

**PATROL ADJUDICATION JOINT COMMITTEE  
REPORT FOR INFORMATION**

**DATE:** 7<sup>th</sup> October 2008

**AGENDA ITEM** Number 7

**SUBJECT:** Report of the Independent Review of Parking Documentation and Notices

**REPORT OF:** Lead Officer on behalf of the Advisory Board

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**PURPOSE OF REPORT**

For Members to receive the formal report and recommendations of the Independent Review Committee.

**RECOMMENDATIONS**

It is recommended that the Joint Committee:

- (i) Receives and notes the recommendations of the Independent Review Committee in relation to Parking Documentation and Notices and approves its publication and distribution free of charge.

**FINANCIAL CONSEQUENCES FOR THE REVENUE AND CAPITAL BUDGETS**

The report will be published on the PATROL web site and in hard copy within the existing printing and publicity budgets.

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## **Introduction**

At the meeting of the NPAS Executive Sub Committee held 29<sup>th</sup> January 2008, Members ratified the decision to commission an Independent Review Committee of Parking Documentation and Notices.

The purpose of this paper is to present the report of the Review Committee for consideration.

## **Background**

The Traffic Management Act 2004 (TMA) came into force on 31 March 2008 and represented a significant change for the tribunal, the Joint Committee and for local authorities. The new legislation introduced a requirement for revised parking documentation for local authorities.

There has been a history of poor documentation on the part of some councils giving rise to critical decisions from Adjudicators and findings that the deficiencies have rendered the PCN unenforceable.

There has been a significant increase in appellants relying on defective documentation as their ground of appeal, even though the facts support a finding that a parking contravention occurred. Adjudicators do not find these submissions attractive, but nevertheless must have regard to the integrity of the statutory process.

The contents of a PCN issued under the RTA were considered by the High Court in *R v the Parking Adjudicator ex parte Barnet Council* where it was found that a PCN that did not comply with the statutory requirements was void and unenforceable

The Local Government Ombudsman issued a Special Report that was critical of some authorities' parking documentation, particularly Notices to Owner that erroneously express the law so as to deter representations and Notices of Rejection that expressly fetter the council's discretion.

## **The New Parking Provisions contained in Part 6 of the Traffic Management Act 2004 and its consequent Regulations**

3.1 The TMA has resulted in two sets of Regulations, both of which need to be read with reference to the Act itself and with reference to each other.

3.2 Following the *Barnet* judgment Council lawyers are naturally cautious of producing plain English documents which might be subject to criticism.

3.3 Taking these points into consideration the inevitable conclusion was that there needed to be a set of standard, plain English documents and notices for use by the enforcement authorities outside London in performing their functions under the TMA.

#### **4. The Role of the Joint Committee**

4.1 The Outside London Joint Committee comprising over 200 constituent councils was in an ideal position to commission such a review for the benefit of its members and their customers/citizens.

#### **5. The Independent Review Committee**

5.1 The Joint Committee commissioned **Stephen Sauvain QC** to chair the Review Committee which had the following membership.

**Anne Seex**, Local Government Ombudsman

**Professor John Raine**, Institute of Local Government Studies,  
University of Birmingham

**Sheila Rainger**, Head of Campaigns, RAC

**John Rushton**, Managing Director, Small Back Room with expertise in design and accessibility issues

**Chris Bramham**, Solicitor, Leeds City Local authority

**Graham Marsh**, Parking Manager, Manchester City Local authority

**Ian Martin**, Parking Manager, Sandwell Metropolitan Borough Local authority and representing all the outside London Local authorities in the Local Authority Special Interest Group of the British Parking Association and

**Andrew Pulham**, Parking Manager. East Herts District Local authority

**John Satchwell**, (Bournemouth Borough Local authority) Chair of Joint Committee's Advisory Board

**Derek McEwen**, Parking Manager, Denbighshire County Local authority

The remit of the Review Committee was to:

1. Review the parking documentation used by local authorities outside London in the course of enforcement of parking and traffic regulation.
2. Provide a brief overview of issues that have arisen under the RTA scheme in terms of local authority notices and documents.

3. Make recommendations for specimen documents to be used by local authorities outside London for civil enforcement of parking in compliance with the requirements of the TMA and associated regulations.
4. Recommend sample standard notices and letters required by the The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (Appendix 1) and The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (Appendix 2) in accordance with the following priority list:
  - (a) the Regulation 9 PCN having regard to the provisions of the Schedule of the General Regulations and Regulation 3 of the R&A Regulations.
  - (b) the Notice to Owner;
  - (c) the General Regulations PCN to comply with the three circumstances set out in Regulation 10(c) of the General Regulations.
  - (d) the Notice of Rejection;
  - (e) the Charge Certificate;
5. Provide more general recommendations regarding local authority correspondence. (The Local Government Ombudsman special report on parking documentation dealt with some of the issues that have arisen under the RTA scheme, and over the years the Adjudicators have commented upon local authority correspondence both in the form and the expressions used, particularly where it conveys the impression of fettering the local authority discretion.)
6. Undertake a staged approach to the documentation and produce recommendations as each stage of the review is completed, in accordance with the priority order set out above.
7. Produce a final report for consideration by Joint Committee

### **Recommendation**

Members are asked to receive the findings and recommendations of the Review Committee which will be published free of charge.