
Report To: Safe, Sustainable Communities Committee **Date 1 September 2009**

**Report By: Corporate Director Environment and
Community Protection**

**Report No:
ECP/ENV/AB09.14**

Contact Officer: Robert Graham

**Contact No: 01475
714827**

Subject: Disabled Persons' Parking Places (Scotland) Act 2009

1.0 PURPOSE

- 1.1 The purpose of this report is to advise Committee of the duties imposed on Local Authorities as a result of the Disabled Persons' Parking Places (Scotland) Act 2009.

2.0 SUMMARY

- 2.1 The above Act received Royal Assent on 1st April 2009 and will come into effect on 1st October 2009.
- 2.2 The Act intends to make all Disabled Persons' Parking Places (DPPPs) legally enforceable by means of a Traffic Regulation Order (TRO) for both on and off street parking places.
- 2.3 Local Authorities are required to promote proper use of parking places for disabled person's vehicles; to convert advisory DPPPs on adopted public roads and public parking areas by promotion of TROs; to seek to make arrangements with private landowners with regard to existing advisory DPPPs; as Planning Authority to reach agreement with developers to incorporate DPPPs if required; to keep under review all DPPPs orders.
- 2.4 An Annual report must be prepared by each Local Authority detailing its performance in relation to parking places for disabled persons' vehicles; publish its annual report and send a copy of its report to the Scottish Ministers. In turn the Scottish Ministers are required to prepare and publish a report on the performance of Local Authorities on this matter and lay a copy before the Scottish Parliament on an annual basis.

3.0 RECOMMENDATIONS

- 3.1 That the Committee note the obligations placed upon it by the Disabled Persons' Parking Places (Scotland) Act 2009.
- 3.2 It is remitted to the Corporate Director, Environment and Community Protection to carry out a survey to determine the number of advisory DPPPs requiring TROs within the Council's estate along with the associated cost of promoting these Orders and to report the findings to a future Committee.
- 3.3 It is remitted to the Corporate Director, Environment and Community Protection to promote the proper use of parking places for disabled persons' vehicles.
- 3.4 It is remitted to the Corporate Director, Environment and Community Protection to promote TROs for DPPPs, at a cost agreed with the Chief Financial Officer, on request from other public bodies or private land owners who provide parking facilities for the public.

-
- 3.5 It is remitted to the Corporate Director, Environment and Community Protection to prepare an annual report detailing the performance of the Council's functions in relation to parking places for disabled persons' vehicles; to publish the report and to forward a copy of the report to the Scottish Ministers.

Alan G. Barnes
Head of Environmental Services

4.0 BACKGROUND

- 4.1 The above Act was passed by the Scottish Parliament on 26 February 2009 and received Royal Assent on 1 April 2009. The Act will come into effect on 1 October 2009.
- 4.2 The Act, in effect, will lead to all DPPPs becoming enforceable. The general approach of the Act is to impose a duty on Local Authorities, in particular circumstances, to exercise its power to make an order under either section 45 (street parking places) or section 35 (off-street parking places) of the Road Traffic Regulations Act 1984.
- 4.3 The Act requires Local Authorities to identify all existing advisory DPPPs and, for those still needed, to promote TROs. For those that are no longer required the Act requires the Local Authority to remove any road markings and/or sign posts.
- 4.4 In relation to disabled off-street parking, Local Authorities are required to promote TROs covering the disabled persons' parking places in its own public car parks and to decide if DPPPs are required where not currently provided.
- 4.5 The Act also requires each Local Authority to contact and seek to negotiate arrangements with owners of, or persons having an interest in, private car parks including other public bodies, housing associations, and private land owners such as supermarkets etc. Securing an arrangement would enable the Local Authority to promote an order to make the disabled person's parking places in private car parks enforceable. It is estimated that about 350 such parking areas may exist in the Inverclyde area.
- 4.6 The Act also prevents any further advisory DPPPs being created. It enables temporary DPPPs to be created while a TRO is being promoted in relation to that parking place. If for any reason an order fails then the Local Authority is required to remove any road markings and/or sign posts for the temporary DPPP.
- 4.7 Enforcement will continue to be the responsibility of the Police and Police Traffic Wardens unless a Local Authority has decriminalised parking enforcement in place.
- 4.8 It is current policy that the Council only creates DPPPs on roads and car parks adopted under the Roads (Scotland) Act 1984 (R(S)A1984). The above Act will supersede that policy and the Council will have to consider all applications for any type of road or parking area to which the public have a right of access. This will therefore bring into scope the car parking areas that are not adopted under the R(S)A1984. This will include all other Council assets that provide parking to the public. The Act requires the Council to identify and start to process all such advisory DPPPs within 12 months from 1 October 2009. All DPPPs on adopted public roads have been promoted through TROs. There are 24 adopted car parks within Inverclyde. 16 of these car parks are covered by TROs which will require amending to include DPPPs.
- 4.9 The Act requires the Local Authority, as part of its initial duties, to identify every off-street parking place in its area that, at the time of the Act coming into force, has advisory disabled off-street parking places. The Local Authority must then decide, in the circumstances, whether it has no power to make a disabled off-street parking order in respect of the parking place or to start the statutory procedure for the making of such an order.

5.0 PROPOSALS

- 5.1 It is a requirement of the Act that TROs are promoted for all advisory DPPPs that exist in adopted public roads and public car parks, subject to the DPPPs still being required.
- 5.2 It is proposed to carry out a survey to confirm the number of advisory DPPPs within the Council's estate. Thereafter it will be necessary to confirm the ongoing need for each of them and where appropriate promote TROs to make them enforceable. Any that are

unnecessary will require to be removed.

5.3 In accordance with the Act it will be necessary to contact other public bodies and private owners etc. who operate car parks with advisory DPPPs and establish whether they wish to have legally enforceable DPPPs promoted through TROs.

5.4 It is proposed that the cost of preparing, advertising and promoting TROs and installing the appropriate signing and marking in relation to 5.2 and 5.3 above will be charged at a rate to be agreed with the Chief Financial Officer.

5.5 The implementation and execution of the duties placed upon Local Authorities as a result of the above Act will result in the need for additional resources and funding for at least the initial 18 months after 1 October 2009. It will be necessary to provide resources to carry out surveys throughout Inverclyde to establish the number of car parks that the public have access to and to confirm the number and location of all associated existing advisory DPPPs. Thereafter, and where required, TRO's will need to be promoted for every advisory DPPP that is to be converted into a legally enforceable DPPP.

It is estimated that an additional technical post will be needed on a temporary basis to carry out the duties as outlined above.

On completion of the survey it is proposed that a further report is submitted to Committee advising of the estimated additional cost for converting and implementing existing advisory DPPPs to legally enforceable DPPPs.

6.0 IMPLICATIONS

6.1 Legal: Legal Services will be required to prepare and promote each TRO and, subject to number and the scale of the requests, may require additional resources.

6.2 Financial: It is estimated that the cost of an additional temporary technical post and the cost to promote the TRO's, including marking and signing them, within the Council's assets will be in the order of £32k in the current year and £60k in the following year. These costs will be contained within existing Roads budgets in 2009/10 and 2010/11.

6.3 Human Resources: Approval will be required for an additional temporary technical post to fulfil the requirements of the above Act.

7.0 CONSULTATION

7.1 Finance Services have been consulted on this report.

7.2 Legal Services have been consulted on this report.

7.3 Property Resources and Facilities Management have been consulted on this report.

7.4 Education Services have been consulted on this report.

7.5 Organisation Development and Human Resources have been consulted on this report.

7.6 Planning Services have been consulted on this report.

8.0 EQUALITIES

8.1 The implementation of the above Act addresses the inequalities relating to the enforcement of disabled person's parking places within the Road Traffic Regulations Act 1984.