRA debt and having considered the services provided, the Corporate Director advised that he believed that the former Portfolio Holder (and Leader of the Council) had taken the view that the organisation had done good work and that the payment was in recognition of this. He confirmed that he was not aware of there having been an agreement in place but explained that Flash Musicals clearly generated income from a range of sources and prided themselves on their innovative approach. There was no connection between the invoice and future work.
- Referring to page 14 of the agenda papers, a Member sought clarification as to which Members had considered the financial information submitted by the organisation. The Corporate Director stated that governance on this issue had been more closely monitored during the last year and that there had been two Leadership Group discussions and several former Portfolio Holders (prior to May 2013) had met with Flash Musicals. It was his view that the former Portfolio Holder for Property and Major Contracts had reached a conclusion on the issue on 9 August but had requested that the organisation provide an invoice.
- The lead signatory questioned whether the records of the former Corporate Director of Place Shaping, the officer who had had early involvement with the organisation, were available, as it was he that had formed some of the relationships. An open Service Level Agreement may have resolved the situation but no other organisation had had the opportunity to test this. The Corporate Director advised that whilst he had not seen the records his former colleague had submitted several reports to the leadership group. It was, however, clear to officers that Members had thought that they were resolving the issues in relation to Flash Musicals.
- In response to a Member's question as to the state of the building occupied by the organisation, the Corporate Director advised that the improvements had been funded by Flash Musicals. The Member referred to the former Portfolio Holder's tabled statement which indicated that another organisation, The Red Brick Café, had been supported with £50,000 Council subsidy.
- A Member sought an explanation in terms of the lease and the amount paid/owed by Flash Musicals and was advised that the crux of the dispute was whether the Council had agreed to pay the cost of the lease in the SRA or whether Flash Musicals had been expected to pay. By default, the Council had never formed a view.
- A Member requested an explanation of the commissioning process in this case as there was a lack of transparency and was advised that

neither the Chief Executive, Corporate Director or Members had viewed this as a commissioning exercise.

- A Member questioned why the decision had been taken in the way it had been and on the day that former Portfolio Holder and Leader of the Council had known it was likely that he was likely to lose his position. He stated that he would have liked to have had the opportunity to question the former Portfolio Holder. He expressed concern at the effect on other voluntary groups and stated that it appeared that Flash Musicals had received preferential treatment. The Corporate Director acknowledged the comments made but explained that there had been extensive discussions on the issue in the preceding months.
- Responding to a Member's comments that the decision had resulted in a reduction in the Council's General Fund of £72,000 and that the report appeared to indicate that not all of the issues with Flash Musicals had been resolved, the Corporate Director advised that there were three issues – should there be a lease, should there be a Service Level Agreement and could the Council satisfy itself in terms of the £103,000 invoice. There was a clear recommendation from the former Portfolio Holder which stated that more work was required in terms of finance. The Divisional Director added that Flash Musicals had a secure tenancy so the situation would continue until the Council took action.

(The Sub-Committee then adjourned from 8.21 pm – 8.42 pm to receive legal advice).

The Chair announced the decision of the Sub-Committee and was

**RESOLVED:** That

- (1) the call-in on ground (a) – inadequate consultation with stakeholders prior to the decision – be upheld as the stakeholders were the voluntary sector and should have been consulted;
- (2) the call-in on ground (b) – the absence of adequate evidence on which to base a decision – be upheld due to issues with the invoice and the need to get it substantiated;
- (3) the call-in on ground (c) – the decision was contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework – not be upheld;
- (4) the call-in on ground (d) – the action was not proportionate to the desired outcome – be upheld in the context of the current financial climate;
- (5) the call-in on ground (e) – a potential human rights challenge – not be upheld;

- (6) the call-in on ground (f) – insufficient consideration of legal and financial advice – be upheld in terms of financial advice in that it must be noted that
- (a) the decision committed the Council to expenditure through a 5 year Service Level Agreement that was not available to other providers, was outside of the current commissioning process and was not open and transparent;
  - (b) it undermined the Outcome Based Grants Process; and
  - (c) before the Council had made the decision it should have consulted the voluntary sector.

(Note: The meeting, having commenced at 7.00 pm, closed at 8.45 pm).

(Signed) COUNCILLOR CHRIS MOTE  
Chairman

### **Written Statement from Councillor Thaya Idaikkadar – Former Portfolio Holder for Property and Major Contracts**

In accordance with Committee Procedure Rule 46.2, we the undersigned, hereby give notice that we wish to call-in the Executive Decision – Flash Musicals (Granting of Lease) made on Monday 16<sup>th</sup> September 2013 by the Portfolio Holder for Property and Major Contracts.

**In accordance with Committee Procedure Rule 46.5, we the undersigned, hereby give notice that we wish to call-in the Executive Decision with the following reasons.**

#### **1. Inadequate consultation with stakeholders prior to the decision**

The decision has been made by the Portfolio Holder in a rush on the day of a Full Council Meeting that had been called to debate a Motion that removed him from his position.

The undue haste of the decision being rushed through has prevented a briefing from taking place with Members or other affected organisations meaning limited time being allowed for proper consultation or examination of the proposal. It also suggests that the intention may have been to circumvent such scrutiny.

The property is within the Housing Revenue Account and the normal consultation process whereby the views of the Tenants and Leaseholders were not sought concerning a reduced rent or future use of the property. (Local Government and Housing Act 1989 Section 74)

#### **Response**

**The discussions around the issues concerning the occupancy by Flash Musicals at Methuen Road have been ongoing for a period of years and have involved many councillors, many of whom have expressed their value for Flash's work in the community. For several years the organisation and its users have been left in an uncertain position due to the Council's indecision on these issues. The Portfolio Holder felt it was important to clarify this for all concerned. The Portfolio Holder understood that the previous administration also wanted to reach an agreement with Flash to preserve their services in the present location. He had planned to make the decision a few weeks earlier but needed to wait until Flash provided various correspondences relating to the issues.**

**This is a particular case which requires particular attention. There was no attempt to circumvent any scrutiny as the decision was made a public one subject to call-in. The two Service Level Agreements are under £50,000 and fall within the officers' scheme of delegation.**

The lease granted in 2009 did not automatically lapse on 31st March 2013 and it is a protected tenancy under the Landlord and Tenant Act 1954 and thus Flash Musicals are holding over under the terms of this lease. Since the situation is unresolved and rent is not being covered, Members have sought a solution.

There is no legal obligation to consult on an individual tenancy.

## 2. The absence of adequate evidence on which to base a decision

We appreciate that Flash Musicals, along with the wider voluntary sector in Harrow, provide excellent services to their local communities. However, we fervently believe that the council must treat all of these organisations equitably.

Within the report (2.2.2) it clearly states that evidence has not been provided to support the statement that services have been delivered to the value of £72,000. Where is the evidence that the council specifically asked Flash Musicals to supply these services, what other groups were considered and what was the guiding principles to supply this work in an equitable way across the voluntary and private sector?

There are no details of engagement activity that the Council has undertaken with people whom they consider to be in a similar position of owing debt to the Council and the fairness of the decision.

The decision is unclear as to where, and which budget, the subsidy will come from.

There is insufficient information within the report to demonstrate compliance with the general equality duty across other affected parties or organisations.

### **Response**

**The report states that evidence must be finally confirmed before any funds are released. This is in accordance with financial due diligence. Assurance has already been sought by officers from Flash Musicals regarding their accounts, their OFSTED performance, their Health & Safety policies etc.**

**Flash have been in dispute with the Council over the period of the lease with regards to the original service level agreement they were awarded originally to deliver services. Flash's position is that the original agreement was that there would be an SLA to cover the rent every year and they claim they have therefore delivered those services over a number of years. The Call In assumes that Flash owes the Council money. In practice, the Council has not decided to proceed on that basis over a number of years. This assumption is not accurate. In fact, Flash Musicals provides various highly valued community and voluntary services to the Council and residents which have not been paid by the Council. For example, New Year's Parade and Under One Sky, as well as, numerous other services for disabled people/children and other users.**

**Other organisations are not yet in a similar position and in any case there are a variety of tenure arrangements for organisations across the borough historically. Where it is clear that monies are owed, those organisations are being dealt with individually.**

**Carramea have been supported by the Council for their first three years of operation. For year one the value of that support equates to the level of the HRA rent and is on a diminishing basis over the next two years until 2016/17 when the subsidy is at zero. This is in place with a Service Level Agreement which is what is being proposed for Flash Musicals.**

**Another pertinent example is The Red Brick Café (also known as Harrow Healthy Living Centre in Wealdstone) was supported with a Council subsidy of £50,000 for one year when the café was in serious financial difficulties and at risk of ceasing to operate. Due to this situation, then Council leader, Bill Stephenson, instructed and approved the 53,816 write off, without consultation on 15 February 2011.**

**A decision will have to be made as to which budget the monies will be met from. There is the Council contingency funding potentially available.**

**3. The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework**

The policies to apply for funding, or supplying services, across the Council are open and transparent. By one organisation receiving preferential treatment through a hasty process with regard to the write-off of debt and reduced rental for council owned buildings, it has meant that there is significant risk that other organisations will also seek financial reimbursement under similar circumstances and the possible consequence if they are refused.

The decision contradicts the Councils agreed policies that ensure there is a joined-up, cross-sector approach to agreeing the delivery of local priorities.

The property concerned is within the Housing Revenue Account (HRA) and the decision may have an adverse impact on the HRA due to the lower rent, which is contrary to the long term business plan for the HRA previously agreed by Cabinet.

**Response**

**There is no overall Council policy on the leasing arrangements for Council or HRA buildings to community organisations or an overall Council policy on the awarding of SLAs to voluntary and community organisations. There are a variety of arrangements in place. This is not intended as a commissioning process but as a solution to an urgent and particular problem which The Portfolio Holder attempted to resolve.**

**At the moment, there are already substantial monies owing to the HRA account. This decision is intended to prevent that escalating further and to ensure regular rent is paid. The reduction is due to the capital**

**investment outlined as a minimum and to the agreed access by the Council to a minimum value of £1,500pa for the purposes of conducting local ward meetings, TRA meetings, etc.**

**4. The action is not proportionate to the desired outcome**

At a time when the council is facing significant financial challenges to its budget with the council having to find £75 million so far and recent announcements that further savings of £60 million will need to be made over the next few years the council needs to ensure that in exercising its functions it has regard to a combination of economy, efficiency & effectiveness. This has not been articulated within the report that the decision has been made on.

There is no mention within the report as to how the decision is proportionate to achieving the Councils agreed vision and priorities.

**Response**

**Without a solution to the Flash Musicals situation, there will continue to be a financial pressure caused by monies owing to the HRA which will increase. Flash Musicals are tenants with secure tenure under the Landlord and Tenant Act 1954. The Council could choose to take back the property and that option was outlined in the decision report. This has some financial implication and is not a guarantee that monies owing to the HRA could be recovered through this process.**

**The Corporate priorities covered by this decision are outlined in the report.**

**5. A potential human rights challenge;**

When making the decision the Portfolio Holder did not take due regard to the Public Sector Equality Duty (PSED), in particular, where decisions must be aimed at *Fostering good relations between people who share a protected characteristic and those who do not.*

The decision does not positively contribute to the advancement of equality and good relations within the voluntary sector within Harrow as it has ignored the financial difficulties of other organisations that the Council connects with.

Further, the decision does not reflect the wider sector and the delivery of services, which may contribute to greater inequality and poorer outcomes.

**Response**

**There is a draft EQIA for this decision. Flash offers services for people on low incomes, young people, older people, the disabled in one of the most disadvantaged wards in the borough. There are few such services in that area of Harrow. The report outlines the negative impact of Flash Musicals not delivering services. One of the key points of the Public Equality duty is to provide equality of access to services. Supporting Flash to deliver will support that duty.**



**Each organisation in this situation would need to be assessed on a case by case basis.**

**6. Insufficient consideration of legal and financial advice.**

**a) Legal Advice**

There is no publication of any Legal Advice provided around the fact that the Council is commissioning services from Adult Services and Community & Culture without due consideration of other suitable providers and the effect that this may have.

There is no mention in the Legal Advice concerning the fact that the decision contradicts the commitments given within the agreed Council Equality Objectives that state:-

*As a service provider, we are committed to ensuring our services are open, fair and accessible by taking into consideration the needs and requirements of our diverse community and service users. We will continue to improve our services through a comprehensive Equality Impact Assessment (EqIA) process, engaging with and listening to our communities and service users.*

*As a procurer of goods and services, we will continue to ensure our commissioning processes are fair and equitable and that service providers delivering a service on our behalf share our commitment to equality and diversity.*

**b) Financial Advice**

No consideration has been given to the fact that the decision will have a major long term impact on the budgets within the council plus the write-off value of £72,000 out of this year's contingency fund.

It must be noted that the decision commits the council to expenditure through a 5 year SRA that is not available to other providers, is outside of the current commissioning process and is not open and transparent. It also undermines the Outcome Based Grants process.

In view of the reasons outlined in point 3, and due to recent changes within the political administration of the Council, we would like the committee to consider referring the decision to Full Council in accordance with the powers and duties given to the Call-In Sub-Committee as stated within the Constitution.

**Response**

**The legal and financial impacts to the Council are contained within the report. This is not about a competitive commissioning process to award grant funding but a solution to a particular problem which has not been resolved for a number of years. If the situation is not resolved, the problem remains. Flash Musicals remain as tenants under the Act.**



**In conclusion, Independent Labour Group administration under my Leadership clearly recognised that Flash Musicals has a proven track record of providing outstanding services to the local community, including children and users from disadvantaged background, in one of the most deprived wards in Harrow.**

**Unfortunately, proper records were not kept by officers during successive previous administrations. There was some doubt about what was in the initial agreement that is why it was not resolved by previous Leaders and Portfolio Holders.**

**In fact, I discussed this matter many many months ago with the Chief Executive, as then Leader of the Labour Group and the Council, with a view to resolve this unacceptable situation, as it was essential to resolve this longstanding saga by providing a just solution, with the help and support from our officers, who had to trawl through past record stretching back nearly a decade ago when Labour's Keith Burchell was the Portfolio Holder, together with other pieces of information - hence the delay by officers in preparing the report for approval - which is completely reasonable. Officers at the highest level have been involved in the proceedings and the decision to grant the lease is based on the officers' valuation of the rent. Based on 2 new SLA agreements, and with contribution from Flash Musicals, the rent will be fully covered.**

**The Council is offering ten years lease term, with the break clause after 5 years, in line with agreements with other voluntary and community sector groups, by the Council.**

*Hard copy signed by*

Councillors Bill Phillips, Keith Ferry, Krishna Suresh, Sasi Suresh.

Email notices have also been received from Councillors Amir Moshenson and Yogesh Teli citing the same grounds.

### Statement

Thank you for giving me the opportunity to speak on this issue. To make it easier for the committee I have some printed copies that I would like to distribute to you now. I will also email a copy to the committee clerk in order that it can be included within the minutes of the meeting.

By way of introduction, perhaps I can say that I know very little of the work of Flash Musicals, and they and their work is irrelevant to this call-in which is focussed solely on the processes involved and used by the Council.

Also can I say to those that are attending this meeting, that this committee is a sub-committee of the Council's main Overview and Scrutiny responsibilities and is made up of the chair of the Overview and Scrutiny Committee and its members. It has no decision making powers, only the power to recommend. It is part of our duty as Councillors to hold the executive to account and to scrutinise their decision making. This meeting is part of that process.

I believe that the residents, the voluntary sector, and all of our partners, expect us as elected representatives to make decisions in an open, honest, fair and transparent way based on all of the facts available to us and after we have listened to their views.

Some may try to say that this is a political issue. This couldn't be further from the truth.

I have been to a few Flash Musicals functions and events and I can honestly say that I have thoroughly enjoyed them. I can see what they have brought to the community since 2002 when they moved to the derelict building in Harrow and turned it into something useful for the community. I would recommend to all in this room that they should visit Flash Musicals and see what excellent work they are doing.

We appreciate that Flash Musicals, along with the wider voluntary sector in Harrow, provide excellent services to their local communities. However, we fervently believe that the council must treat all of these organisations equitably

With regard to the council commissioning work and providing grants, these are done in an open, honest, fair and transparent way.

Whilst some may not agree with it, everybody understands that there has to be a process – there have to be rules. There are always winners and losers in any process of this kind but everyone accepts the outcomes because they have all been treated the same.

It must be noted that the decision commits the council to expenditure through a 5 year SLA that is not available to other providers; it is outside of the current commissioning process and is not open and transparent. It also undermines the "Outcome Based Grants" process. To make a decision of this type then a large

section of the effected community needs to be informed of the issues and to be largely in agreement.

The reason we have called this decision in is because:-

1. We do not believe that there has been adequate consultation with stakeholders
2. We do not believe adequate evidence has been provided to the Council, or indeed, the wider community before the decision was made
3. We believe the decision is contrary to the policy framework and not wholly in accordance with the budget framework
4. We believe that the action is not proportionate to the desired outcome
5. We believe that the decision has been made by the Portfolio Holder without due regard to the Public Sector Equality Duty.
6. We also believe that the legal and financial advice has not been fully considered before the decision was made.

Bearing in mind that fairness is central to and underpins the processes previously used by the Council; I would like to address the 6 points of the call-in separately.

#### **1. Inadequate consultation with stakeholders prior to the decision**

As we are all aware the perception is that this decision was made in a rush on an afternoon when others were preparing for a full council meeting where their own future as Leader and Portfolio Holder would be decided. I cannot believe that the Portfolio Holder thought that this issue was so pressing when his own future was being called into question.

As we all know, council decided to remove the Leader that evening and subsequently the new leader dismissed the Portfolio Holder from his position.

It is clear from the report that there has been no recent consultation or briefing with Councillors from the different political parties for their views on such a major and highly public decision.

As we are all aware this property is within the Housing Revenue Account and there are other properties owned by this account that are used by voluntary sector organisations that also bring immeasurable value to local communities.

#### ***Were they consulted and will they be treated in exactly the same way?***

Within the report it says that the council will place work with flash musicals but doesn't indicate what this work could be. This would confirm to anyone outside this process that the decision has been made in a hasty and hidden way?

Who else could have applied for this unknown work? Has there been any consultation with any affected group for this unknown work – quite frankly, we do not know.

One might be forgiven for believing that there was an intention to circumvent such scrutiny.

## **2. The absence of adequate evidence on which to base a decision**

Within the report (2.2.2) at the bottom of page 18 it clearly states that the evidence has not been provided to the council, or more importantly to the Portfolio Holder prior to making the decision that would support the statement that services have been delivered to the value of £72,000.

I would ask why a decision has been made so quickly when this basic information has not been provided. I understand that this situation has developed over many years and little other than a passing reference is made to the complications of the relationship between the council and this site is referenced in the report.

I would further ask why we are making a decision to pay someone for something when the report gives so little or no real justification.

If we are to be an open, honest, fair and trustworthy council, where is the evidence that the council specifically asked Flash Musicals to supply these services, what other groups were considered and what was the guiding principles to supply this work in an equitable way across the voluntary sector?

Where are the details of any action that the Council has undertaken with other people or groups that were in a similar position? Where is the indicative precedent that the Council has used from the past that has informed the way this situation has been dealt with?

This report should contain more of the history of this site and its work with Flash Musicals. The voluntary sector should be consulted, the results of that consultation should be in the report and Flash themselves should be asked to contribute.

## **3. The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework**

The policies to apply for funding, or supplying services, across the Council are open and transparent.

Quite frankly, by one organisation, with little explanation, receiving preferential treatment through a hasty decision making process with regard to the write-off of debt and the reduced rental for council owned buildings, it has meant that there is significant risk that other organisations or individuals will also seek financial reimbursement under similar circumstances and the possible consequence if they are refused. Indeed, this was highlighted within the report as a risk (page 23) but quite clearly, ignored.

The decision contradicts the Councils agreed policies that ensure there is a joined-up, cross-sector approach to agreeing the delivery of local priorities.

The property concerned is within the Housing Revenue Account (HRA) and the decision may have an adverse impact on the HRA, or other Council budgets used to reimburse the HRA, due to the lower rent. This could be seen as contrary to the long term business plan for the HRA that has been previously agreed by Cabinet.

#### **4. The action is not proportionate to the desired outcome**

We accept that this debate around flash musicals has been going on for some time, one source has said for 13 years, and we have sympathy with their position.

But is this the right outcome?

The council needs to ensure that in exercising its functions it must have regard to a combination of economy, efficiency & effectiveness.

Where is this articulated within the report?

I would contend that the decision has been made without it being understood how it is proportionate to the desired outcome.

#### **5. A potential human rights challenge**

Under Equality legislation, specifically the Public Sector Equality Duty (PSED), a decision maker must have due regard to the effect of that decision.

Where is it articulated how this decision has taken due regard to fostering good relations between people who share a protected characteristic and those who do not?

Where is it articulated how this decision has taken due regard to positively contributing to the advancement of equality and good relations within the voluntary sector within Harrow when the decision has ignored the financial difficulties of other organisations that the Council connects with.

Where is it articulated how this decision reflects the wider sector and the delivery of services, which may contribute to greater inequality and poorer outcomes.

#### **6. Insufficient consideration of legal and financial advice.**

##### **a. Legal Advice**

What Legal Advice was given that made this decision so urgent? There is no publication of any Legal Advice provided around the fact that the Council is commissioning services from Adult Services and Community & Culture without due consideration of other suitable providers and the effect that this may have.

There is no mention in the Legal Advice concerning the fact that the decision contradicts the commitments given within the agreed Council Equality Objectives that state:-

*“As a service provider, we are committed to ensuring our services are open, fair and accessible by taking into consideration the needs and requirements of our diverse community and service users. We will continue to improve our services through a comprehensive Equality Impact Assessment (EqIA) process, engaging with and listening to our communities and service users.”*

As a procurer of goods and services, we will continue to ensure our commissioning processes are fair and equitable and that service providers delivering a service on our behalf share our commitment to equality and diversity.

**b. Financial Advice**

In these tight fiscal times we need proper information before making these decisions. We need to know what the long term impact of our decisions will be, and in decisions like these, especially on other voluntary sector organisations.

But is it £72,000? Within the press it has been stated, and I quote, *“Flash has done services in the tune of £103,000. Which the council has an invoice for and still needs to be made”*

Do we have a contract with Flash to provide services valued at £103,000, if so, can we see the contract and the SLA that governs it? And was this work won as a result of a competitive tender, and will this cost escalate?

What I suspect has happened is that officers have exploited the good nature of this charity and that we will find little formal evidence to support any invoice for services rendered to the council by Flash Musicals.

**To Conclude:**

In view of the reasons outlined in point 3, and due to recent changes within the political administration of the Council, we would like the committee to consider referring the decision to Full Council in accordance with the powers and duties given to the Call-In Sub-Committee as stated within the Constitution. This should happen particularly if the Portfolio Holder making the original decision is not present to be questioned.

I believe that there are many lessons to be learnt from the way that the Council has dealt with Flash Musicals over the years and these should be studied in a public arena.

## **PROTOCOL FOR THE OPERATION OF THE CALL-IN SUB-COMMITTEE**

1. Call-in is the process whereby a decision of the Executive, Portfolio Holder or Officer (where the latter is taking a Key Decision) taken but not implemented, may be examined by the Overview and Scrutiny Committee prior to implementation. The Overview and Scrutiny Committee has established the Call-in Sub-Committee to carry out this role. Committee Procedure Rule 46 sets out the rules governing the call-in process.

### **The Process for Call-in**

2. Six of the Members of the Council can call in a decision of the Executive which has been taken but not implemented. In relation to Executive decisions on education matters only, the number of Members required to call in a decision which has been made but not implemented shall be six Councillors or, in the alternative, six persons comprising representatives of the voting co-opted members and at least one political group on Overview and Scrutiny Committee. Only decisions relating to Executive functions, whether delegated or not, may be called in.

150 members of the public (defined as anyone registered on the electoral roll of the Borough) can call in a decision of the Executive, which has been taken but not implemented.

3. Decisions of the Executive will not be implemented for 5 clear working days following the publication of the decision and a decision can only be called in within this period (this does not apply to urgent decisions - Committee Procedure Rule 47 refers). The notice of the decision will state the date on which the decisions may be implemented if not called in.
4. Call-in must be by notification to the Monitoring Officer in writing or by fax:
  - i) signed by all six Members and voting co-optees requesting the call-in. A request for call-in by e-mail will require a separate e-mail from each of the six Members concerned.
  - ii) signed by all 150 members of the public registered on the electoral roll, and stating their names and addresses.
5. In accordance with Committee Procedure Rule 46.5, a notice seeking to invoke the call-in procedure must state at least one of the following grounds in support of the request for a call-in of the decision:-
  - (a) inadequate consultation with stakeholders prior to the decision;
  - (b) the absence of adequate evidence on which to base a decision;
  - (c) the decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;
  - (d) the action is not proportionate to the desired outcome;
  - (e) a potential human rights challenge;
  - (f) insufficient consideration of legal and financial advice.

### **Referral to the Call-in Sub-Committee**

6. Once a notice invoking the call-in procedure has been received, the decision may not be implemented until the Chair and nominated member have considered the guidance outlined in Appendix 1 to the Committee Procedure Rules and, if required, the Call-in Sub-Committee has considered the decision. The Monitoring Officer shall in consultation with the Chair arrange a meeting of the Call-in Sub-Committee to be held within seven clear working days of the receipt of the request for call-in.

7. The Call-in Sub-Committee will consider the decision and the reasons for call-in. The Sub-Committee may invite the Executive decision-taker and a representative of those calling in the decision to provide information at the meeting.
8. The Sub-Committee may come to one of the following conclusions:-
  - (i) that the challenge to the decision should be taken no further and the decision be implemented;
  - (ii) that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget framework, and should not therefore be referred to the Council. In such a case the Call-in sub-committee must set out the nature of its concerns for Council; or
  - (iii) that the matter should be referred back to the decision taker (i.e the Portfolio Holder or Executive, whichever took the decision) for reconsideration. In such a case the Call-in sub-committee must set out the nature of its concerns for the decision taker/Executive.



**In accordance with Committee Procedure Rule 46.2, we the undersigned, hereby, give notice that we wish to call-in the Executive decision – Parking Review – 20 minutes Free Parking Initiative made on Thursday 17<sup>th</sup> October 2013 by Cabinet.**

**In accordance with Committee Procedure Rule 46.5, we the undersigned, hereby give notice that we wish to call-in the Executive decision with the following reasons.**

**1. Inadequate consultation with stakeholders prior to the decision;**

- a) The report was published on Monday 14<sup>th</sup> October, clearly stating that no discussion or consultation had taken place with anyone regarding the outcome of the trial.
- b) A press statement issued on the 15<sup>th</sup> October makes it clear the Leader of the Council took the decision to stop free parking 2 days prior to the meeting of cabinet. Therefore, cabinet was just rubber stamping a decision already made.
- c) Introducing a loss of PCN income at this late stage is a cynical attempt to move the goal posts and to construct a report to undermine the trial results.
- d) A number of petitions had previously been presented to Council around parking indicating local residents and businesses are strong advocates of free periods of parking. This clearly shows that the decision makers have ignored the voices of residents and local businesses.
- e) Carers - free parking will have a direct impact on Carers in the Borough, who may be financially disadvantaged by re-introducing parking charges in Rayners Lane, and by the scheme not being extending to the wider Borough. This is an important element of the community whose views must be taken into account to discharge the Councils PSED.
- f) Lack of adequate consultation with local businesses. The actual pilot was put in place to support local businesses. At no point in the Cabinet papers does it refer to the feedback from local businesses in the Rayners Lane area during the period the pilot took place, and whether they support or oppose the wider role out. The report also does not consider, or ask for feedback on, whether local businesses had an income boost during the free parking trial. The PH for business Cllr. Kam Chana stated at the meeting that consultation took place, but this information is nowhere to be seen. This information may have had an impact on the views of his Cabinet colleagues.
- g) The cabinet report ignores and does not take into account the COMPACT agreement with the voluntary and community sector regarding consultation. The business sector e.g. Harrow in Business and North West London Chamber of Commerce, would certainly have a view on this policy. Also the wider voluntary groups would have a view because their 'users' may benefit from the wider role out of a short period of free parking. The COMPACT document has clearly not been taken into account when making the decision
- h) This dictatorial style of decision making of not listening to the views of stakeholders undermines the role and duty of the local authority to consult and support their local residents.

- i) The way the decision was made contradicts the Nolan Principles; in particular, openness and personal judgement. For example the decision had already been made prior to the meeting of Cabinet and therefore ignored any views made at the meeting.

**2. The absence of adequate evidence on which to base a decision;**

Page 18 of the supplementary gives evidence of fewer PCNs being issued; this is flawed evidence. It compares July/August, with August/ September, therefore giving no controls for seasonal variations. In 2012, there was a downward trend in income between July, August and September. In July 2012 income was 605K, in August 2012 it was 580K and September 2012 it was 551K.

It is also the case that there have been 3500 more PCNs issued across the borough in the first 6 months of this year, compared to last year. This has resulted in an increase of income for the council. Therefore the cost of the 20 min free parking will be in line with the budget.

The Local Government Minister has openly said that car drivers should be able to stop on yellow lines for up to 30 minutes in order to boost local businesses. This was not considered within the report.

In a recent debate in the House of Commons the Conservative MP for Harrow East, Bob Blackman, has himself come out in support of free periods of parking. This, like the views of other elected representatives, and local residents was not considered within the report.

**3. The decision is contrary to the policy framework, or contrary to, or not wholly in accordance with the budget framework;**

The decision contradicts Council agreed policies that ensure there is a joined-up, cross-sector approach to agreeing the delivery of local priorities.

**4. The action is not proportionate to the desired outcome;**

There is no mention within the report as to how the decision is proportionate to achieving the Councils agreed vision and priorities.

We fervently believe that PCNs should not be used to raise money and that the council should welcome the fact that fewer PCNs being issued means that motorists are complying with the rules.

By law PCNs should be used to enhance road safety and traffic flow and not increase the income of councils. Indeed a decrease in the number PCNs is to be welcomed as it shows that road users are obeying road signage and so increasing road safety and traffic flow. This point has been emphasized by the Local Government Minister, Eric Pickles, particularly in regard to CCTV.

**5. A potential human rights challenge;**

As part of their PSED, cabinet need to take due regard of equality implications. The report clearly states that the EQiA had not been reviewed (para 2.50) following the trial,

meaning the decision makers would be unaware if any equality implications had arisen, either from the trial or from not extending the trial.

Furthermore, the decision does not reflect the wider sector and the delivery of services, which may contribute to greater inequality and poorer outcomes.

## **6. Insufficient consideration of financial advice.**

Within the report it states quite clearly that the effect on parking income would be broadly in line with the financial assessments in preparation of the MTFs and agreement of the budget. However, it also clearly states that it anticipates fewer PCNs to be issued, suggesting a “loss of income” circa £310K.

The loss of monies received from PCNs should not be used when making a decision; otherwise it suggests that the council is targeting the use of PCNs to generate income for the council. The decision to cancel free parking, based on the use of income from PCNs, would lead residents to believe that the council thinks it’s a good thing to make money from issuing parking fines.

In view of the reasons outlined above, and due to recent changes within the political administration of the Council, we would like the committee to consider referring the decision to Full Council in accordance with the powers and duties given to the Call-In Sub-Committee as stated within the Constitution

*Hard copy signed by:*

Councillors David Perry, Graham Henson, Thaya Idaikkadar, Margaret Davine, Krishna Suresh and Phillip O’Dell

This page is intentionally left blank

## **DRAFT MINUTE EXTRACT**

# **CABINET MINUTES**

## **17 OCTOBER 2013**

**Chairman:** \* Councillor Susan Hall

**Councillors:**

* Kam Chana	* Janet Mote
* Tony Ferrari	* Paul Osborn
* Stephen Greek	* Simon Williams
* Manji Kara	* Stephen Wright
* Barry Macleod-Cullinane	

**Non Executive  
Non Voting  
Councillors:**

* Graham Henson	* David Perry
* Thaya Idaikkadar	

<b>In attendance: (Councillors)</b>	Mano Dharmarajah	Minute 698
	Asad Omar	Minute 698
	William Stoodley	Minute 698

\* Denotes Member present

### **RESOLVED ITEMS**

#### **710. Key Decision - Parking Review - 20 Minutes Free Parking Initiative**

The Leader of the Council and Portfolio Holder for Community Safety and Environment introduced the report, which set out the background to the Rayners Lane 20 minutes free parking trial and provided options for Cabinet's consideration on the future use of free parking periods in the borough.

The Portfolio Holder invited questions from Members and, having been asked that her administration was unlikely to expand the trial borough-wide, responded as follows:

- that the expansion of the businesses in North Harrow had been as a

result of the excellent work carried out by the Head of Economic Development and Research (Minute 706 refers);

- the majority of shoppers required more than 20 minutes to do their shopping. The trial in Rayners Lane had increased the footfall by a small amount only and that unlike the previous administration, it was important that her administration did not rush into implementing a scheme which had not been fully researched;
- her administration would be looking to implement a fully researched scheme and she cited the example of a scheme that had been implemented in Hillingdon which had taken up to two years to implement. The Hillingdon Scheme had been linked to the Oyster Card and allowed a driver to park for one 20 minute session unlike the one in Rayners Lane. She explained that the trial in Rayners Lane had been open to abuse, as the same driver had been able to use the free parking by printing out a ticket at 20 minute intervals. The cost of the scheme, £1m, was considerable and unsustainable.

A non-voting non-Executive Cabinet Member referred to the contradictions within the report and asked what consultations had been carried out prior to formulating the report. He was of the view that free parking had brought economic viability for businesses. The Portfolio Holder reiterated that the 1-hour free parking in North Harrow had not revitalised the businesses which had declined in numbers and that it had been the splendid work carried out by the Head of Economic Development and Research that had helped to rejuvenate this area. A number of measures needed to be explored to bring about vitality to an area and free parking in itself was not an attraction.

In relation to the consultation, the Portfolio Holder replied that specific consultation had not been carried out but that the trial had provided sufficient information that this scheme was not right for implementation borough-wide bearing in mind that it would have unacceptable cost implications. She reiterated that her administration supported free parking scheme(s) but this scheme was not the right one for the borough.

The same non-voting non-Executive Member was of the view that the arguments used for non implementation of the scheme had been based on the reduction of income from the issue of Penalty Charge Notices (PCNs). The Portfolio Holder refuted this as chart 7 of the report did not support this argument, as it showed a variable result week-on-week and it was difficult to gauge a pattern. She added that the negligible impact of the scheme on footfall, as well as the cost of implementation and subsequent maintenance, including the implications for local taxpayers, were the key reasons for her administration's lack of support for this particular scheme being rolled-out borough-wide.

In response to questions about the risk register, comparisons with previous years issue of PCNs, lack of available parking spaces during the 20 minutes trial in Rayners Lane, the cost to the trader in loss of revenue, the Portfolio Holder remarked that a Risk Register ought to have been prepared by the previous administration prior to the trial, that there were issues with the entire

scheme and not with the PCNs issued and that the administration would not be rushed in to a scheme that did not provide best value for residents and which required capital investment.

Another non-voting non-Executive Member referred to the public sector equality duty and questioned if a decision could be taken in the light of the lack of an Equality Impact Assessment (EqIA). In response, the Corporate Director of Environment and Enterprise stated that paragraph 2.50 of the report made reference to the rollout of a borough-wide scheme which would require a Traffic Order to be made. However, if the decision was against a rollout, no statutory process was required. The same non-voting non-Executive Member said the EqIAs ought to be updated in light of the comments made. The Portfolio Holder stated that it was important to understand why this particular scheme would not work for Harrow.

The non-voting non-Executive Members were of the view that the administration was not listening to the business community and the people of Harrow. One of them mentioned the work done by Mary Portas, a retail expert, in which she had highlighted the importance of free parking for town and district centres. Moreover, Eric Pickles, Secretary of State for Communities and Local Government, had suggested that parking on double yellow lines for 15 minutes ought to be allowed in the quest to revitalise town centres/ businesses. The Portfolio Holder vehemently denied that residents and businesses were being ignored and re-iterated that it was essential that an efficient scheme was implemented as the proposed one was costly.

The Deputy Leader of the Council clarified that PCNs were not issued to generate revenue. It was important that the borough's roads were safe to drive through. Parking on double-yellow lines would put other drivers and pedestrians at risk. He cited the example of the Westfield Shopping Centre in West London which charged shoppers to park and that it was the variety of shops available that attracted shoppers. An effective and fair scheme was needed for Harrow, as the proposal did not achieve its stated purpose. Moreover businesses would go elsewhere if Harrow did not have the right model. With the current scheme, a violation of 20 minute free parking was difficult to measure.

The Portfolio Holder for Communications, Performance and Resources stated that the surveys carried out in 2012 under the Labour administration had shown that free parking was not a key driver for both businesses and residents. It was also important to note that the petition for free parking in Pinner was not supportive of this proposal. A poor scheme would have serious implications. In addition, it was important that the Section 151 Officer set out the financial implications of any decision whether it be a material factor or not in any decision taken.

The Portfolio Holder for Planning, Development and Regeneration that agreeing a scheme that was unsustainable financially would reduce the finances available for other service areas. The Portfolio Holder for Business and Enterprise reported that a 'shadow' survey in Rayners Lane had shown that free parking was not a key priority for the businesses. They had cited cleaner streets/pavements, safer areas and traffic as their priorities. A non-

voting non-Executive Member referred to the previously received petition on the removal of free parking in North Harrow (Cambridge Road car park), arising from the 2011 to 2013 Parking Review, that had been signed by more than 2,000 people, and drew attention to the mentions of PCN income in the report, questioning the focus of the administration.

The Leader of the Council and Portfolio Holder for Community Safety and Environment stressed that her administration was not against free parking but it could not support a scheme that was not working as intended and was financially untenable. The administration could only support a scheme that was cost effective, efficient and properly supportive of local businesses.

**RESOLVED:** That

- (1) the review of the Rayners Lane free parking trial, as set out in the report, be noted;
- (2) having considered the implications of on-street free parking borough-wide and reviewed the options available, the following preferred option be agreed: Do not implement 20 minutes free parking in the borough and remove the Rayners Lane trial of 20 minutes free parking.

**Reason for Decision:** To ensure that a consistent parking charges policy was implemented.

**Alternative Options Considered and Rejected:** As set out in the report.

**Conflict of Interest relating to the matter declared by Cabinet Member / Dispensation Granted:** None.



# REPORT FOR: **CABINET**

---

<b>Date of Meeting:</b>	17 October 2013
<b>Subject:</b>	Parking Review - 20 minutes free parking initiative
<b>Key Decision:</b>	Yes
<b>Responsible Officer:</b>	Caroline Bruce, Corporate Director of Environment and Enterprise
<b>Portfolio Holder:</b>	Councillor Susan Hall, Leader of the Council and Portfolio Holder for Community Safety and Environment
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Enclosures:</b>	Appendix A: Trial location plan Appendix B: Trial monitoring data Appendix C: North Harrow regeneration

## **Section 1 – Summary and Recommendations**

This report sets out the background to the Rayners Lane 20 minutes free parking trial and provides options for member's consideration on the future use of free parking periods in the borough.

Cabinet is requested to consider the following recommendations:

1. Note the review of the Rayners Lane free parking trial as set out in the report,
2. Consider the implications of on-street free parking borough wide, reviewing the options available and agree a preferred option:
  - a) Implement 20 minutes free parking in all on-street pay and display parking places borough wide,

- b) Do not implement 20 minutes free parking in the borough and remove the Rayners Lane trial of 20 minutes free parking.

**Reason: (For recommendation)**

To ensure that a consistent parking charges policy is implemented.

## **Section 2 – Report**

### **Introduction**

- 2.1 In accordance with the Council's Transport Local Implementation Plan a simpler and more transparent system of charging was proposed as a part of a parking charges review undertaken in 2011. This proposed standardising the on-street and off-street parking charges to a simpler tiered schedule of charges relative to the four types of economic centre classified in the Local Development Framework. This aimed to support local businesses by making charges relevant to the economic status of an area and was approved at Cabinet in October 2011.
- 2.2 The then administration requested that officers develop a proposal for free parking which was included in the MTFs with a financial provision of £261k in 2013/14 and £307k in 2014/15 (£568k full year effect).
- 2.3 In June 2013 Cabinet agreed that the proposed parking charges be subject to a statutory consultation and that the Portfolio Holder be delegated responsibility to agree the final scheme. In addition Cabinet agreed that a trial of 20 minutes free parking be undertaken in Rayners Lane and the results be reported back to Cabinet in October 2013 for a decision on the future of borough wide free parking. This report provides an assessment of the free parking trial.

### **Options considered**

- 2.4 There is a popular view that providing a free parking period will encourage trade for local businesses and improve the local economy. However, there is no conclusive evidence to support this. Therefore, Cabinet in June 2013 agreed to undertake a trial of 20 minutes free parking in Rayners Lane to review the merits of such a proposal.
- 2.5 This report evaluates the outcome of the trial and provides important information on financial and operational performance to support members with making a decision on the implementation of a borough wide free parking period.

## **Rayners Lane trial**

### Background

- 2.6 Rayners Lane district centre provides an appropriate location to evaluate a free parking trial because the existing charging time periods are already 20 minutes and the existing charge is 40p/20mins which is close to the proposed 30p/20mins set out in the parking charges review for this location. This area is quite typical of district centres across the borough and represents an average level of parking activity. Appendix A provides details of the pay and display parking places included in the trial.
- 2.7 The trial commenced on 12<sup>th</sup> August following the distribution of information leaflets to local people, briefings with ward councillors and the Portfolio Holder, a press release and information notices which were displayed on site. A significant effort was made to publicise the trial and explain how the new system would work.
- 2.8 All of the pay and display machines in Rayners Lane have modems installed so that accurate and detailed information about ticket issue was able to be downloaded remotely and allowed a detailed assessment of parking income to be undertaken. Also traffic surveys were commissioned both before and during the trial to monitor parking occupancy levels, the duration of stay in parking places and also the level of pedestrian activity in the area. These surveys were compared to establish what changes had occurred.
- 2.9 Approximately 5 weeks of data was collected prior to the trial commencing and another 5 weeks of data during the trial. A significant part of the monitoring period was during the summer holiday period, however, there were also periods outside of the summer holiday period that could be used to check for any variations and ensure that the results were representative. Appendix B provides a full summary of the information collected before and during the trial.

### Financial impact

- 2.10 The information about tickets issued and payments made were downloaded regularly from the pay and display machines via wireless connections and is very accurate. There was no missing data reported during the period. The data has also been adjusted for any transactions made using the cashless parking system. Appendix B, charts 1 and 2, give information about the tickets issued and the parking income received before and during the trial.
- 2.11 Parking income reduced steadily week on week from the commencement of the trial. The reduction in income was approximately 45% at the end of the monitoring period. Applied borough wide this would equate to an estimated loss of parking income of approximately £541k. This is comparable with the financial assessment undertaken for the Commissioning Panel and the growth figure included in the MTFs of £568k. However, it must be noted that the trial by its nature was in one location only and patterns of behaviour could be different in other locations in the borough.

### Operational impact

- 2.12 The number of tickets issued increased significantly by 92% by the end of the monitoring period. The increase is accounted for by a greater number of people using free 20 minute tickets with a reduction in longer duration stay tickets as shown in Appendix B, chart 6. In addition a larger proportion of parking places were occupied. In appendix B, comparing charts 4 & 5, it can be seen that the average amount of available vacant parking places has now reduced from 29% to 21%.
- 2.13 It is clear from the surveys that the average occupancy levels do vary widely within the trial area between about 50% - 90%, however, the average occupancy levels have increased from 71% to 79% and a detailed assessment of the surveys shows that parking places are still available at all periods of the day throughout the trial area. London Councils have advised that Boroughs should aim to achieve occupancy levels in pay and display parking places that do not exceed an average of 85% and the trial is currently operating within this tolerance.
- 2.14 The increase in tickets issued, however, would significantly increase the maintenance and servicing costs of the pay and display machines. The increased usage would result in more regular mechanical problems needing repairs and a larger number of tickets to be replaced. When applied borough wide this would equate to an additional maintenance cost of about £25k which is not currently factored into the financial assessments and therefore there is no budget allocation. An additional member of staff would also be required to oversee this considerable increase in activity. The cost of an additional technician would be £35k making the total additional funding required £60k.
- 2.15 Another consequence of the free parking scheme is that it will not be possible to achieve future possible savings by reducing the current stock of 220 pay and display machines. The introduction of cashless parking (pay by phone) was intended to provide an alternative means of payment and, subject to take up, to reduce ticket issue from pay and display machines. This would potentially have allowed up to 30% of machines to be decommissioned reducing the associated maintenance and servicing costs. However, free tickets can only be obtained from pay and display machines and with the projected increase in usage it would not be possible to reduce the number of machines.
- 2.16 The procurement of the cashless parking system has also factored in a predicted level of usage and income based upon a transaction charge, current trends and the cost of the supplier. The introduction of free parking will affect this calculation as fewer tickets would be purchased by phone, generating less income. The level of losses is difficult to predict at this stage as the system only commenced operation in August 2013.

### Pedestrian movement

- 2.17 Pedestrian movement was monitored in two locations in the Rayners Lane area, Rayners Lane North and Alexandra Avenue, to see if the trial would generate additional footfall. The locations are shown in Appendix 1. Only a

small increase in pedestrian movement was observed from the surveys and the results can be seen in Appendix B, chart 3.

### Enforcement

- 2.18 A review of the number of penalty charge notices (PCNs) issued for parking offences can be seen in Appendix B, chart 7. There is an element of variability in this data but a general decline in the number of PCNs issued is observed during the trial when compared with the before data.
- 2.19 The decline is caused by more free tickets and less paid tickets being issued. It is easier to undertake enforcement on paid tickets because there is a charge involved which makes it easier for an enforcement officer to establish if an offence has been committed straight away. However, enforcing compliance with free tickets and checking for unlawful free ticket issue is much more difficult because the enforcement officer needs to make a log of all vehicle registration numbers on site over successive visits with cross referencing in order to establish if there is a contravention (e.g. a successive free ticket issued within 4 hours of the first free ticket). The parking occupancy surveys have indicated that there is an element of unlawful free ticket issue occurring that equates to about 15% of all free tickets issued.
- 2.20 Unlawful ticket issue can be prevented by installing keypads and modems into pay and display machines so that free ticket issue can be regulated. This would allow all free tickets requested to be logged in a central database and linked to a vehicle registration number so that tickets are only issued within the permitted time scales. This would require all pay and display machines in the borough to be upgraded at considerable cost. The likely cost of such a measure would be in the region of £200k - £300k.
- 2.21 Appendix B, chart 7 indicates the impact on PCNs issued and indicates a 45% reduction in PCNs since the trial started. A reduction in revenue of approximately £4300 over the 5 week period of the trial in Rayners Lane has been monitored so far. When considering that PCNs issued for ticket offences borough wide average about £730k annually this level of reduction scaled up would equate to approximately £310k per annum.
- 2.22 It should be noted that in Appendix B, charts 4 and 5, approximately 25% of vehicles are parked without a ticket and this trend has not changed since the introduction of the trial. The option of having a free ticket has not changed attitudes with this particular group of customers.

## Summary

2.23 The impacts can be summarised as follows:

- The loss of parking income from tickets is in line with the projection in the commissioning panel financial assessment (approximately £541k per annum),
- The availability of parking space is in accordance with London Councils guidance and no operational problems have been reported,
- Servicing and maintenance costs of pay and display machines borough wide would increase by approximately £60k per annum,
- Charges from PCNs borough wide would reduce by approximately £310k per annum,
- Parking charges from the cashless parking system would be reduced,
- It would not be possible to realise the £30k savings per annum already included in the MTFs by reducing the number of pay and display machines borough wide.

2.24 In total the 20 minutes free parking proposal would cost approximately £941k of which only £568k is budgeted for giving a shortfall of £373k.

### **Economic impact of free parking**

2.25 The Rayners Lane free parking trial has not been in operation long enough to gauge what the economic impact of the scheme is in this area. However, there is a similar scheme in operation in North Harrow which has had a free parking period of one hour since 2004. Appendix C provides the background to the North Harrow Centre and provides an opportunity to compare the economic vitality of a centre where free parking is available

2.26 Whilst the objective of these measures in North Harrow was to help local businesses and support the local economy, no material impact on the quantity or turnover of parking was evident in surveys undertaken in the Cambridge Road car park or on-street. Through the mid to later years of the last decade shop vacancy rates actually increased to a peak of 23.09% in 2009/10 despite free parking being available and so this does not seem to have been a significant factor in preventing the centre's economic decline.

2.27 As a consequence of the centre exhibiting the highest vacancy rates in the Borough, a programme of measures was implemented led by the Council's Economic Development team, as shown in Appendix C, which gives details of the vacancy rates and the action plan implemented. The effect of the programme has been to reduce vacancy rates to a level that is broadly consistent with observed vacancy rates for other centres of this type elsewhere in the borough. This demonstrates that a more proactive and

versatile regeneration initiative is required in order to improve economic activity in district centres.

- 2.28 While parking is clearly an important issue for all shopping areas in the borough, it should be noted that in 2011, Transport for London produced a customer service report called Travel and Spend in London's Town Centres. The results of this research showed that people who walk or use the bus to get to a town centre spend more per head per month than other mode users. While their spend per visit is lower, this higher monthly spend is due to the higher frequency of visits by bus and on foot.
- 2.29 On this basis it appears unlikely that the free parking initiative will have a significant impact on the local economy in Rayners Lane.

### **Legal implications**

- 2.30 Parking charges can be amended by advertising a 21 day statutory notice period in advance of the changes being implemented. As long as there is no change to the charging time period there is no statutory consultation required.
- 2.31 If any changes to charges also require a change in the related charging time periods then the traffic regulation orders affected need to be amended and this is subject to statutory consultation requirements, which the council needs to comply with. The council has powers to change charging time periods for pay and display bays under the Road Traffic Regulation Act 1984 and The Local Authorities Traffic Orders (Procedure) (England and Wales) 1996.
- 2.32 Cabinet in June 2013 authorised a statutory consultation on the proposed tiered parking charges and the related charging time periods. The amended traffic regulation orders need to be confirmed and operational before a borough wide 20 minute free period could subsequently be introduced by statutory notice. This is because the 20 minutes period needs to be reflected in all the traffic regulation orders for on-street pay and display parking places.

### **Financial Implications**

- 2.33 The paper presented to Cabinet in June 2013 already reported that the proposal to introduce a free parking period for the first 20 minutes of parking would result in a reduction of approximately £522K from on-street parking bays. A review of the Rayners Lane free parking trial has indicated that there would be an annual reduction of approximately £541k if the losses in the trial were scaled up borough wide. This is broadly in line with the original financial assessment prepared for the commissioning panel and the resultant growth budget included in 2013/14 MTFS (£261K in 13/14 and £307K in 14/15, giving a full year effect of £568K).
- 2.34 The review of the trial also reveals that there would be an additional cost for maintenance and servicing of pay and display machines of approximately

£60k due to the large increase in tickets that would be issued. This cost is not currently budgeted for.

- 2.35 There has been a reduction of 45% in the level of penalty charge notices issued before and during the trial. This has resulted from the reduction in paid tickets and also in the significantly increased difficulty for enforcement officers to monitor free tickets as this requires a greater level of resource which cannot be easily provided. The impact of this reduction on penalty charge notices borough wide would be a loss of £310K. This potential shortfall is much greater than anticipated. At the time of carrying out the original financial assessment, it was difficult to provide any reliable prediction of the impact of 20 minutes free parking on PCN charges and therefore this element did not form part of the growth budget detailed in paragraph 2.33.
- 2.36 Should the 20 minutes free on-street parking be implemented borough wide, there would be a potential part-year financial implication of £338K for 2013/14 (a reduction of P&D and PCN income of £320K and an additional cost of £18K).
- 2.37 Parking income from the cashless parking system would be reduced and the balance between costs and income would need to be monitored to ensure that the scheme does not become loss making.
- 2.38 There is also a saving assumption of £30K included in the 2013/14 MTFS for reduced maintenance on parking equipment following the introduction of the cashless parking system. The free parking trial has suggested that a large number of tickets are being issued from P&D machines which would make it difficult to reduce the number of pay and display machines as intended and also lead to an increase in maintenance cost compromising the assumed saving associated with the cashless parking system.
- 2.39 In summary, the budgetary position resulting from the implementation of 20 minutes free on street parking borough wide is presented below. Should this be implemented, there would be an on-going budget pressure of £373K for the Council. This is after taking into consideration the growth budget already provided in the MTFS.

	<b>2013/14 (part year)</b>	<b>2014/15 (full year)</b>
Growth budget in MTFS	£261K	£568K
Financial impact of the 20 minutes free parking:		
Loss of P&D income (estimate)	£210K	£541K
Loss of PCN income (estimate)	£110K	£310K
Additional maintenance costs	£18K	£60K
13/14 MTFS potentially not achieved (parking equipment)	£30K	£30K
Total	£368K	£941K
<b>Net budget pressure</b>	<b>£107K</b>	<b>£373K</b>



## **Performance Issues**

- 2.40 There are no specific performance measures identified.
- 2.41 The advice from London Councils is that the setting of parking charges is principally aimed at managing parking demand such that the occupation of parking bays does not exceed an average of 85%. The occupation of bays has been monitored by undertaking parking occupancy surveys
- 2.42 The occupancy levels at the end of the monitoring period are approximately 79% and therefore currently within the tolerances required. However, the trial has only been operating for a short duration and would need to be closely monitored to ensure this is maintained below 85%.

## **Environmental Impact**

- 2.43 The implementation of differential parking charges is included in the council's LIP policies. Whilst a free parking initiative can fit within a differential parking charges strategy the free element has a significant impact on driver behaviour because for this initial short period of time (20 minutes) demand is not being managed. The results of the trial have shown a large increase in the number of free tickets being issued and an increase in parking occupancy levels. This indicates that there is a larger turnover of vehicles which could have detrimental impacts on air quality, modal shift (less cycling / walking / public transport use), traffic congestion and travel journey times (more traffic on the network) and also on people's health through greater inactivity and sedentary lifestyles.

## **Risk Management Implications**

- 2.44 Risk included on Directorate risk register? No. Is there a separate risk register in place? No.
- 2.45 The main risks identified with the free parking proposal are:
- Greater loss of parking charges from pay and display machines, cashless parking (pay by phone) and penalty charge notices,
  - Increased running costs from greater machines maintenance and servicing
  - A reduction in the availability of short term parking space, this will disproportionately affect mobility impaired people
- 2.46 The MTFs has allowed for £568k of losses from parking charges but the losses are expected to be larger than currently evaluated based on the results of the free parking trial.

## Equalities implications

- 2.47 Was an Equality Impact Assessment carried out? Yes.
- 2.48 A full equality impact assessment was undertaken as a part of developing the original charging proposals and was submitted to Cabinet in October 2011 with a report on the parking review public consultation. No adverse impact on any equality groups was identified at that stage.
- 2.49 It is not considered that the proposals set out in the current report have any additional equality impacts because the basic principle of the proposal remains the same.
- 2.50 Consideration of the equalities implications is a continuing duty and so the EqIA will be reviewed and, if necessary, updated in light of any relevant responses from the statutory consultation prior to any final decision of the Deputy Leader and Portfolio Holder for Environment and Community Safety.

## Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 14 October 2013		
Name: Matthew Adams	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 14 October 2013		

## Section 4 – Performance Officer Clearance

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Strategic Commissioning
Date: 14 October 2013		

## **Section 5 – Environmental Impact Officer Clearance**

Name: Andrew Baker



on behalf of the  
Divisional Director  
Environmental Services

Date: 14 October 2013

## **Section 6 - Contact Details and Background Papers**

### **Contact:**

David Eaglesham

Service Manager – Traffic & Highway Network Management

020 8424 1500

[david.eaglesham@harrow.gov.uk](mailto:david.eaglesham@harrow.gov.uk)

### **Background Papers:**

Cabinet report – October 2011 – Parking charges review

<http://www.harrow.gov.uk/www2/documents/s92398/Parking%20-%20cover%20reportR.pdf>

Cabinet report – June 2013 – Parking charges review  
implementation

<http://www.harrow.gov.uk/www2/documents/s108207/Parking%20Review%20Implementation.pdf>

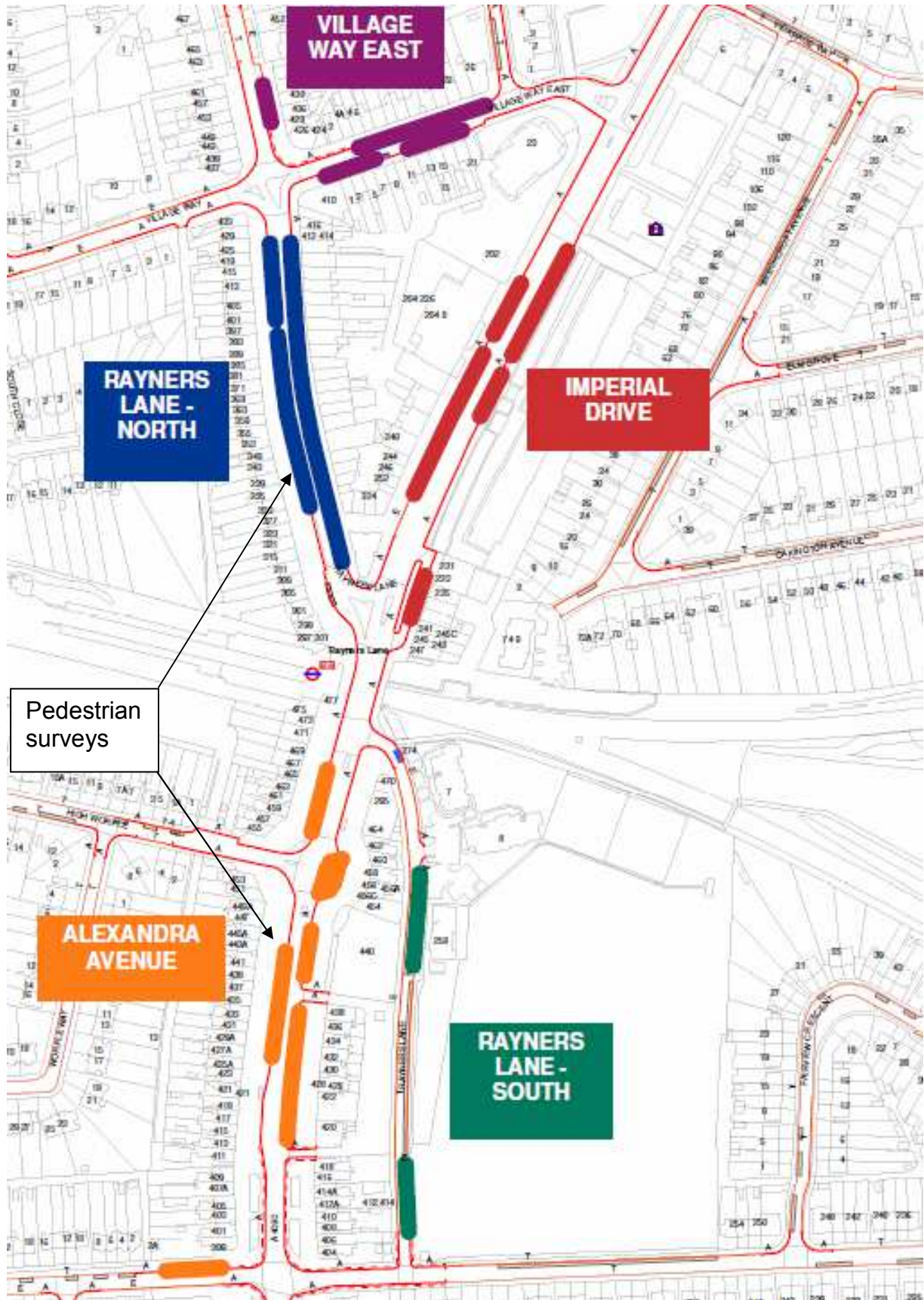
**Call-In Waived by the  
Chairman of Overview  
and Scrutiny  
Committee**

**NOT APPLICABLE**

*[Call-in applies]*

# APPENDIX A

## Rayners Lane trial - location of pay and display bays



## APPENDIX B

### Rayners Lane trial – monitoring data

Chart 1 - Parking tickets issued

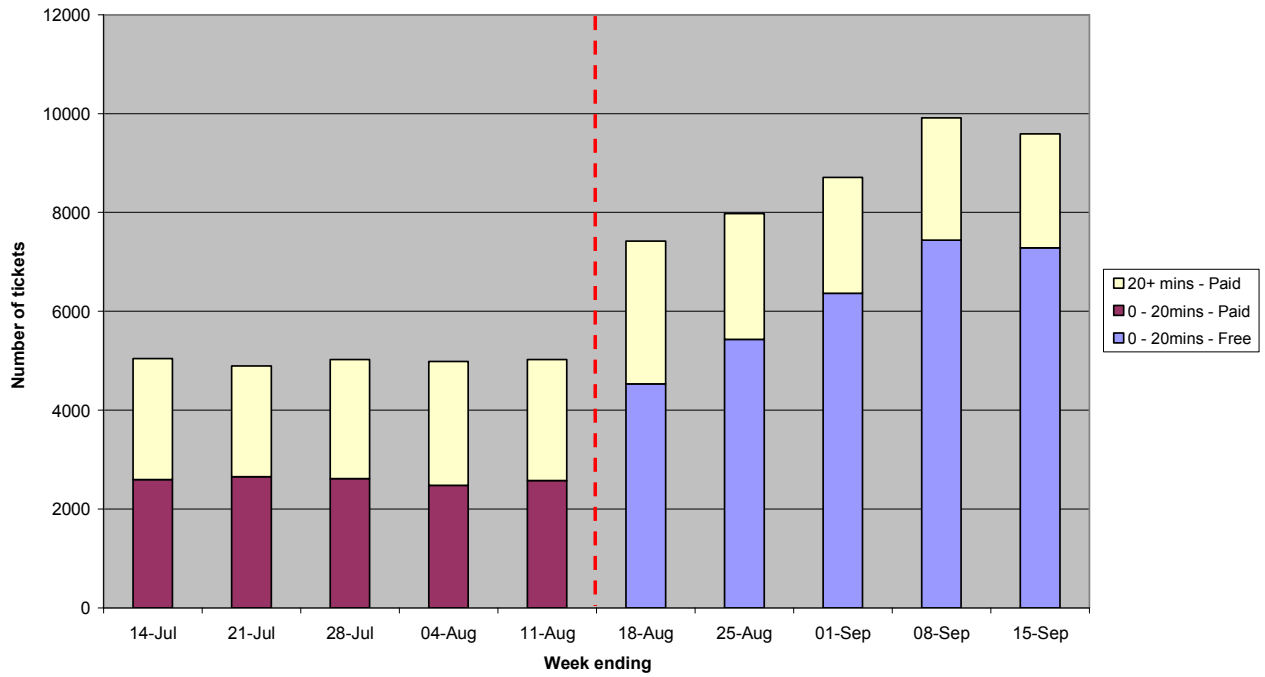
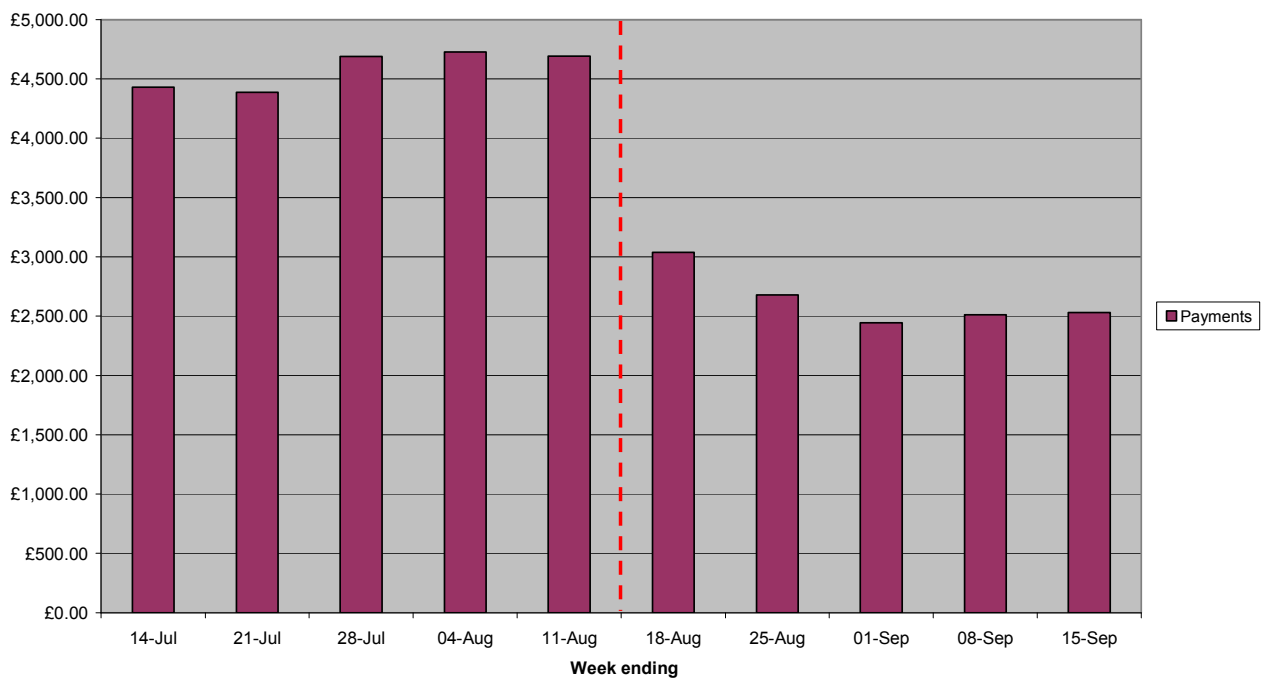
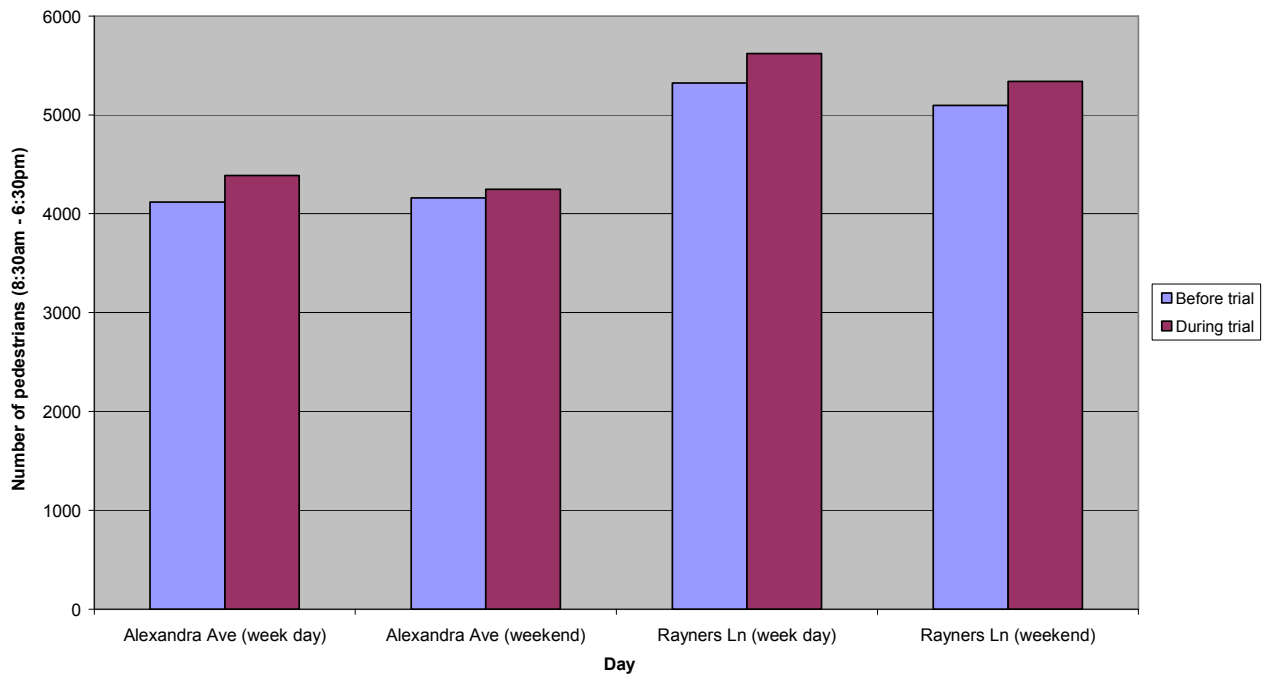


Chart 2 - Parking income



**Chart 3 - Pedestrian surveys**



**Chart 4 - Parking places occupancy before trial**

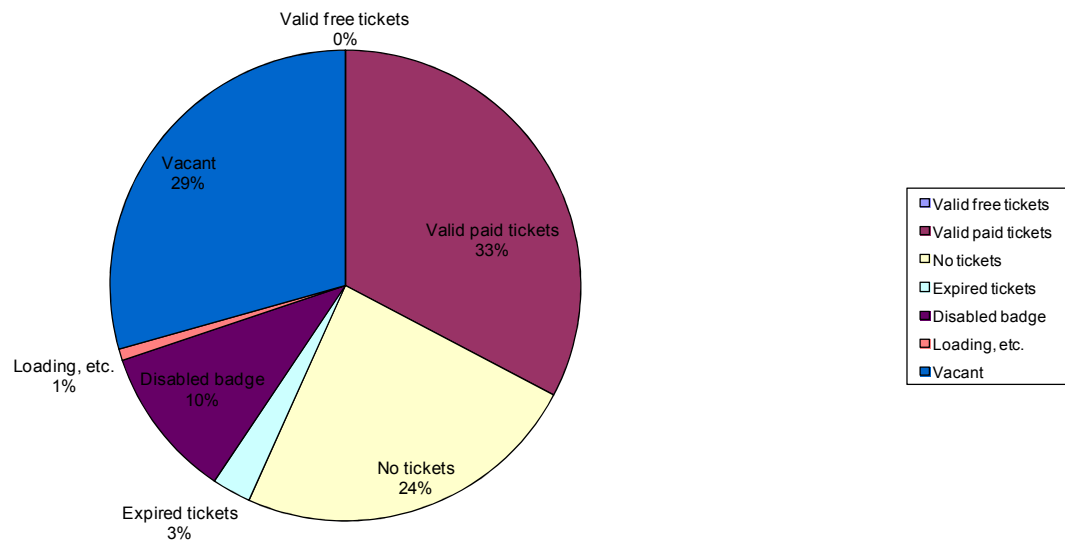


Chart 5 - Parking places occupancy during trial

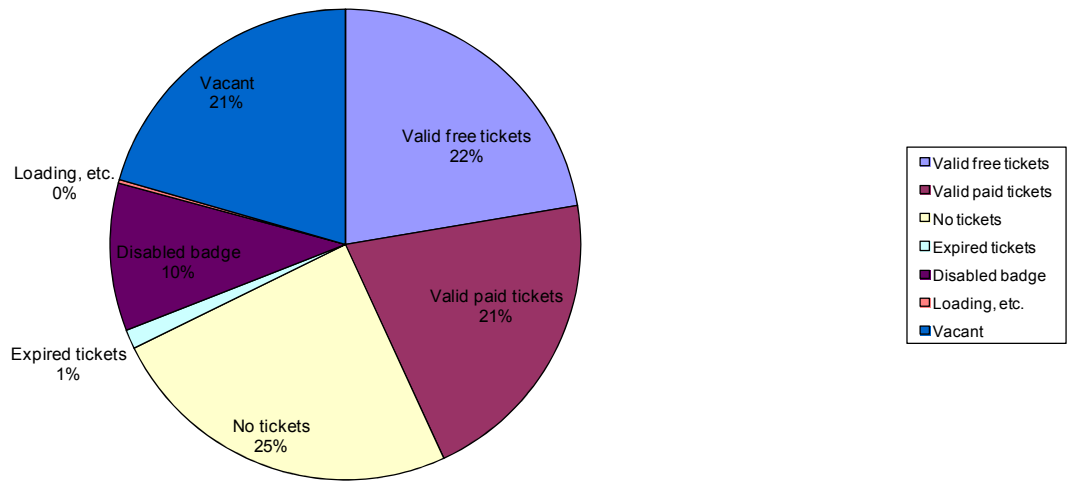


Chart 6 - Parked vehicles - duration of stay

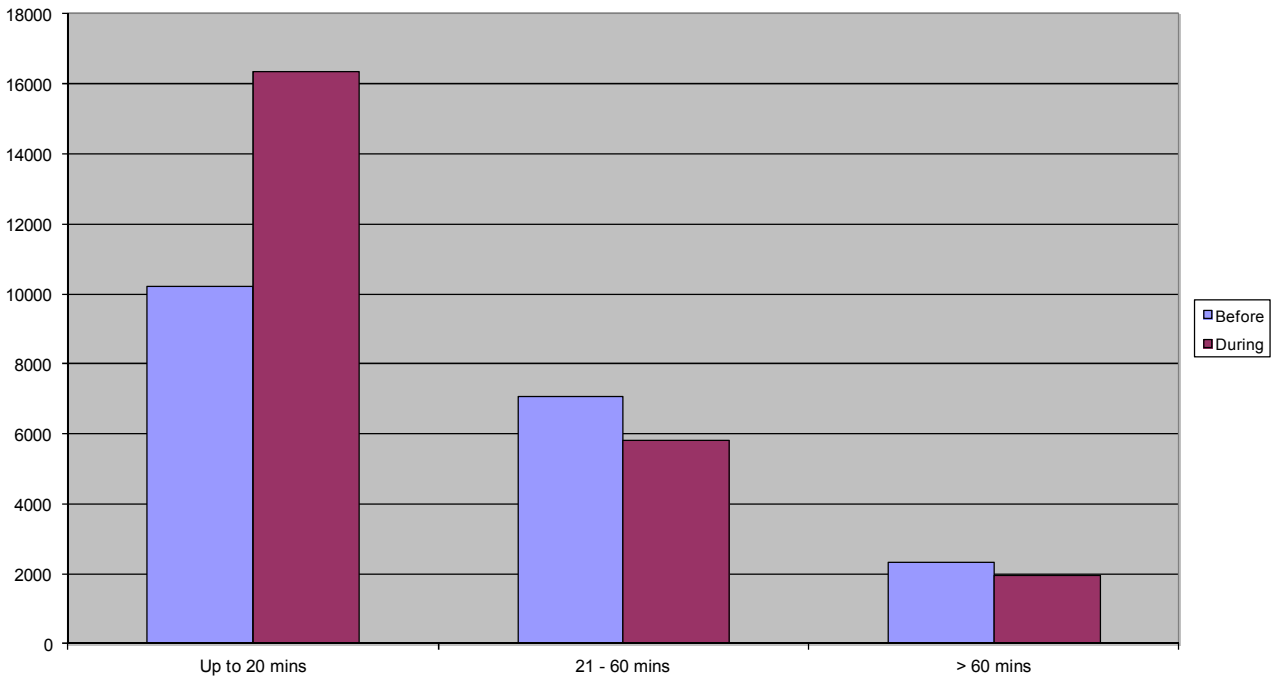
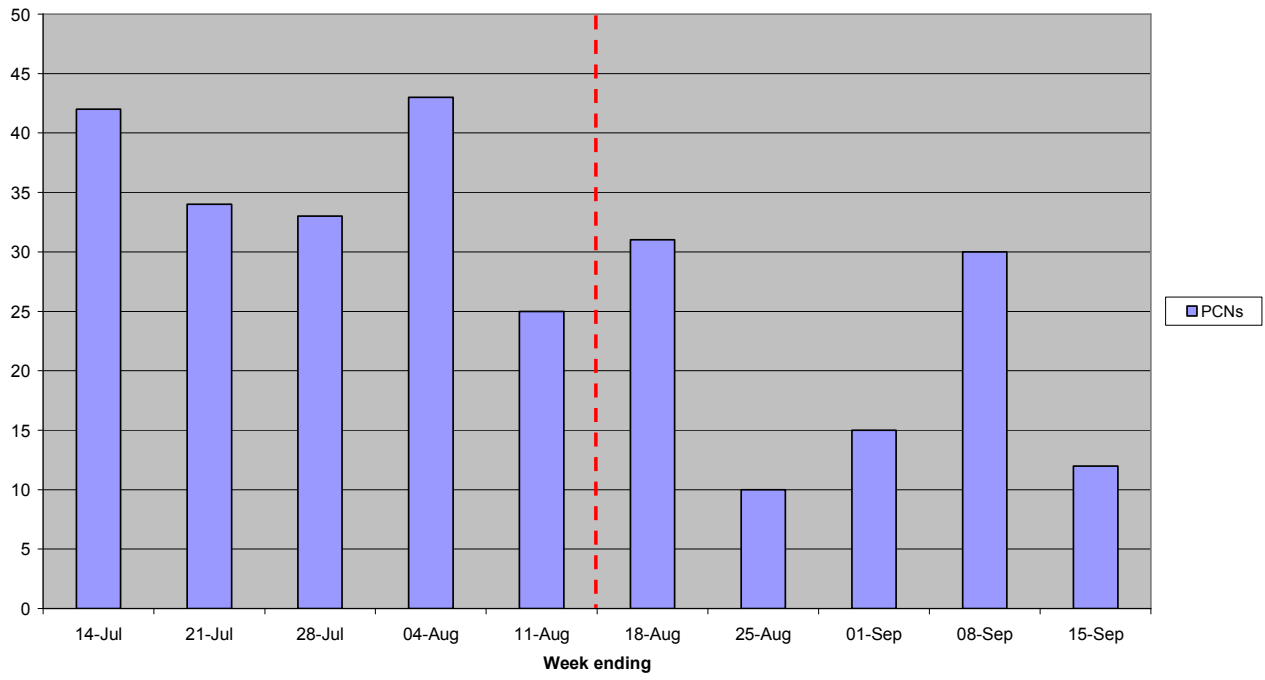


Chart 7 - On street penalty charge notices issued





## APPENDIX C

### North Harrow regeneration

In 2003, prior to the closure of the Safeway supermarket, the total vacant frontage in North Harrow was 1.46%. The supermarket accounted for 6.39% of frontage. In 2005/6 the vacancy rate had grown to 11.98% and this peaked at 23.09% in 2009/10. The table below shows North Harrow's vacancy rates in the context of Harrow's other district centres

Town Centre	% Frontage Vacant	% Frontage Vacant	% Frontage Vacant	% Frontage Vacant	% Frontage Vacant
	2008/09	2009/10	2010/11	2011/12	2012/13
Harrow	5.62	7.77	6.41	8.95	9.49
Burnt Oak (part)	6.28	8.21	3.49	1.84	0.00
Edgware (part)	6.70	7.33	7.41	14.58	7.88
Kenton (part)	1.59	8.29	6.59	6.18	0.00
Kingsbury (part)	3.92	0.00	3.92	3.92	0.00
North Harrow	15.52	23.09	21.03	13.77	6.47
Pinner	3.58	3.63	2.99	3.55	4.80
Rayners Lane	10.34	11.83	9.87	10.66	10.54
South Harrow	4.49	4.34	1.49	3.08	3.65
Stanmore	1.65	0.80	4.95	0.00	0.80
Wealdstone	9.75	10.44	9.15	7.92	9.35
Belmont	11.04	12.66	10.01	6.60	3.33
Harrow Weald	3.21	3.21	3.98	8.35	10.52
Hatch End	3.17	7.13	6.66	4.06	3.11
Queensbury	5.58	5.06	9.08	7.50	9.68
Sudbury Hill (part)	0.00	6.27	3.27	3.27	0.00

North Harrow was chosen for specific attention because of the high vacancy rate. In 2010 and 2011 stakeholder meetings were held with traders, ward councillors, community groups and the police to review the issues. This resulted in an action plan for North Harrow. In the summer of 2011 the council secured funding from the Mayor's Outer London Fund (OLF). This led to the appointment of a Town Centre Manager and the delivery of a number of projects generated from the action plan. The OLF programme aimed to help develop a North Harrow Partnership, market and promote the centre, improve its infrastructure and provide greater flexibility in planning policy through the introduction of a Local Development Order.

Initiatives to market North Harrow included Autumn, Winter and Spring events, the launch of a North Harrow web site, production and distribution of a Business Directory, installation of new notice boards and planters, the purchase and installation of Festive Lights and a Visual Merchandising training programme for local traders. The local infrastructure was improved by partial resurfacing of Cambridge Road Car Park, and the installation of 9 new on-street parking bays. The introduction of a Local Development Order in July 2012 provided greater flexibility in planning policy and may have had an impact in attracting the Gym Group to North Harrow. The vacancy rate fell to 13.77% by June 2012, and the occupation of the former supermarket site by the Gym Group, helped North Harrow reach a low of 6.47% in 2013. The cumulative impact of investment and activity in North Harrow secured new businesses into the area, reduced the number of empty shops and created a new positive community image of the area.

This page is intentionally left blank