



Department for
Communities and
Local Government

APPENDIX B

Right to challenge parking policies

Traffic Management Act 2004: Network
Management Duty Guidance



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Introduction

This statutory guidance is issued by the Secretary of State under Section 18 of the Traffic Management Act 2004 (“the Act”). It applies to Local Traffic Authorities in England, which must have regard to this guidance when exercising their Network Management Duty under the Act. This guidance relates specifically to parking, and does not supersede the wider statutory guidance on the Network Management Duty issued in November 2004, and available at the National Archives website.

Background

The Traffic Management Act 2004 imposes an explicit duty on local authorities to manage their network so as to reduce congestion and disruption, and provides additional powers to do with parking. As a part of this Network Management Duty, local authorities need to develop parking strategies (covering on- and off-street parking) that are linked to local objectives and circumstances. Strategies need to take account of planning policies and transport powers as well as consider the needs of all road users in the area, the appropriate scale and type of provision, the balance between short and long term provision and the level of charges.

However, parking strategies cannot simply be about restricting parking. They need to meet the best interests of road users, communities and businesses. Inappropriate parking rules, over-zealous enforcement and high parking charges drive people out of town centres, push up the cost of living, harm local shops and make it harder for people to park responsibly and go about their everyday lives.

The current processes for considering and implementing parking strategies are not easily understood or accessed by local residents or businesses. The timeframe for reviewing policies is not linked to, or required to respond to, changes in local circumstances. This creates a perception that people have no say on parking in their area, or power to challenge decisions on parking policy. The Government wants to make it easier for local residents and firms to challenge unfair, disproportionate or unreasonable parking policies. This could include the provision of parking, parking charges or the use of yellow lines.

The Government believes that introducing a right to challenge parking policies will strengthen local democracy and local accountability. The introduction of direct democratic participation through the right to petition and initiate a local resident review will strengthen the rights of local taxpayers, and encourage citizen participation in local decision-making. Given elected councillors, not officers, will make the final decision on the review, in turn, this will strengthen local representative democracy. We hope the end result should be to remove unnecessary or excessive parking restrictions and unfair parking practices, to the benefit of the local economy and local shops.

The Government consulted in 2014 on a new mechanism that would use petitions to give local residents, community groups and businesses the ability to engage effectively while recognising the responsibility of local authorities to put in place parking strategies that reflect the needs of all road users. This includes pedestrians, cyclists and people with disabilities, and the needs of residents, shops and businesses. This guidance describes in

more detail how the Government proposes the mechanism should work, and advises local authorities on best practice.

Context

Making the best use of our current road network is important for both economic vitality and society. Potential conflicts need to be carefully handled, with a co-ordinated and proactive approach to managing the network.

Local authorities play an important role in this, and have a range of powers conveyed under acts such as the Highways Act 1980 and Road Traffic Regulation Act 1984. The Traffic Management Act 2004 adds the Network Management Duty, which requires local traffic authorities to do all that is reasonably practicable to manage the network effectively to keep traffic moving. This Act also provides the regulatory framework which gives local authorities the option of adopting civil parking enforcement powers. Under this Act, most local authorities in England have now taken responsibility for the design, implementation and enforcement of parking policies in their area.

This statutory guidance relates specifically to ensuring that local businesses, the residential community, and other road users, have a recognised voice in the exercise of the network management duty in relation to parking, as described in paragraphs 122-125 of the wide Network Management Duty guidance.

This guidance should also be considered alongside the statutory and operational guidance on the exercise of powers under Part 6 of the Traffic Management Act 2004, relating to the civil enforcement of most types of parking contraventions.

Broad Principles

Current guidance states that local authorities should review their portfolios of traffic regulation orders on a planned basis, and should amend or revoke orders that are no longer suitable for local conditions. As part of this process, local traffic authorities should consult as widely as is necessary to ensure that all of those affected by the orders have the opportunity to comment.

Local authorities should ensure that those affected by traffic regulation orders can raise issues including changed circumstances or unintended consequences between scheduled reviews, by putting in place a petition scheme that allows people and businesses to raise petitions about the parking restrictions in place for a specified location.

Such a petition scheme should provide clear information on:

- The minimum requirements for a valid petition. This should cover the minimum number of signatures and the information that must be provided, both about the issue being raised, and about the signatories.
- The circumstances where a petition will not be considered. This should clearly define the justification for defining vexatious petitions, and the minimum period after

the introduction or review of a traffic regulation order before a further review will be carried out.

- How the local authority will manage petitions received, including whether there is any variation in the response depending on the number of signatures, how petitioners will be kept up to date on the local authority response, how the local authority will manage the review and consider and report the outcome. We expect elected councillors to have the final role in considering reviews triggered by a petition.

In designing their petition scheme, or reviewing their existing scheme, we strongly urge local authorities that they should have regard to the guidance in the next section of this document.

Guidance

The purpose of a petition scheme is to make it easy for local residents, businesses and other groups within the community to engage with local government and raise issues, confident that their voice will be heard. To achieve this purpose the scheme should be designed to be accessible, and avoid placing barriers in the way of engagement. The following paragraphs provide guidance which should be used by local authorities to ensure that their petition scheme reflects this desire.

Minimum Requirements for a Valid Petition – Minimum Threshold for the Number of Signatures

It is of course the right of any individual or business to contact their local authority about any aspect of parking in their area. However, the local authority can expect people raising a petition to demonstrate that their challenge is supported by local residents, businesses and/or others affected by the parking policy.

Local authorities should set any thresholds for the minimum number of signatures to be locally achievable, even where the issues raised are of concern to a minority of those affected. Wherever practicable local authorities should set low thresholds, to ensure that their schemes encourage engagement. For instance, some existing local authority petition schemes set the thresholds at around 20 petitioners for the local authority to take action.

In setting thresholds local authorities should consider any particular geographical or population factors that may apply, such as areas of high or low population density, where the population fluctuates over the year (for instance, due to high numbers of students), or where the road users are predominantly non-resident. Local authorities should adjust their thresholds or use their discretion in relation to certain petitions rather than imposing the threshold as an immovable hurdle. Some parking issues may most directly affect a particularly small number of people – such as residents on a street. In these cases, local authorities should take this into account when considering the appropriate thresholds for specific petitions.

Local authorities should publish details of the thresholds, and clearly indicate how they will decide whether a petition meets the thresholds and the weight they will give to

representations from individuals and groups, such as Business Improvement Districts or Community Interest Groups.

Minimum Requirements for a Valid Petition – Information

Petitioners can be expected to provide sufficient information for a local authority to accurately identify the area addressed by the petition, and the issue they would like the authority to review. Petitioners should also be expected to provide contact details, so that the local authority can liaise on further information and on progress. Ideally, petitioners should state the traffic regulation orders in effect, and what aspects of those Traffic Regulation Orders will need to be reviewed – however this should not be essential. The failure to provide some or all of this information should not be treated as a reason for ruling that a petition is invalid. If the location or point for review is not clear to a local authority, it should give petitioners the chance to clarify. Most petitioners are not experts on the legal regulations relating to parking, and local authorities should offer assistance to petitioners to accurately define their challenge and ensure that local authority and petitioners have an agreed understanding of what aspects of their policies are being challenged.

Local authorities should publish clear guidance on the information that should be provided by anyone signing the petition, to satisfy the local authority that the signatures are valid, and demonstrate relevant and sufficient support for the challenge. This might include name, address and contact details.

Management of Petitions – Inappropriate Reviews

Local authorities have a responsibility to manage their resources to the best effect in performing all aspects of their duties, and to do this they must balance the resources necessary to review policies with their ongoing responsibilities. Repeated or inappropriate petitions from vexatious individuals or groups can impact negatively on this. Local authorities should include in their published petition scheme a clear statement of the grounds upon which they would define a petition as vexatious. This might include petitions calling for a review of many traffic regulation orders over too wide an area, or a series of petitions from a small or non-resident group addressing a particular aspect of the parking policies over a number of areas.

Local authorities should also clearly state when it would be inappropriate to review a policy, most usually because it has recently been reviewed or consulted on. Local authorities should provide advice to petitioners as early as possible where their petition will be refused on such grounds, and advise them on when their petition could be validly submitted. However, in deciding whether a petition will be refused on these grounds, local authorities should be flexible, particularly where a policy may have been substantially affected by an external change since the last review (for instance, major housing or commercial developments or population shifts).

Management of Petitions – Review of Parking Policies in Response to a Petition

Once it has accepted a petition, the local authority should ensure that the petitioner has a clear understanding of what aspects of its parking policies will be reviewed, and what that review will involve, including any requirement for public consultation. Large or complex reviews could take a considerable time, and local authorities will need to manage their available resources. Local authorities should ensure that petitioners have a clear understanding of the timescale, provide regular progress updates and in particular provide details on the timing and nature of any public consultation.

As in all aspects of their services, local authorities have a basic responsibility to ensure that their community understands what they are doing and why, even if some members of the community do not agree with their decisions. Following a review of a parking policy, the local authority should provide a clear report, with unambiguous plain English justification for any recommendations. They should ensure that the petitioner is provided with a copy of their report, and has an opportunity to consider and respond before a final decision is made.

Local authorities will have local and differing arrangements in place for exercising executive functions, which will include consideration of the outcome of a review of a parking policy. However, all local authorities should strive to ensure that their arrangements are transparent and accessible. Wherever possible, they should ensure that:

- To protect local democracy, decisions on the local authority's response to a petition should be made by those who are accountable to the local electorate, i.e. councillors. It should not be delegated to officers or a single executive member.
- Where the local governance arrangements mean that the initial decision is not made by councillors, petitioners should be able to escalate decisions. Petitioners should be given clear guidance on how long they have to escalate a decision with which they disagree, and how they can do so.
- Decisions should be made in a publicly accessible forum, where the petitioner has the opportunity to witness the discussion, and defend their challenge if necessary.

In all cases, local authorities should ensure that reports and decisions are published, so that the community can see what areas of parking policy have been challenged, scrutinise the decisions of their local authority, and hold them to account.

Illustrative Scheme

This short section provides some examples of how we would expect the guidance to be interpreted in practice.

A typical urban local authority:

- Local authority petition scheme has a published standard minimum of (e.g) 1000 signatures for general petitions on council services, but makes clear that these are

indicative, and that for local issues they will be adjusted to reflect a minimum of 10% of the affected residents, businesses and other road users.

- Local authority officers advise the petitioner of the area covered by the Traffic Regulation Order(s) that are relevant to the issues they are raising, and of the minimum number of signatures the petitioner needs to gather to meet the 10% minimum, based on population numbers. If necessary, the local authority advises the petitioner where their concerns are covered by a different traffic authority (for instance, Transport for London)
- On receipt of the petition, the local authority confirms that it is valid and determines how long the review will take, then publishes details of the petition and of the scheduled review.
- The local authority conducts the review as scheduled, including consultation. As part of this, the local authority uses its website to invite views from the public, local businesses and groups such as Traders Associations, Business Improvement Districts, and Community Interest Groups etc.
- On completion of the review, the local authority publishes its report, including evidence, recommendations, and details of when the report will be considered.
- The petitioner is specifically notified on when the report will be considered and is able to attend the meeting of councillors where their petition, and the review of the relevant traffic regulation order, is considered and voted upon.
- The outcome of the councillors' decision is published.

A typical rural district or county council – where responsibility for parking enforcement may be split between tiers of local government:

- The County Council publishes clear and simple online guidance (with maps) showing who is responsible for parking enforcement across their area.
- County and District Council petition schemes have a published standard minimum of (e.g) 100 signatures for general petitions on council services, but makes clear that these are indicative, and that for local issues they will be adjusted to reflect the particular circumstances.
- Council officers advise the petitioner, ensuring that they identify the Traffic Regulation Order(s) that are relevant to the issues they are raising, and that they are petitioning the correct council. They advise the petitioner of the minimum number of signatures they need to gather, taking into account that the Traffic Regulation Order may cover a wider and rural area, but that the issue being raised usually impacts on a particular and small group of residents living in a particular location. The Council ensures that the number of signatures required is appropriate for the area affected (for instance, an achievable threshold would be around 10-20% of the residents/businesses in the affected village, suburb etc).
- On receipt of the petition, the Council confirms that it is valid and determines how long the review will take, then publishes details of the petition and of the scheduled review.
- The Council conducts the review as scheduled, including consultation. As part of this, the Local Authority uses its website to invite views from the public, Town and Parish Council, local businesses and groups such as Traders Associations, Business Improvement Districts, and Community Interest Groups etc.
- On completion of the review, the local authority publishes its report, including evidence, recommendations, and details of when the report will be considered.

- The petitioner is specifically notified on when the report will be considered and is able to attend the meeting of councillors where there petition, and the review of the relevant traffic regulation order, is considered and voted upon
- The outcome of the councillors' decision is published.