

By: Lorna Day - Kent Parking Manager

To: Nick Chard – Cabinet Member, Environment, Highways & Waste

Subject: The Management of Disabled Persons Parking Bays

Classification: Unrestricted

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**Summary:** This report provides details for a new process, procedure and policy with regard to the management of Disabled Persons Parking Bays

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## 1. Introduction

- 1.1 Within Kent, the 12 District/Borough and City Councils are responsible for the practical application of parking policy within Agency Agreements negotiated between the County Council and the 12 District/Borough authorities. Currently, the 12 District/Borough Councils carry out the functions for on-street parking on behalf of the County Council under 12 individual Agency Agreements.

These functions do not include for the introduction and management of Disabled Persons Parking Bays, however historically this is a function that has been carried out by the District Authorities. The enforcement of disabled persons parking bays is a function that is covered by the existing Agency Agreements and is therefore carried out by the District Authorities.

## 2. Background Information

- 2.1 Following the introduction of the Disability Discrimination Act, legal advice was sought as to whether the existing charge of £30.00 that was being made across the County of Kent for the administration of a Disabled Person Parking Bay met the requirements of the legal act. Advice was returned from legal counsel as follows:

***‘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.’***

- 2.2 In September 2008 a report was placed before the Highways Advisory Board and subsequently the 12 District Joint Transportation Boards to advise of a change in Policy and Procedure which cancelled the £30.00 administration charge. The 12 District Councils subsequently adopted these alterations and cancelled the charge to the disabled customer.
- 2.3 In October 2008 following a request from a County Member, the KCC Director of Law and Governance requested that counsels advice was sought regarding the possibility that the current application process discriminated against disabled applicants who did not drive a vehicle.

In November 2008 the advice that was returned stated that:

***‘The adoption of a policy which limits applications normally or only to disabled drivers would, be likely to be unlawful, as it is so far removed from the proper purpose of orders under section 32 of the 1984 Act, namely to relieve or prevent the congestion of traffic. It would also probably amount to unjustified discrimination against disabled non-drivers which would be unlawful.’***

### **3. Consultation**

- 3.1 The proposed application process, policy and procedure notes have been referred to the 12 district authorities and other partners, including disabled groups for a period of 6 weeks in order that their comments and professional advice can be taken into account. Their comments have been incorporated into the attached paperwork.
- 3.2 There have been 2 objections from District Parking Managers at Maidstone and Sevenoaks Councils. Both representatives have raised concerns regarding the cancellation of the £30.00 charge and the available resource within the District to continue to carry out the function.

### **4. Conclusions**

- 4.1 It is considered necessary that Kent County Council change their current application process and policy with regard to the management of Disabled Persons Parking Bays in order that they are operating within current legislation and not contravening the Disability Discrimination Act.

The new Policy and application process is to be placed before the 12 District JTB's with a recommendation that each District Authority adopt the new procedure at the earliest opportunity. It will remain the decision of each individual District Authority as to whether they adopt the new Policy and Procedure.

### **5. Recommendations**

- 5.1 The Cabinet Member for Environment, Highways & Waste is asked to approve the proposal that a new Process, Procedure and Policy with regards to the management of Disabled Persons Parking Bays is adopted by Kent County Council with immediate effect and that it is recommended for use by the 12 district authorities acting for and on behalf of Kent County Council.

The Disability Discrimination Act 2005

The Road Traffic Regulation Act 1984

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