

# REPORT FOR: **CABINET**

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<b>Date of Meeting:</b>	15 January 2015
<b>Subject:</b>	Delegation to London Councils' Transport and Environment Committee in relation to the Pan-London Parking Appeals Service on Private Land ('POPLA')
<b>Key Decision:</b>	No
<b>Responsible Officer:</b>	Hugh Peart, Director of Legal and Governance Officer
<b>Portfolio Holder:</b>	Councillor Varsha Parmar, Portfolio Holder for Environment, Crime and Community Safety
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All
<b>Enclosures:</b>	Appendix A - LCTEC Governing Agreement Appendix B - Memorandum of Participation

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

### **Recommendations:**

In accordance with the recommendation of the London Councils' Transport and Environment Committee's Executive Sub Committee's decision on 11 September 2014 Cabinet is requested to:

1. formally confirm that the functions delegated to London Councils' Transport and Environment Committee (LCTEC) to enter into the arrangements with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011;
2. expressly delegate the exercise of section 1 of the Localism Act 2011 to LCTEC for the purpose of providing an appeals service for parking on private land under contract on a full cost recovery basis;

3. amend the LCTEC Governing Agreement to this end; and
4. authorise the Monitoring Officer to sign, execute and return the Memorandum of Participation on the Council's behalf.

### **Reason: For recommendations**

Cabinet is requested to make the necessary delegations and decisions to allow London Councils to continue the operation of a Pan-London appeals service for parking on private land under a contract with the British Parking Association.

## **Section 2 – Report**

### **Options considered**

Should Cabinet decide not to support the continuation of POPLA, this could put its ongoing operation across London at risk.

### **Background**

On 15 March 2012 LCTEC agreed that London Councils should provide an appeals service for parking on private land. This was to be provided to the British Parking Association on a full cost recovery basis. London Councils regarded POPLA as complementing the service provided by PATAS (Parking and Traffic Appeals Service) which deals with appeals made against parking enforcement on the highway

LCTEC tendered for the work. As the only interested and qualified bidder, a five years contract was awarded and the service known as POPLA started on 1 October 2012 and has since provided an appeals service to over 25,000 motorists.

London Councils regards this as in the public interest in that a significant proportion of the public affected and likely to avail themselves of POPLA would come from the Greater London area.

### **Current situation**

An objection was raised on the London Councils' consolidated accounts by an interested person (residing within London ) that LCTEC did not have the legal authority to provide the service. London Councils' auditors PWC have been investigating this and other objections submitted by the same individual.

PWC has received legal advice from the Audit Commission that the London local authorities have the power under section 1 of the Localism Act 2011 to

provide the service and that the exercise of these functions could be delegated to LCTEC. London Councils agrees with this conclusion

The Audit Commission advice however questions whether the exercise of those functions has been properly delegated to LCTEC. London Councils and its legal advisors remain of the view that the service is currently being delivered by LCTEC on a lawful basis on behalf of all participating authorities with their consent and proper authority under the existing terms of the LCTEC Governing Agreement and confirmed by the Committee resolving to provide the service in 2012 with these matters having been raised with local authorities prior to those decision being taken in the normal way in respect of LCTEC business.

However, it is accepted that there is room for argument as to whether individual councils had to state expressly that they agreed that the arrangement with the BPA was pursuant to exercise by LCTEC of their powers under section 1 of the Localism Act.

## **Next steps**

For the avoidance of doubt, LCTEC Executive Sub Committee agreed on 11 September 2014 and endorsed by the Chief Executives' London Committee on 18 September 2014 that each individual borough would be asked to take the decision to:

- formally confirm that the functions delegated to London Councils' Transport and Environment Committee (LCTEC) to enter into the arrangements with the British Parking Association were and continue to be delivered pursuant to section 1 of the Localism Act 2011;
- expressly delegate the exercise of section 1 of the Localism Act 2011 to LCTEC for the purpose of providing an appeals service for parking on private land under contract on a full cost recovery basis; and
- amend the LCTEC Governing Agreement to this end;

This would enable the issue of the objections to the London Councils' accounts to be settled. The delegation would also put beyond doubt the legality of POPLA.

## **Implications of the Recommendation**

### **Resources, costs**

There are no resource implications for the Council.

### **Staffing/workforce**

There are no staffing implications.

### **Risk Management Implications**

By making the delegation the Council is minimising the risk of legal challenge and is ensuring the continuation of the Pan London service.

### **Legal Implications**

The Legal implications are set out in the body of the report

### **Financial Implications**

There are no financial implications for the Council. The POPLA service operates on a full cost recovery basis.

### **Equalities implications / Public Sector Equality Duty**

There are no equalities issues.

### **Council Priorities**

The Council's vision: Working Together to Make a Difference for Harrow. Agreeing this recommendation will allow the continuation of an independent and competent parking appeals service for the benefit of Harrow residents.

## **Section 3 - Statutory Officer Clearance**

Name: Steve Tingle	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 22 December 2014		
Name: Hugh Peart	<input checked="" type="checkbox"/>	Monitoring Officer
Date: 22 December 2014		

<b>Ward Councillors notified:</b>	<b>NO, as it impacts on all Wards</b>
<b>EqIA carried out:</b>	<b>NO, as there are no equalities implications</b>

## **Section 4 - Contact Details and Background Papers**

**Contact:** Linda Cohen Senior Lawyer Legal and Governance

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

**NOT APPLICABLE**

*[Call-in applies]*