

# **Disabled Persons Parking Bays**

Report by the Parking Manager, Kent Highway Services to the Highways Advisory Board on 16<sup>th</sup> September 2008

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## **Introduction**

1. Disabled Persons Parking Bays may be introduced under a legal Traffic Regulation Order and are currently assessed, funded and managed by the 12 Kent District councils under guidelines set by Kent County Council. The introduction of the Disability Discrimination Act 2005 and the introduction of the Disability Equality Duty have necessitated a review of the existing guidance and policy. This report outlines the results of a consultation process carried out with a working party representing the County Council and the 12 District councils.

## **Background**

2. The 12 Kent District councils currently accept requests for disabled persons parking bays using application forms which require various criteria to be met. There are some differences in the assessment of these criteria, in that some district councils consider them to be mandatory and others use discretion based upon individual circumstances and local conditions.

3. The majority of the 12 Kent District councils charge a £30.00 non-returnable administration fee which is paid upon submission of an application for a disabled persons parking bay. The cost of the necessary legal work, signage and lines are met by the District authorities.

## **Developing Best Practice**

4. A Disabled Persons Parking Bay working party was formed, consisting of representatives of the 12 District councils and Kent County Council. Specialist advice was sought from partners and stakeholders as necessary.

5. The aim of the working party was to achieve a streamlined and consistent application process making use of best practice across the County whilst ensuring that all necessary legislation is adhered to.

## **Procedure**

6. Each individual criterion was examined and investigated and it was found that with the exception of the administration fee, all other requirements of the application process met the demands of the new legislations and duties, although there were anomalies across the 12 district councils concerning the way in which the criteria were used.

## **Administration Fee**

7. There is no current legislation that grants a Local Authority the power to charge an administration fee for applications for disabled persons parking bays. The Disability Discrimination Act 2005 provides that 'a person should not be treated less favourably than others who do not have a disability'. Additionally, it must be considered that the parking bay is not for the exclusive use of the applicant, but can

be utilised by any driver holding and displaying a current blue disabled parking badge.

8. Research was carried out into procedures used by other Local Authorities across the Country regarding applications for disabled persons parking bays. It was found that of all the authorities investigated, none made any charge for the provision of a disabled persons parking bay.

9. Guidance was sought from the Kent County Council Legal Department to establish whether an administration charge would be within the terms of the relative legislation and duty. The advice that was received from the legal team stated that:

*'A local authority has a duty to act reasonably and not to treat a disabled person less favourably. An administration fee is unreasonable in these circumstances and should not be charged.'*

10. A new application form and set of guidance notes for a disabled persons parking bay was drawn up making use of the best practice currently in use across the County of Kent. The revised application form and guidance notes are more 'user-friendly', easier to administer and require standard mandatory requirements to be met (Appendix 1) whilst still allowing officer discretion for individual circumstance and local conditions.

11. The requirement for a £30 administration charge to be paid by the applicant was removed from the process.

### **Risks to the Authority**

12. Kent County Council has produced a standard application form and set of guidance notes which could be recommended for use by the 12 District councils within Kent. If the requirement for an administration charge is included within this procedure, both Kent County Council along with the 12 District councils should be aware that they may be open to a possible challenge under the Disability Discrimination Act 2005.

13. Although the public highway is owned and maintained by Kent County Council, the process and management of disabled persons parking bays is carried out by the 12 District councils. Kent County Council may recommend the exclusion of an administration fee; however, each individual District council will choose whether or not to follow the recommended procedures. It should be noted that if the local authority chooses not to follow the advice given by Kent County Council, any legal challenge will be made to the District authority and not to Kent County Council.

### **Recommendations**

14. It is recommended that the process, application form and guidance notes for an application for a disabled persons parking bay is adopted by Kent County Council. These procedures should be reported through the local Joint Transportation Boards by the individual District councils with a recommendation that each individual council accept Kent County Councils recommended process and procedure.

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Appendix 1: Application Form and Guidance Notes for a Disabled Persons Parking Bay