

Report

6

Report to:	Corporate Resources Committee
Date of Meeting:	14 September 2011
Report by:	Executive Director (Corporate Resources) Executive Director (Enterprise Resources) Executive Director (Social Work Resources)

Subject:	Criteria and Procedures for Disabled Persons' Parking Bays
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ request approval of the revised Criteria and Procedures for Disabled Persons' Parking Bays as per the changes implemented by the Disabled Persons' Parking Places (Scotland) Act 2009

2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the revised Criteria and Procedures for Disabled Persons' Parking Bays be approved.

3. Background

3.1. On 1 October 2010 the Disabled Persons' Parking Places (Scotland) Act 2009 became law. The Act places a duty on the Council to make all disabled persons' parking places legally enforceable against misuse by non blue badge holders.

3.2. Key points of the Act are as follows:-

- ◆ makes disabled persons' parking places legally enforceable whether on-street or off-street
- ◆ every local authority must undertake a one-off audit of all disabled persons' parking places within their area
- ◆ a local authority must promote in its area the proper use of parking places that are designated for use only by disabled persons
- ◆ a duty on every local authority to convert all appropriate advisory on-street disabled persons' parking places into enforceable parking places
- ◆ a duty on every local authority to enter into negotiations with the owners of existing off-street car parks containing disabled persons' parking places with a view to making them enforceable and where they cannot obtain such agreement, to continue to seek such agreement at least once every two years
- ◆ disabled persons' parking places should only be used by blue badge holders. There is a parallel exercise taking place at national level, which will reform the Blue Badge Scheme in terms of entitlement and administration.
- ◆ an authority will no longer have the power to designate an advisory disabled persons' parking place

- 3.3. In South Lanarkshire, over the 5 year period that the Council has been enforcing parking, over 3,000 penalty charge notices (PCN's) have been issued to vehicles parked illegally within on-street disabled persons' parking places. This represents 800 PCN's per year and shows the scale of abuse in the South Lanarkshire area, particularly as this only represents abuse of enforceable disabled persons' parking places.
- 3.4. Over the past few years approximately 100 on-street disabled persons' parking bays in our town centres, and most popular car parks, have already been regulated for the sole use of vehicles displaying a valid "blue" badge.
- 3.5. In preparation for the implementation of the Act, the Parking Unit carried out an audit which showed that there are 861 advisory on-street disabled persons' parking places associated with individual residential properties and an estimated 200 advisory off-street Council controlled disabled persons' parking places. Work has now been carried out by the Unit to clarify the number of council car parks related to leisure facilities, community halls, schools, etc, where there is a public car parking provision, with disabled persons' parking bays, which require regulation. All are now in the process of being regulated.
- 3.6. In relation to bays outside residential properties, all 861 householders were written to and the Parking Unit received over an 83% response from these homes. The responses indicate that approximately one third of the bays are no longer required and will be removed. All on-street bays are now regulated.

4. Implications for Granting Bays

- 4.1. The enforcement of bays has prompted a review of the Council's criteria and procedures for granting a disabled persons' parking place outside their property.
- 4.2. A review of the criteria has been conducted with representatives from Social Work Resources, Enterprise Resources and the South Lanarkshire Access Panel.
- 4.3. The provision of a bay has to be in line with the principles of access and safety for the individuals concerned and safe and efficient traffic management in an area. This is in accordance with the Disabled Persons' Parking Places (Scotland) Act 2009, the Roads (Scotland) Act 1984 and the Road Traffic Regulation Act 1984 (1984 Act).
- 4.4. The Disabled Persons' Parking Places (Scotland) Act states that authorities must "consider their duties under sections 45(3) and 122 of the 1984 Act." Section 45(3) states:-

"In determining what parking places are to be designated under this section the authority concerned shall consider both the interests of traffic and those of the owners and occupiers of adjoining property, and in particular the matters to which that authority shall have regard include:-

- (a) the need for maintaining the free movement of traffic;
- (b) the need for maintaining reasonable access to premises; and
- (c) the extent to which off-street parking accommodation, whether in the open or under cover, is available in the neighbourhood or the provision of such parking accommodation is likely to be encouraged there by the designation of parking places under this section."

4.5. The Disabled Persons' Parking Places (Scotland) Act goes on to state that:-

"If it is satisfied that the person making a request under subsection (1) is a qualifying person, the authority must:-

- (a) decide whether it is possible to identify a suitable street parking place in its area from which there is convenient access to the person's address, and
- (b) if it decides that that is possible, identify such a parking place."

4.6. In order to satisfy the above, the Council criteria has been amended and is attached at appendix 1.

4.7. As regulated disabled persons parking bays can only be used when the blue badge holder is being dropped off or picked up, they could remain unused most of the time if a bay is provided for a non-driver. Therefore, the focus of the criteria is on drivers, however, in very exceptional circumstances the provision of parking places to those who are passengers will be considered. Throughout discussions with representative groups, there was a focus on reducing the persistent misuse of bays. It is considered that the criteria as set out provides the best opportunity for effective enforcement and improving neighbourhood relations.

4.8. There will be a right to appeal through the Council.

5. Employee Implications

5.1. None

6. Financial Implications

6.1. None

7. Other Implications

7.1. The risk to the Council is that if it does not have due regard to the Public Sector Equality Duty it may lead to non-compliance with equalities legislation. This can carry an unlimited financial penalty.

7.2. There are no implications for sustainability in terms of the information contained in this report.

8. Equality Impact Assessment and Consultation Arrangements

8.1. An equality impact assessment has been carried out on the recommendations contained in this report and, where issues were identified, remedial action has been taken. The assessment is that the proposals do not have any adverse impact on any part of the community covered by equalities legislation, or on community relations, and the results of the assessment will be published on the Council website.

8.2. Consultation was undertaken with Resources and with community representatives from the South Lanarkshire Access Panel.

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22 August 2011

Link(s) to Council Objectives/Values/Improvement Themes

- ◆ People focused
- ◆ Working with and respecting others
- ◆ Tackling disadvantage and deprivation

Previous References

None

List of Background Papers

None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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Criteria and Procedures for Disabled Persons' Parking Bays

Definition

A boxed area denoted by a white border with the word "Disabled".

These regulated bays are included for the use of disabled persons in order to facilitate convenient parking close to the person's home.

These bays are subject to a traffic order and the usage of them is enforceable by law.

Corporate Procedure

Assessment The NHS and Community Care Act (1990) places a responsibility on Social Work Resources to undertake a full assessment of need, inclusive of services it itself does not provide.

Consideration in respect of persons applying for a disabled parking bay is governed by the Disabled Persons Parking Places (Scotland) Act 2009 and predetermined criteria set by the Council.

Social Work Resources is responsible for advising Enterprise Resources of a disabled person's needs and eligibility for a parking bay.

The ultimate decision to provide such a facility rests with Enterprise Resources in accordance with the general requirements of safe and efficient traffic management. Where Enterprise Resources cannot support the application, they will notify Social Work Resources within a period of 2 weeks.

Provision Where the proposed site does not belong to South Lanarkshire Council, Enterprise Resources will identify ownership and refer the request to the responsible person for consideration and response.

South Lanarkshire Council Enterprise Resources is responsible for promoting a traffic regulation order to provide a parking bay.

Notification The final decision of a parking place being provided will be communicated by Social Work Resources to the applicant. As such, Enterprise will inform Social Work when the promotion of the Traffic Regulation Order has commenced.

Criteria for Provision for a Disabled Person's Parking Place

Please note that the following are the Criteria adopted by South Lanarkshire Council as those, which require to be satisfied:

1. The applicant must be in possession of a current Blue Badge.
2. The applicant must be the driver and registered keeper/qualifying person, as defined by the Disabled Persons Parking Places (Scotland) Act 2009, for the vehicle which is to be parked in the bay.
3. It is not possible to park the car:
 - * Off the road adjacent to the house
 - * In a driveway
 - * Hard-standing area
 - * Lock up or garage
4. The installation of the parking bay must not compromise the general requirement of safe and efficient traffic management in the locality.
5. In very exceptional circumstances the Council may consider non-driver badge holders.

Circumstances whereby provision will not be considered

1. Householders without a car – where the car used by the applicant is owned by an individual who resides elsewhere.
2. Sheltered Housing complexes where potentially all households could request a space.
3. Where the registered keeper/qualifying person for the car is not the main user and the bay remains unused for frequent, and/ or continual periods of time.
4. The Council have a “NO WAITING” order e.g. normally denoted by yellow lines on the carriageway.
5. Where the bay requested would be on a busy main road, close to a junction or within a turning area. Separate advice is to be sought from Enterprise Resources where provision would compromise use of the carriageway by heavy/emergency vehicles.
6. Where the applicant is the holder of a discretionary Blue Badge which is within 12 months of its expiry date and which may not be renewed.