

REPORT TO: CITY DEVELOPMENT COMMITTEE - 28 SEPTEMBER 2009

REPORT ON: DISABLED PERSONS' PARKING PLACES (SCOTLAND) ACT 2009

REPORT BY: DIRECTOR OF CITY DEVELOPMENT

REPORT NO: 443-2009

1 PURPOSE OF REPORT

- 1.1 This report advises Committee of the new Act and the duties imposed upon local authorities to promote proper use of parking spaces that are designated or provided for use only by disabled persons' vehicles by the promotion of orders under the Road Traffic Regulation Act 1984 to make them enforceable. The Act comes into force on 01 October 2009.

2 RECOMMENDATION

- 2.1 It is recommended that Committee note the procedures and timescales defined within the Act for the following duties which will identify necessary disabled street parking places and disabled off-street parking places with the aim of changing their status from advisory to enforceable:
- a the initial duties of the Council and the procedures for dealing with requests from qualifying persons with regard to the making of a disabled street parking order in respect of a street parking space;
 - b the initial duties of the Council with regard to disabled off-street parking orders;
 - c the procedures in relation to the making of orders in relation to disabled off-street parking spaces within public parking provision associated with new development;
 - d the on-going duties with regard to disabled off-street parking orders;
 - e the duty to keep under review the continuing provision of each disabled street parking space which is the subject of an order; and
 - f the requirement to prepare and publish an annual report on the performance of the Council in relation to parking places for disabled persons' vehicles. A copy of this report is to be sent to the Scottish Ministers who then prepare a report on the performance of local authorities which is submitted to Scottish Parliament.

3 FINANCIAL IMPLICATIONS

- 3.1 An initial estimate of the financial implications associated with compliance of the Act was prepared at the earlier stages of consultation. It was anticipated that the cost of signing and road marking could be in the region of £190,000 on the basis of 1200 spaces, and the additional costs of enforcement estimated as £140,000 per annum. This is subject to a detailed city wide survey to determine the number of existing disabled street parking spaces. Account must be taken of the specified periods to remove surplus disabled parking spaces, start the statutory procedures for making the orders which will relate to the programming for provision of enforcement. It is

proposed to report back to Committee on detailed financial implications and programmes.

4 BACKGROUND

4.1 Disabled Street Parking Orders -Procedures for requests by qualifying persons

At present, all disabled street parking spaces outwith the city centre ticket zone are advisory unless placed on double yellow lines. The responsibilities for the provision of parking facilities for the disabled were transferred from Social Work Department to Planning and Transportation Department in April 2007. The procedures and criteria for approval of a request for parking facilities were outlined in Report 721-2005 and are as follows:-

- a applications are assessed by the central Corporate Customer Services Team against the criteria that i) the person is a blue badge holder, ii) the person with a disability is either the driver of the vehicle or a full-time wheelchair user and the vehicle is registered at the applicant's address, iii) there is no off-street parking facility near the disabled person's home, iv) the maximum figure of 30% of the available kerbside space in any street is allocated for disabled parking facilities or driveways;
- b an assessment of a suitable location of a parking facility without affecting local traffic movement is carried out by the Transportation Division of the City Development Department and arrangements are then made to provide the disabled street parking space.

The Act defines the local authority's duties when a qualifying person requests a disabled street parking order in respect of a street parking place. The Act removes the power of the Council to designate advisory street parking spaces, unless it is of a temporary nature pending the making of the order. A 'qualifying person' is defined as a person who holds a disabled persons' badge and whose address is the same as the registered address of the registered keeper of the vehicle. Access to off-street parking in the neighbourhood (eg driveway) will not require a street parking space/order. The authority must assess whether it is possible to provide a suitable parking space from which there is convenient access to the persons' address taking account of local traffic conditions and then start the statutory procedure for the making of an order.

The qualifying conditions contained within the Act are the same as the conditions presently employed by the Council.

4.2 Disabled Street Parking Orders – local authorities' initial duties

The Act requires the Council to identify every existing advisory street parking space in its area. It is also necessary to determine whether the parking space is still used by a disabled person and whether the facility is deemed to provide convenient access to the address of a disabled person who holds a disabled persons' badge. If a disabled parking space is deemed to be no longer required, the reasons for its removal must be published and any road-markings and signs must be removed. Surplus disabled street parking spaces must be removed within a period of 12 months beginning with the date of the Act coming into force. The authority must also start the statutory procedures for the making of orders for the remaining disabled street spaces within

this period. It is therefore proposed to carry out a detailed city wide survey of existing disabled street parking spaces to allow each space to be detailed within an order. The number of spaces to be removed will also be assessed by interview of local residents, where necessary, to target their removal before October 2010.

4.3 Disabled Off-street Parking Orders – local authorities initial duties

In relation to disabled off-street parking, local authorities are required to promote an order covering the disabled persons' parking spaces in its own public car parks. The disabled spaces within the central car parks are already enforceable but the off-street car parking order will require to be up-dated to cover disabled spaces in the non-central off- street car parks to ensure they are also enforceable . Signage will also require to be suitably amended where necessary.

The Act also requires each authority to contact and seek to negotiate arrangements with owners of, or person having an interest in, private car parks including supermarkets and out of town retail centres. Securing an arrangement would enable the local authority to promote an order to make the disabled persons' parking places in private car parks enforceable. The owner of, or person having an interest in, a private car park has the choice whether or not the Council carry out enforcement duties within their car park.

The initial duties include identification of all disabled parking spaces in off-street car parks in both Council car parks and other car parks not in Council ownership. This must be carried out within the period of 12 months from the coming into force of the Act.

The authority must start the order making procedure for disabled off-street spaces in Council car parks within 12 months of the act coming into force.

The authority must also start seeking arrangements with private car park providers for the promotion of an order for disabled off-street parking spaces within 12 months from the Act coming into force.

4.4 Disabled Off-street Parking Orders - new development

This applies to the construction of new premises which include advisory disabled parking spaces or the creation of such parking spaces within existing premises. The authority has a period of 3 months from the local authority granting planning permission or learning about the new development if permission is not required to determine whether or not it would have the power to make a disabled off-street parking order and is required to seek to make an arrangement with the owner or person having an interest in the land and start the order making procedure.

4.5 Disabled Off-street Parking Orders – ongoing duties

- a If a local authority has failed to make arrangements with owners of, or persons having an interest in, a private car park to promote a disabled off street parking order, further attempts to reach agreement are required every 2 years.
- b A general duty is placed upon local authorities to continually review the provision of disabled street parking places. The review does not have to be linked to the changing circumstances of the original applicant as any disabled badge holder is

able to use any designated parking space. The overall usage of the parking space would require to be considered prior to varying or revoking the order.

- c Annual Reports by Local Authorities - The Act requires local authorities to publish an annual report on their performance in relation to parking spaces for disabled persons' vehicles and a copy requires to be sent to the Scottish Ministers. Part 1 of the schedule to the Act specifies what information must be contained in a local authorities report and is shown in the appendix to this report. The initial report must be submitted within the 3 month period after March 2011, thereafter each successive financial year.

5 POLICY IMPLICATIONS

5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. The major issues identified are:

- a Sustainability - There are no implications in relation to this report.
- b Strategic Environmental Assessment - There are no implications in relation to this report.
- c Anti Poverty - There are no implications in relation to this report.
- d Equality Impact Assessment - Enforcement of Disabled Persons Parking Spaces will improve parking opportunities for the disabled.
- e Risk Management - There are no implications in relation to this report.

6 CONSULTATIONS

6.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance, Assistant Chief Executive and Legal Services Manager have been consulted and are in agreement with the contents of this report.

7 BACKGROUND PAPERS

7.1 Report 721- 2005 Assistance with Parking – Disabled Persons (Reported to Social Work Committee – 19 December 2005 and Planning and Transportation Committee - 9 January 2006)

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31 August 2009

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Appendix 1

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Schedule—Annual reports on performance of functions in relation to parking places for disabled persons' vehicles
Part 1—Content of annual reports by local authorities

SCHEDULE

(introduced by sections 11(2) and 12(2))

ANNUAL REPORTS ON PERFORMANCE OF FUNCTIONS IN RELATION TO PARKING PLACES FOR DISABLED PERSONS' VEHICLES

PART 1

CONTENT OF ANNUAL REPORTS BY LOCAL AUTHORITIES

- 1 A report prepared by a local authority under section 11(1)(a) must contain the following information in respect of the reporting period—
- (a) details of the action that it took in fulfilment of its duty under section 1;
 - (b) the number of parking places designated as being for use only by a disabled persons' vehicle by virtue of the provisions of this Act (except section 9);
 - (c) the following information related to its performance of its duties under section 4—
 - (i) the number of advisory disabled street parking places identified under section 4(1), if any;
 - (ii) its reasons for any decision under section 4(2) or (3)(a);
 - (iii) the number of parking places in relation to which it started the statutory procedure under section 4(3)(b), if any;
 - (d) the following information related to its performance of its duties under section 5—
 - (i) the number of requests made to it under section 5(1);
 - (ii) the number of parking places which it identified under section 5(2)(b);
 - (iii) its reasons for any decision under section 5(3)(a);
 - (iv) the number of parking places in relation to which it started the statutory procedure under section 5(3)(b);
 - (v) the period, in each case, between the identification of a parking place under section 5(2)(b) and the starting of the related statutory procedure under section 5(3)(b);
 - (e) the following information related to its performance of its duties under section 6—
 - (i) the number of advisory disabled off-street parking places identified under section 6(1), if any;
 - (ii) its reasons for any decision under section 6(2)(a);
 - (iii) the number of parking places in relation to which it started the statutory procedure under section 6(2)(b), if any;
 - (iv) its reasons for any decision under section 6(4) that it would not have power to make a disabled off-street parking order;
 - (v) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 6(6), if any;

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Schedule—Annual reports on performance of functions in relation to parking places for disabled persons' vehicles
Part 1—Content of annual reports by local authorities

- (vi) the reasons why it was unsuccessful in making any such arrangements;
 - (vii) the number of parking places in relation to which it started the statutory procedure under section 6(7);
 - (viii) the date by which it performed its duty under section 6(1) and any duties under section 6(2), (4) or (6), relative to the period of twelve months referred to in section 6(9);
 - (f) the following information related to its performance of its duties under section 7—
 - (i) the number of relevant developments for which a planning permission mentioned in section 7(1) was granted;
 - (ii) its reasons for any decision under section 7(3) that it would not have power to make a disabled off-street parking order;
 - (iii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 7(5);
 - (iv) the reasons why it was unsuccessful in making any such arrangements;
 - (v) the number of parking places in relation to which it started the statutory procedure under section 7(6);
 - (g) the following information related to its performance of its duties under section 8—
 - (i) its reasons for any decision under section 8(2) that it would not have power to make a disabled off-street parking order;
 - (ii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 8(4);
 - (iii) the reasons why it was unsuccessful in making any such arrangements;
 - (iv) the number of parking places in relation to which it started the statutory procedure under section 8(5);
 - (h) the following information about disabled street parking orders and disabled off-street parking orders—
 - (i) the number of such orders for the making of which it started the statutory procedure in accordance with this Act;
 - (ii) the number of parking places designated as being for use only by a disabled persons' vehicle under such an order;
 - (iii) in relation to each such order, the period between the start of the statutory procedure and the making of the order;
 - (iv) in respect of each case in which it started the statutory procedure for the making of such an order but did not make an order, the reasons why not.
- 2 A report prepared by a local authority under section 11(1)(a) may contain any other information about its performance of its functions in relation to parking places for disabled persons' vehicles during the reporting period that the authority considers appropriate.