

Public Document Pack



TO THE CHAIRMAN AND MEMBERS OF THE **EXECUTIVE**

You are hereby summoned to attend a meeting of the Executive to be held on Thursday, 18 January 2018 at 7.00 pm in the Council Chamber, Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL.

Please note the meeting will be filmed and will be broadcast live and subsequently as an archive on the Council's website (www.woking.gov.uk). The images and sound recording will also be used for training purposes within the Council. Generally, the public seating areas are not filmed. However, by entering the meeting room and using the public seating area, you are consenting to being filmed.

The Chairman of the meeting has the discretion to terminate or suspend filming, if in his/her opinion continuing to do so would prejudice the proceedings of the meeting or, on advice, considers that continued filming might infringe the rights of any individual.

As cameras are linked to the microphones, could Members ensure they switch their microphones on before they start to speak and off when finished and do not remove the cards which are in the microphones.

The agenda for the meeting is set out below.

RAY MORGAN
Chief Executive

AGENDA

PART I - PRESS AND PUBLIC PRESENT

1. Minutes

To approve the minutes of the meeting of the Executive held on 14 December 2017 as published.

2. Urgent Business

To consider any business that the Chairman rules may be dealt with under Section 100B(4) of the Local Government Act 1972.

3. Declarations of Interest

To receive declarations of disclosable pecuniary and other interest from Members in respect of any item to be considered at the meeting.

In accordance with the Members' Code of Conduct, the Leader of the Council, Councillor D J Bittleston, Councillor Mrs B A Hunwicks and Councillor C S Kemp have declared a non-pecuniary interest in Agenda Items 6 and 9 arising from their positions as Directors of the Thamesway Group of Companies.

In accordance with Officer Procedure Rules, the Chief Executive, Ray Morgan, the Deputy Chief Executive, Douglas Spinks, Strategic Director, Sue Barham and Head of Democratic and Legal Services, Peter Bryant, have declared an interest in Agenda Items 6 and 9 arising from their positions as Directors of the Thamesway Group of Companies.

In accordance with Officer Procedure Rules, the Chief Executive, Ray Morgan, has declared an interest in Agenda Item 9 arising from his position as a Director of Victoria Square Woking Limited.

In accordance with Officer Procedure Rules, the Deputy Chief Executive, Douglas Spinks, and Head of Democratic and Legal Services, Peter Bryant, have declared an interest in Agenda Item 9 arising from their positions as Directors of Woking Necropolis and Mausoleum Limited, Brookwood Park Limited and Brookwood Cemetery Limited.

In accordance with Officer Procedure Rules, the Chief Executive, Ray Morgan, and the Deputy Chief Executive, Douglas Spinks, have declared an interest in Agenda Item 9 arising from their positions as Directors of Export House Limited.

Questions

4. To deal with any written questions submitted under Section 3 of the Executive Procedure Rules. Copies of the questions and draft replies will be laid upon the table.

Notices of Motion

At its meeting on 7 December 2017, the Council referred the following Notices of Motion to the Executive for consideration.

5. Notice of Motion - Cllr W P Forster - Support for Care Leavers (Pages 5 - 8)
6. Notice of Motion - Cllr K Howard - Roadside Litter (Pages 5 – 8)

Matters for Recommendation

7. Protocols of the Thamesway Group of Companies (Pages 9 - 44)
Reporting Person – Ray Morgan
8. Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences (Pages 45 - 54)
Reporting Person – Douglas Spinks

Matters for Determination

9. Parking for the Faith Community and Community Groups (Pages 55 - 126)
Reporting Person – Peter Bryant

Performance Management

10. Performance and Financial Monitoring Information

Please bring to the meeting your copy of the Performance and Financial Monitoring Information (Green Book) November 2017.

AGENDA ENDS

Date Published - 10 January 2018

For further information regarding this agenda and arrangements for the meeting, please contact Julie Northcote on 01483 743053 or email julie.northcote@woking.gov.uk



Mixed Sources

Product group from well-managed
forests and other controlled sources

www.fsc.org Cert no. SA-COC-001794
© 1996 Forest Stewardship Council

EXECUTIVE - 18 JANUARY 2018

NOTICES OF MOTION

Executive Summary

At its meeting on 7 December 2017, the Council referred the following Notices of Motion to the Executive.

Councillor W P Forster

“Care leavers have had their childhoods punctuated by instability and trauma, they leave home earlier and have less support than other young people. As a result, care leavers have some of the worse life chances in the country.

A 2016 report by the Children's Society found that when care leavers move into independent accommodation, they find managing their own finances extremely challenging. With no family to support them and insufficient financial education, care leavers are falling into debt and financial difficulty. The Children's Society recommends that care leavers should be taken out of Council Tax until they turn 25.

The Children and Social Work Act 2017 places corporate parenting responsibilities on borough and district councils for the first time, requiring them to have regard to children in care and care leavers when carrying out their functions.

To ensure that transition from care to adult life is as smooth as possible and to mitigate the chances of care leavers falling into debt as they begin to manage their own finances, this Council agrees not to charge care leavers under 25 living in Woking Borough any Council Tax from April 2018.

This Council also agrees to look at ways of supporting care leavers further to ensure they fulfil their potential.”

Officer Comment

“A person who is liable to pay Council Tax has the right to apply to the Council for a reduction in the amount of Council Tax due to be paid. Usually discount is available via **statutory schemes** for payers on low incomes or discount schemes and personal exemptions. Therefore when considering a “local” discount/exemption for care leavers existing statutory reductions should be applied first as these will be funded through the statutory scheme.

If after considering statutory schemes a charge is still payable, by a care leaver, then under Section 13A of the Local Government Finance Act 1992 there is a general discretionary power **to go further** with discount in specific cases. This would be Discretionary Local scheme discount funded by Woking Borough Council.

A Section 13A application form would be required to be completed for each application and these could be determined by a senior officer within the Council Tax section in accordance with the determined policy. While the award is entirely discretionary with no appeal process, it is good practice that any disputed decisions are referred to another officer for review and a final decision.

In relation to the scheme/policy itself it would seem sensible to mirror the statutory scheme for full time students.

In that:

1. If the chargeable property occupied solely by a care leaver then after any statutory discounts have been applied the remaining charge is remitted using the powers under Section 13A.
2. If the property is occupied by 2 adults, one of which is a care leaver, then the care leaver is treated as disregarded (i.e. as though not there) which would normally result in a 25% discount on the charge.
3. If the property is occupied by more than 2 adults, one of which is a care leaver, then the care leaver is treated as disregarded (i.e. as though not there) which would have no affect on reducing the charge as there are still 2 non discounts adults.

Finally, the Council Tax data base holds no data on care leavers, in order to apply any discounts the names, address, dates of birth, etc. would need to be supplied to the Council Tax section in order that applications can be sent. This would need to comply with data protection rules, particularly the changes being introduced in May 2018 under the General Data Protection Regulation.”

Councillor K Howard

“With a view to finding a solution to the ongoing problem of roadside litter, officers will investigate and recommend ways in which the Council can target people who throw litter from vehicles on the public highway.”

Officer Comment

“Officers will continue to be proactive in tackling the anti social practice of throwing litter from vehicles on to the public highway where the offence is witnessed.

Following a public consultation as part of the launch of the Government’s Litter Strategy in April 2017 new powers are expected to be available for Local Authorities from April 2018 to include the below:-

- from April, the maximum on-the-spot fine local authorities can issue for dropping litter will nearly double, from £80 to £150. The minimum fine will increase from £50 to £65, while the default fine will increase from £75 to £100; and
- for the first time, local authorities will also be able to apply these penalties for littering to vehicle owners if it can be proved litter was thrown from their car – even if it was discarded by somebody else.

Once the new powers are confirmed the opportunity will be taken to promote the topic and the Council’s intention to proactively enforce hot spots around the Borough to protect our local environment. A report on the new powers will be brought to a future meeting of the Executive.”

Background Papers:

None.

Reporting Person:

Cllr Will Forster
E Mail: CllrWill.Forster@woking.gov.uk

Cllr Ken Howard
E Mail: CllrKen.Howard@woking.gov.uk

Douglas Spinks, Deputy Chief Executive
Ext. 3440, E Mail: Douglas.Spinks@woking.gov.uk

Leigh Clarke, Finance Director
Ext. 3277, E Mail: Leigh.Clarke@woking.gov.uk

Contact Person:

Cllr Will Forster
E Mail: CllrWill.Forster@woking.gov.uk

Cllr Ken Howard
E Mail: CllrKen.Howard@woking.gov.uk

Geoff McManus, Assistant Director (Place)
Ext. 3707, E Mail: Geoff.McManus@woking.gov.uk

David Ripley, Revenues and Benefits Manager
Ext. 3630, E Mail: David.Ripley@woking.gov.uk

Portfolio Holder:

Cllr Ayesha Azad
E Mail: CllrAyesha.Azad@woking.gov.uk

Cllr Beryl Hunwicks
E Mail: CllrBeryl.Hunwicks@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ann-Marie Barker
E Mail: CllrAnn-Marie.Barker@woking.gov.uk

Cllr Ken Howard
E Mail: CllrKen.Howard@woking.gov.uk

Date Published:

10 January 2018

EXECUTIVE - 18 JANUARY 2018

PROTOCOLS OF THE THAMESWEY GROUP OF COMPANIES

Executive Summary

This report considers changes to the protocols for the Thameswey Group of Companies proposed by the Overview and Scrutiny Committee on 27 November 2017.

Reasons for Decision

To consider the recommendation from the Overview and Scrutiny Committee.

Recommendations

The Executive is requested to:

RECOMMEND to Council That

the revised Protocols of the Thameswey Group of Companies, as set out in Appendix 2 to the report, be adopted.

This item will need to be dealt with by way of a recommendation to the Council.
--

Background Papers:

None.

Sustainability Impact Assessment
Equalities Impact Assessment

Reporting Person:

Ray Morgan, Chief Executive
Ext. 3333, E Mail: ray.morgan@woking.gov.uk

Contact Person:

Ray Morgan, Chief Executive
Ext. 3333, E Mail: ray.morgan@woking.gov.uk

Portfolio Holder:

Cllr David Bittleston
E Mail: CllrDavid.Bittleston@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ian Johnson
E Mail: CllrIan.Johnson@woking.gov.uk

Date Published:

10 January 2018

1.0 Introduction

- 1.1 At the meeting of the Overview and Scrutiny Committee on 24 July 2017, Councillor Kingsbury proposed that a review should be undertaken of the protocols for the Thamesway Group of Companies which had been adopted over six years earlier.
- 1.2 The Members of the Committee supported the proposal and Councillor Kingsbury, together with Councillor Johnson, Chairman of the Committee, undertook to review the protocols. The Overview and Scrutiny Committee, at its meeting on 27 November 2017, received a report which set out the changes proposed by Councillor Kingsbury and Councillor Johnson. The Committee agreed to recommend the proposed changes to the Executive.

2.0 Present Position

- 2.1 In reporting the recommendation of the Overview and Scrutiny Committee to the Executive, one further change is proposed to the protocols.
- 2.2 Paragraph 18 a) of the protocols deals with communication between Thamesway and Council Committees/Councillors. It provides that Thamesway will adopt the same Part 1 and Part 2 arrangements that the Council operates. This is inconsistent with the requirement that Thamesway's Board papers will only be provided to Members who have signed a Non Disclosure Agreement and won't, as stated in paragraph 22 of the protocols, normally be published. It is, therefore, proposed to delete the reference to Part 1/Part 2 arrangements from paragraph 18 a) of the protocols.
- 2.3 If the revised protocols are adopted by Council, the Articles of Association for each Thamesway company will be reviewed to ensure consistency with the protocols.
- 2.4 Attached to this report is a copy of the existing protocols with proposed amendments highlighted throughout (Appendix 1) and a copy of the protocols with the proposed amendments incorporated into the text (Appendix 2). An extract from the minutes of the Overview and Scrutiny Committee is attached at Appendix 3.

3.0 Implications

Financial

- 3.1 None.

Human Resource/Training and Development

- 3.2 None.

Community Safety

- 3.3 None.

Risk Management

- 3.4 None.

Sustainability

- 3.5 None.

Equalities

3.6 None.

4.0 Consultations

4.1 As set out in this report.

REPORT ENDS

EXE17-083

APPENDICES

Equality Impact Assessment

The purpose of this assessment is to improve the work of the Council by making sure that it does not discriminate against any individual or group and that, where possible, it promotes equality. The Council has a legal duty to comply with equalities legislation and this template enables you to consider the impact (positive or negative) a strategy, policy, project or service may have upon the protected groups.

		Positive impact?			Negative impact?	No specific impact	What will the impact be? If the impact is negative how can it be mitigated? (action) THIS SECTION NEEDS TO BE COMPLETED AS EVIDENCE OF WHAT THE POSITIVE IMPACT IS OR WHAT ACTIONS ARE BEING TAKEN TO MITIGATE ANY NEGATIVE IMPACTS
		Eliminate discrimination	Advance equality	Good relations			
Gender	Men					X	
	Women					X	
Gender Reassignment						X	
Race	White					X	
	Mixed/Multiple ethnic groups					X	
	Asian/Asian British					X	
	Black/African/Caribbean/Black British					X	
	Gypsies / travellers					X	
	Other ethnic group					X	

		Positive impact?			Negative impact?	No specific impact	What will the impact be? If the impact is negative how can it be mitigated? (action) THIS SECTION NEEDS TO BE COMPLETED AS EVIDENCE OF WHAT THE POSITIVE IMPACT IS OR WHAT ACTIONS ARE BEING TAKEN TO MITIGATE ANY NEGATIVE IMPACTS
		Eliminate discrimination	Advance equality	Good relations			
Disability	Physical					X	
	Sensory					X	
	Learning Difficulties					X	
	Mental Health					X	
Sexual Orientation	Lesbian, gay men, bisexual					X	
Age	Older people (50+)					X	
	Younger people (16 - 25)					X	
Religion or Belief	Faith Groups					X	
Pregnancy & maternity						X	
Marriage & Civil Partnership						X	
Socio-economic Background						X	

The purpose of the Equality Impact Assessment is to improve the work of the Council by making sure it does not discriminate against any individual or group and that, where possible, it promotes equality. The assessment is quick and straightforward to undertake but it is an important step to make sure that individuals and teams think carefully about the likely impact of their work on people in Woking and take action to improve strategies, policies, services and projects, where appropriate. Further details and guidance on completing the form are [available](#).

Sustainability Impact Assessment

Officers preparing a committee report are required to complete a Sustainability Impact Assessment. Sustainability is one of the Council's 'cross-cutting themes' and the Council has made a corporate commitment to address the social, economic and environmental effects of activities across Business Units. The purpose of this Impact Assessment is to record any positive or negative impacts this decision, project or programme is likely to have on each of the Council's Sustainability Themes. For assistance with completing the Impact Assessment, please refer to the instructions below. Further details and guidance on completing the form are [available](#).

Theme (Potential impacts of the project)	Positive Impact	Negative Impact	No specific impact	What will the impact be? If the impact is negative, how can it be mitigated? (action)
Use of energy, water, minerals and materials			X	
Waste generation / sustainable waste management			X	
Pollution to air, land and water			X	
Factors that contribute to Climate Change			X	
Protection of and access to the natural environment			X	
Travel choices that do not rely on the car			X	
A strong, diverse and sustainable local economy			X	
Meet local needs locally			X	
Opportunities for education and information			X	
Provision of appropriate and sustainable housing			X	
Personal safety and reduced fear of crime			X	
Equality in health and good health			X	
Access to cultural and leisure facilities			X	
Social inclusion / engage and consult communities			X	
Equal opportunities for the whole community			X	
Contribute to Woking's pride of place			X	

Thamesway Group Protocols

Contents

1. Protocol Group.....	3
2. Introduction.....	3
3. Financial reporting and records.....	3
4. Performance and Financial Monitoring Information.....	4
5. Suggested Key Performance Indicators (KPIs) for all Thameswey companies.....	4
6. Political non-alignment.....	4
7. Cooperation between Thameswey companies.....	5
8. Public representation of the company and the group.....	5
9. Third party representation.....	5
10. Use of the Thameswey brand.....	5
11. Protecting company assets.....	6
12. Group policies.....	6
13. Intra Group Communications.....	6
14. The Shareholder.....	6
15. Corporate citizenship.....	6
16. Conduct.....	6
17. Concurrent employment.....	8
18. Communication by Thameswey with Council committees and Councillors.....	8
19. Board Governance.....	9
20. Composition of the Boards.....	10
21. Group Company Boards.....	12
22. Listing of Group Companies.....	12
23. Website communication.....	12

Protocol Group

Thameswey Group Protocols

1. Protocol Group

~~At the Thameswey Ltd Board meeting held 15th February 2011 the Chairman explained that he felt the Thameswey Limited Board should have more information on all subsidiary companies activities. The Thameswey Group Protocol has been introduced in order to ensure good governance and management of the Thameswey Group of Companies. It has been agreed and is reviewed by was agreed that a Working Group was the best way to create protocols for this purpose. Board Members were encouraged to send any suggestions for consideration to Barry Maunders. Members of the Working Group were Steve Bonsor, Cllr John Kingsbury, Barry Maunders and John Thorp. It is suggested that the Protocol Group meet annually to review the operation of the protocols as part of the business plan approval process appointed by the the Council in its role as Group Shareholder.~~

Formatted: Font color: Accent 3

2. Introduction

The Thameswey Group of companies (“Company” or “Group”) focuses on the development and management of projects that increase the use of sustainable energy, tackle fuel poverty, reduce water waste and encourage green transport both inside and outside the Borough of Woking, provide affordable homes and develop land and property in support of the Council’s strategies. The Thameswey Group is committed to benefiting the sustainable economic development of the Borough of Woking.

Formatted: Font color: Accent 3

To the extent permitted by law, no Thameswey company shall undertake any project or activity to the detriment of the Woking Borough Council (“Council” or “WBC”) or the wider interests of the communities which it serves.

3. Financial reporting and records

Thameswey prepares and maintains its accounts in accordance with the accounting and financial reporting standards which represent the generally accepted guidelines, principles, standards, laws and regulations of the UK. Thameswey’s management practices and business

conduct benefit the localities and communities in which it operates, to the extent possible and affordable, and are in accordance with the agreed strategies of the Council.

Internal accounting and audit procedures reflect all of the company's business transactions and disposition of assets, and has internal controls to provide assurance to the company's board, shareholders and stakeholders that the transactions are accurate and legitimate. All required information is accessible to company auditors and other authorised parties and the Council.

Thameswey operates under a system of delegated authority which is reviewed annually to ensure it remains relevant and fit for purpose.

Formatted: Font color: Accent 3

~~There are no willful omissions of any company transactions from the books and records, no advance income recognition and no hidden bank account and funds.~~

4. Performance and Financial Monitoring Information

The Thameswey Group has been organised and resourced to prepare full financial activity reports as part of the statutory accounts and at Board meetings (currently 3 times a year), quarterly, but with theKey information, set out in (5) below is to be prepared for inclusion in the Council's Green Book on a monthly basis. Board meetings are held quarterly and WBC settles accounts with Thameswey Housing Limited and Thameswey Developments Limited on a quarterly basis. It is therefore proposed that the Thameswey Group continue reporting primarily on a quarterly basis. The Thameswey Limited also provides a Mmonthly performance report to all Boards setting out key financial standing of the company and its subsidiaries, recent activity and key performance indicators. This monthly report is regularly reviewed by the Thameswey Limited Board.

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

5. ~~Suggested~~ Key Performance Indicators (KPIs) for all Thameswey companies

With comparisons to approved budget:

- i. New lending
- ii. Loan and Interest Payments
- iii. Sales
- iv. Capital Expenditure
- v. Employee numbers

6. Political non-alignment

Subject to all applicable legal obligations, Thameswey is committed to supporting the constitution and governance systems of the Council. Thameswey does not support any specific political party or candidate for political office. The company's conduct precludes any activity that could be interpreted as mutual dependence / favour with any political body or person, and does not offer or give any company funds or property as donations to any political party, candidate or campaign.

7. Cooperation between Thameswey companies

Thameswey companies cooperate with other Thameswey group companies including applicable joint ventures, by sharing knowledge and physical, human and management resources.

In the procurement of products and services, a Thameswey company gives preference to other Thameswey companies, subject to relevant EU procurement rules, and as long as they can provide these on competitive terms relative to third parties.

8. Public representation of the company and the group

The Thameswey group, in all its public appearances (with respect to disclosing company and business information to public, constituencies such as the media, the financial community, employees and shareholders), may be represented by any director and/or specified employee as approved from time to time by the respective company board.

9. Third party representation

Parties which have business dealings with the Thameswey group but are not members of the group, such as consultants, contractors and suppliers, are not authorised to represent a Thameswey company without the written permission of the Thameswey Limited board.

Third parties and their employees are expected to abide by the Group code of conduct in their interaction with, and on behalf of, a Thameswey company. Thameswey companies are encouraged to sign a non-disclosure agreement with third parties to support confidentiality of information.

10. Use of the Thameswey brand

The use of the Thameswey name and trademark shall be governed by manuals and agreements issued by Thameswey. No third party or joint venture shall use the Thameswey

brand to further its interests without specific authorisation from the board of Thameswey Limited or its authorised officer.

~~We will ensure that everyone working on our projects uses our~~ The brand ~~should be~~ consistently ~~used~~ in all published material and communications. An administrator will be tasked to oversee the use of the brand identity to ensure consistency and training will be arranged if needed. Any new staff will be offered a short induction session on correct use.

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

11. Protecting company assets

The assets of a Thameswey company shall not be misused; they shall be employed judiciously for the purpose of conducting the business for which they are duly authorised. These include tangible assets such as equipment and machinery, systems, facilities, materials and resources, as well as intangible assets such as information technology and systems, proprietary information, intellectual property, and relationships with customers and suppliers.

12. Group Policies

The shareholders of each Thameswey company shall recommend its board of directors adopt the policies and guidelines periodically formulated by the Thameswey Limited board. ~~Thameswey Limited operates and has approved a scheme of delegation which empowers officers of the group to make operational decisions, including committing to contracts and expenditure, within prescribed limits.~~

13. Intra Group Communications

Members of the board of Thameswey Ltd. will receive agendas, minutes and reports from each of its subsidiary's board meetings, as soon as they become available. ~~In order to accommodate this, a gap of at least 10 working days between meetings of all subsidiary boards and the subsequent Thameswey Limited board meeting in the same cycle, should be arranged.~~

14. The Shareholders

Thameswey Limited and its subsidiaries shall be committed to enhancing shareholder value and complying with all regulations and laws that govern shareholder rights. The board of directors of a Thameswey company shall inform its shareholders about all relevant aspects of the company's business.

15. Corporate citizenship

A Thameswey company shall be committed to good corporate citizenship, not only in the compliance of all relevant laws and regulations but also by actively assisting in the improvement of quality of life of the people in the communities in which it operates. The company shall encourage collaboration with community groups.

A Thameswey company shall not treat these activities as optional, but should strive to incorporate them as an integral part of its business plan.

16. Conduct

Thameswey supports the following principles of public life and the culture of the business is one of honesty and opposition to fraud and corruption. These principles are reflected in our procedures and ways of working.

There is an expectation and requirement that all individuals and organisations associated with Thameswey in whatever way, such as contractors, partners and suppliers, will act with integrity and that directors and staff at all levels will lead by example in these matters ensuring adherence to legal requirements, financial regulations, codes of conduct, procedures and professional practice.

Selflessness: Thameswey should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity: Thameswey directors and staff should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity: Thameswey directors and staff should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability: Thameswey directors and staff should recognise that they are part of a body which is accountable to the public for their actions and the manner in which they carry out their responsibilities and should therefore co-operate fully and honestly with any scrutiny appropriate to their office.

Openness: Thameswey directors and staff should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgment: Thameswey directors and staff may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others: Thamesway directors and staff should promote equality by not discriminating unlawfully against any person, and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the integrity of the statutory officers of WBC and all employees of Thamesway companies and WBC.

Leadership: Thamesway directors and staff should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves confidence in the actions and operations of the Thamesway Group.

17. Concurrent employment

~~The boards of each Thamesway company shall, subject to all applicable laws, exercise all reasonable endeavors to procure that the employment contracts of Thamesway company employees restrict such employees from accepting employment or a position of responsibility (such as a consultant or a director) elsewhere.~~ Councillor Directors and Independent Directors will be required to notify the company of ~~external~~such appointments but do not require prior approval. Where such appointments would put a director in a position where his interests would be conflicted, they may be approved in advance by either a resolution of the shareholders or, where a company's articles of association permit, by the board of the Thamesway Company concerned.

18. Communication by Thamesway with Council committees and Councillors

The Board attaches great importance to maintaining good relationships with all shareholders, who are kept informed of significant company developments.

- a) All Councillors will have access to all agendas & reports -subject to commercial confidentiality ~~and as such need to have signed a current Non Disclosure Agreement prior to receiving any paperwork board papers or attending meetings. To do this the Group shall adopt the same Part 1 & Part 2 agenda split arrangements that the Council does in its meetings/papersoperates.~~

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

- b) To aid transparency, Thamesway will list dates of Board meetings on the Thamesway web site.
- c) Summary briefings will be given to Councillors and presentations will be made of the ~~mid~~ financial year results ~~to date~~ against the Thamesway business plan ~~and at the same~~ time ~~of as~~ the annual business plan approval. ~~This ese~~ briefings will include a summary of previous period activity and expectations for the forthcoming period. Other meetings to discuss company direction will be held on an ad hoc basis. Regular dialogue will help to ensure that the company's strategy is understood and that any queries or other issues are addressed in a constructive way.
- d) All company announcements and presentations (subject to confidentiality arrangements) will be made available on the Thamesway website which should also contain ~~corporate~~ ~~corporate and customer information~~ ~~information and information for customers~~, updated on a regular basis ~~and together with~~ answers to frequently asked questions.

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

Formatted: Font color: Accent 3

The ~~managing director~~ ~~chief operating officer~~, ~~group finance director~~ ~~chief financial officer~~ and ~~other~~ directors should be closely involved in shareholder relations and report back to the board the views of WBC and any communication from WBC to ensure that, both executive and non-executive directors, have an understanding of the view. The chairman and the other directors are available to meet the major shareholder on a mutually agreed basis. The board seeks to encourage a more active interest and contribution from shareholders.

19. Board Governance

A company board should not be so large as to be unwieldy. The boards should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption.

To ensure that power and information are not concentrated in one or two individuals, there should be a strong presence on all boards of Independent, Councillor and Officer Directors. Accordingly Group Company Boards should seek to achieve the following proportions, 1 Independent director, 1 Councillor Director and 2 Officer Directors but in any case Officer Directors must not be in the majority.

The Thamesway Ltd. board will appoint one of the Independent directors to be the Chairman of the Board. The Chairman will be accountable to the shareholder if it has concerns on any matter in respect of which contact through the normal channels of ~~managing director or finance~~

~~director~~chief operating officer and chief financial officer, has failed to resolve or for which such contact is inappropriate.

Whilst recognising that most shareholder contact is with the ~~managing director~~chief operating officer and ~~finance director~~chief financial officer, the chairman and other directors as appropriate will maintain sufficient contact with WBC to understand its issues and concerns.

- a) The Chairman will ensure that the views of the shareholder are communicated to the Thamesway Ltd. board as a whole. The Chairman and WBC may discuss governance and strategy. Independent directors should be offered the opportunity to attend meetings with WBC. The Chairman will attend sufficient meetings with a range of representatives of WBC to listen to their views in order to help develop a balanced understanding of the issues and concerns of WBC.
- b) Subject to them having completed and submitted in advance, a Non Disclosure Agreement: -
 - i. The agendas of board meetings of Thamesway Limited and its subsidiaries shall be available to Members of the Council; and
 - ii. Members of the Council may attend board meetings as observers, by prior written notification to the Chairman of the relevant board.
- c) Subsidiary Company boards must submit any new proposals which cause changes to the Council Approved Thamesway Group Business Plan to Thamesway Limited which, if it supports the proposal, ~~will~~may recommend accordingly to the WBC Executive for consideration and recommendation thereon to the Council for approval.

20. Composition of the Boards

The respective Company boards should comprise of the following Directors and be reviewed annually by the Council: -

Thamesway Limited (Group Holding Company)

Councillor Directors

The Leader of the Council, or his/~~her~~ nominee, who must be a Member of the Council's Executive

Formatted: Font color: Accent 3

Council Directors appointed to the Board of any subsidiary

Independent Directors

~~Three~~ Independent Directors recruited by the Council

Officer Directors

The Chief Executive of the Council

Officer Directors appointed to the Board of any subsidiary

Subsidiary Companies within the Thamesway Group

Councillor Directors

The Leader of the Council, or his/[her](#) nominee, who must be a Member of the Council's Executive

Formatted: Font color: Accent 3

The Member of the Council holding the Portfolio for the relevant area of the Council's business

[Any other Member of the Council](#)

Formatted: Font color: Accent 3

Independent Directors

Up to two Independent Directors

Officer Directors

Up to two Officer Directors

~~Additional Director~~

~~The Managing Director of Thamesway Limited~~

Associated Companies

Where Thamesway Limited has less than 51% of the shares of an Associated Company the composition of the board will be determined by the Council, or in accordance with the arrangements determined by the Council. ~~when the Company is established~~

Election of Chairman

Thamesway Limited and its subsidiaries shall ensure that an Independent Director is elected Chairman of the respective Company.

Quorum

A quorum for each board meeting shall be ~~at least the greater of 40% of the membership of the board or~~ three directors which must comprise at least 1 Independent Director, 1 Councillor Director and 1 Officer Director of the relevant board.

Formatted: Font color: Accent 3

Alternate Directors

All Directors of subsidiary companies may appoint an Alternate Director of the same Director class (Independent, Councillor or Officer) in the event that he/she cannot attend a board meeting. The Alternate Director must be a Director of Thameswey Limited.

Additional Directors

The shareholder of a Thameswey Group subsidiary may appoint an Additional Director in the event that a director of the subsidiary is absent and has not appointed an Alternate Director. The Alternate Director must be a Director of Thameswey Limited.

The shareholder of Thameswey Limited may appoint an Additional Director in the event that a director of Thameswey Limited is absent and has not appointed an Alternate Director.

21. Company Board Meetings

Company board meetings will usually be held in person. In the event that exceptional circumstances necessitate a paper, email, telephone, video, electronic or other form of meeting permitted by the Articles or Company law, the Company shall in the notice of the meeting state the reasons for the meeting in a different form and record in the minutes of the said meeting the reasons and the decision reached at the meeting. The minutes of the said meeting will be published as soon as possible and reported to the next normal board meeting of the Company.

~~22. Listing of Group companies~~

~~This Protocol will apply to Thameswey Limited and its subsidiaries and associated companies as determined from time to time. At 28th November 2014 the Thameswey Group Companies are: —Thameswey Energy Limited (TEL); Thameswey Central Milton Keynes Limited (TCMK); Thameswey Sustainable Communities Limited (TSC); Thameswey Housing Limited (THL); Thameswey Developments Limited (TDL); Thameswey Solar Limited (TSL); Thameswey Guest Houses Limited (TGHL) and Thameswey Maintenance Services Limited (TMSL).~~

~~23.22. Website communication~~

To the extent possible to preserve commercial confidentiality, Thameswey Group company agendas and minutes will not be published on the Group website.

~~A management report will be published quarterly.~~

End

Thamesway Group Protocols

Contents

1. Protocol Group.....	3
2. Introduction.....	3
3. Financial reporting and records.....	3
4. Performance and Financial Monitoring Information	4
5. Key Performance Indicators (KPIs) for all Thameswey companies	4
6. Political non-alignment.....	4
7. Cooperation between Thameswey companies.....	4
8. Public representation of the company and the group	5
9. Third party representation	5
10. Use of the Thameswey brand	5
11. Protecting company assets	5
12. Group Policies	6
13. Intra Group Communications	6
14. Shareholders	6
15. Corporate citizenship	6
16. Conduct	6
17. Concurrent employment.....	7
18. Communication by Thameswey with Council committees and Councillors.....	8
19. Board Governance.....	9
20. Composition of the Boards.....	10
21. Company Board Meetings.....	11
22. Website communication	12

Protocol Group

Thameswey Group Protocols

1. Protocol Group

The Thameswey Group Protocol has been introduced in order to ensure good governance and management of the Thameswey Group of Companies. It has been agreed and is reviewed by a Working Group appointed by the Council in its role as Group Shareholder.

2. Introduction

The Thameswey Group of companies (“Company” or “Group”) focuses on the development and management of projects that increase the use of sustainable energy, tackle fuel poverty, reduce water waste and encourage green transport both inside and outside the Borough of Woking, provide affordable homes and develop land and property in support of the Council’s strategies. The Thameswey Group is committed to benefiting the sustainable economic development of the Borough of Woking.

To the extent permitted by law, no Thameswey company shall undertake any project or activity to the detriment of the Woking Borough Council (“Council” or “WBC”) or the wider interests of the communities which it serves.

3. Financial reporting and records

Thameswey prepares and maintains its accounts in accordance with the accounting and financial reporting standards which represent the generally accepted guidelines, principles, standards, laws and regulations of the UK. Thameswey’s management practices and business conduct benefit the localities and communities in which it operates, to the extent possible and affordable, and are in accordance with the agreed strategies of the Council.

Internal accounting and audit procedures reflect all of the company’s business transactions and disposition of assets, and has internal controls to provide assurance to the company’s board, shareholders and stakeholders that the transactions are accurate and legitimate. All required information is accessible to company auditors and other authorised parties and the Council.

Thameswey operates under a system of delegated authority which is reviewed annually to ensure it remains relevant and fit for purpose.

4. Performance and Financial Monitoring Information

The Thameswey Group has been organised and resourced to prepare full financial activity reports as part of the statutory accounts and at Board meetings (currently 3 times a year). Key information, set out in (5) below is prepared for inclusion in the Council's Green Book on a monthly basis. Thameswey Limited also provides a monthly performance report to all Boards. This report is regularly reviewed by the Thameswey Limited Board.

5. Key Performance Indicators (KPIs) for all Thameswey companies

With comparisons to approved budget:

- i. New lending
- ii. Loan and Interest Payments
- iii. Sales
- iv. Capital Expenditure
- v. Employee numbers

6. Political non-alignment

Subject to all applicable legal obligations, Thameswey is committed to supporting the constitution and governance systems of the Council. Thameswey does not support any specific political party or candidate for political office. The company's conduct precludes any activity that could be interpreted as mutual dependence / favour with any political body or person, and does not offer or give any company funds or property as donations to any political party, candidate or campaign.

7. Cooperation between Thameswey companies

Thameswey companies cooperate with other Thameswey group companies including applicable joint ventures, by sharing knowledge and physical, human and management resources.

In the procurement of products and services, a Thameswey company gives preference to other Thameswey companies, subject to relevant EU procurement rules, and as long as they can provide these on competitive terms relative to third parties.

8. Public representation of the company and the group

The Thameswey group, in all its public appearances (with respect to disclosing company and business information to public, constituencies such as the media, the financial community, employees and shareholders), may be represented by any director and/or specified employee as approved from time to time by the respective company board.

9. Third party representation

Parties which have business dealings with the Thameswey group but are not members of the group, such as consultants, contractors and suppliers, are not authorised to represent a Thameswey company without the written permission of the Thameswey Limited board.

Third parties and their employees are expected to abide by the Group code of conduct in their interaction with, and on behalf of, a Thameswey company. Thameswey companies are encouraged to sign a non-disclosure agreement with third parties to support confidentiality of information.

10. Use of the Thameswey brand

The use of the Thameswey name and trademark shall be governed by manuals and agreements issued by Thameswey. No third party or joint venture shall use the Thameswey brand to further its interests without specific authorisation from the board of Thameswey Limited or its authorised officer.

The brand should be consistently used in all published material and communications. An administrator will be tasked to oversee the use of the brand identity to ensure consistency and training will be arranged if needed. Any new staff will be offered a short induction session on correct use.

11. Protecting company assets

The assets of a Thameswey company shall not be misused; they shall be employed judiciously for the purpose of conducting the business for which they are duly authorised. These include tangible assets such as equipment and machinery, systems, facilities, materials and resources, as well as intangible assets such as information technology and systems, proprietary information, intellectual property, and relationships with customers and suppliers.

12. Group Policies

The shareholders of each Thameswey company shall recommend its board of directors adopt the policies and guidelines periodically formulated by the Thameswey Limited board. Thameswey Limited operates and has approved a scheme of delegation which empowers officers of the group to make operational decisions, including committing to contracts and expenditure, within prescribed limits.

13. Intra Group Communications

Members of the board of Thameswey Ltd. will receive agendas, minutes and reports from each of its subsidiary's board meetings, as soon as they become available.

14. Shareholders

Thameswey Limited and its subsidiaries shall be committed to enhancing shareholder value and complying with all regulations and laws that govern shareholder rights. The board of directors of a Thameswey company shall inform its shareholders about all relevant aspects of the company's business.

15. Corporate citizenship

A Thameswey company shall be committed to good corporate citizenship, not only in the compliance of all relevant laws and regulations but also by actively assisting in the improvement of quality of life of the people in the communities in which it operates. The company shall encourage collaboration with community groups.

A Thameswey company shall not treat these activities as optional, but should strive to incorporate them as an integral part of its business plan.

16. Conduct

Thameswey supports the following principles of public life and the culture of the business is one of honesty and opposition to fraud and corruption. These principles are reflected in our procedures and ways of working.

There is an expectation and requirement that all individuals and organisations associated with Thameswey in whatever way, such as contractors, partners and suppliers, will act with integrity and that directors and staff at all levels will lead by example in these matters ensuring adherence to legal requirements, financial regulations, codes of conduct, procedures and professional practice.

Selflessness: Thameswey should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity: Thameswey directors and staff should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity: Thameswey directors and staff should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability: Thameswey directors and staff should recognise that they are part of a body which is accountable to the public for their actions and the manner in which they carry out their responsibilities and should therefore co-operate fully and honestly with any scrutiny appropriate to their office.

Openness: Thameswey directors and staff should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgment: Thameswey directors and staff may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others: Thameswey directors and staff should promote equality by not discriminating unlawfully against any person, and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the integrity of the statutory officers of WBC and all employees of Thameswey companies and WBC.

Leadership: Thameswey directors and staff should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves confidence in the actions and operations of the Thameswey Group.

17. Concurrent employment

Councillor Directors and Independent Directors will be required to notify the company of external appointments but do not require prior approval. Where such appointments would put a director in a position where his interests would be conflicted, they may be approved in advance by either a resolution of the shareholders or, where a company's articles of association permit, by the board of the Thameswey Company concerned.

18. Communication by Thameswey with Council committees and Councillors

The Board attaches great importance to maintaining good relationships with all shareholders, who are kept informed of significant company developments.

- a) All Councillors will have access to all agendas & reports -subject to commercial confidentiality and as such need to have signed a current Non Disclosure Agreement prior to receiving any board papers or attending meetings.
- b) To aid transparency, Thameswey will list dates of Board meetings on the Thameswey web site.
- c) Summary briefings will be given to Councillors and presentations will be made of the financial year results to date against the Thameswey business plan at the same time as the annual business plan approval. This briefing will include a summary of previous period activity and expectations for the forthcoming period. Other meetings to discuss company direction will be held on an ad hoc basis. Regular dialogue will help to ensure that the company's strategy is understood and that any queries or other issues are addressed in a constructive way.
- d) All company announcements and presentations (subject to confidentiality arrangements) will be made available on the Thameswey website which should also contain corporate and customer information , updated on a regular basis together with answers to frequently asked questions.

The chief operating officer, chief financial officer and directors should be closely involved in shareholder relations and report back to the board the views of WBC and any communication from WBC to ensure that, both executive and non-executive directors, have an understanding of the view. The chairman and the other directors are available to meet the major shareholder on a mutually agreed basis. The board seeks to encourage a more active interest and contribution from shareholders.

19. Board Governance

A company board should not be so large as to be unwieldy. The boards should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption.

To ensure that power and information are not concentrated in one or two individuals, there should be a strong presence on all boards of Independent, Councillor and Officer Directors. Accordingly Group Company Boards should seek to achieve the following proportions, 1 Independent director, 1 Councillor Director and 2 Officer Directors but in any case Officer Directors must not be in the majority.

The Thameswey Ltd. board will appoint one of the Independent directors to be the Chairman of the Board. The Chairman will be accountable to the shareholder if it has concerns on any matter in respect of which contact through the normal channels of chief operating officer and chief financial officer, has failed to resolve or for which such contact is inappropriate.

Whilst recognising that most shareholder contact is with the chief operating officer and chief financial officer, the chairman and other directors as appropriate will maintain sufficient contact with WBC to understand its issues and concerns.

- a) The Chairman will ensure that the views of the shareholder are communicated to the Thameswey Ltd. board as a whole. The Chairman and WBC may discuss governance and strategy. Independent directors should be offered the opportunity to attend meetings with WBC. The Chairman will attend sufficient meetings with a range of representatives of WBC to listen to their views in order to help develop a balanced understanding of the issues and concerns of WBC.
- b) Subject to them having completed and submitted in advance, a Non Disclosure Agreement: -
 - i. The agendas of board meetings of Thameswey Limited and its subsidiaries shall be available to Members of the Council; and
 - ii. Members of the Council may attend board meetings as observers, by prior written notification to the Chairman of the relevant board.
- c) Subsidiary Company boards must submit any new proposals which cause changes to the Council Approved Thameswey Group Business Plan to Thameswey Limited which, if it supports the proposal, will recommend accordingly to the WBC Executive for consideration and recommendation thereon to the Council for approval.

20. Composition of the Boards

The respective Company boards should comprise of the following Directors and be reviewed annually by the Council: -

Thameswey Limited (Group Holding Company)

Councillor Directors

The Leader of the Council, or his/her nominee, who must be a Member of the Council's Executive

Council Directors appointed to the Board of any subsidiary

Independent Directors

Independent Directors recruited by the Council

Officer Directors

The Chief Executive of the Council

Officer Directors appointed to the Board of any subsidiary

Subsidiary Companies within the Thameswey Group

Councillor Directors

The Leader of the Council, or his/her nominee, who must be a Member of the Council's Executive

The Member of the Council holding the Portfolio for the relevant area of the Council's business

Any other Member of the Council

Independent Directors

Up to two Independent Directors

Officer Directors

Up to two Officer Directors

Associated Companies

Where Thamesway Limited has less than 51% of the shares of an Associated Company the composition of the board will be determined by the Council, or in accordance with the arrangements determined by the Council.

Election of Chairman

Thamesway Limited and its subsidiaries shall ensure that an Independent Director is elected Chairman of the respective Company.

Quorum

A quorum for each board meeting shall be at least three directors which must comprise at least 1 Independent Director, 1 Councillor Director and 1 Officer Director of the relevant board.

Alternate Directors

All Directors of subsidiary companies may appoint an Alternate Director of the same Director class (Independent, Councillor or Officer) in the event that he/she cannot attend a board meeting. The Alternate Director must be a Director of Thamesway Limited.

Additional Directors

The shareholder of a Thamesway Group subsidiary may appoint an Additional Director in the event that a director of the subsidiary is absent and has not appointed an Alternate Director. The Alternate Director must be a Director of Thamesway Limited.

The shareholder of Thamesway Limited may appoint an Additional Director in the event that a director of Thamesway Limited is absent and has not appointed an Alternate Director.

21. Company Board Meetings

Company board meetings will usually be held in person. In the event that exceptional circumstances necessitate a paper, email, telephone, video, electronic or other form of meeting permitted by the Articles or Company law, the Company shall in the notice of the meeting state the reasons for the meeting in a different form and record in the minutes of the said meeting the reasons and the decision reached at the meeting. The minutes of the said meeting will be published as soon as possible and reported to the next normal board meeting of the Company.

22. Website communication

To the extent possible to preserve commercial confidentiality, Thamesway Group company agendas and minutes will not be published on the Group website.

End

Extract from the minutes of the Overview and Scrutiny Committee on 27 November 2017.

MINUTES
OF A MEETING OF THE
OVERVIEW AND SCRUTINY COMMITTEE

held on Monday, 27 November 2017

Present:

Cllr I Johnson (Chairman)	
Cllr K Davis (Vice-Chairman)	
Cllr Mrs H J Addison	Cllr J Kingsbury
Cllr J Bond	Cllr M I Raja
Cllr C Rana	

Absent: Councillors A-M Barker, G G Chrystie and R Mohammed.

Also Present: Sue Barham, Strategic Director, Leigh Clarke, Chief Finance Officer, and Riette Thomas, Project Manager for Celebrate Woking.

7. PROTOCOLS OF THE THAMESWEY GROUP OF COMPANIES

The Chairman and Councillor Kingsbury presented their report on the review of the Protocols of the Thameswey Group of Companies. Appended to the report was a revised version of the Protocols and Members were invited to comment on the changes before recommending to the Executive its adoption.

Councillor Kingsbury drew attention to the lack of attendance to the Thameswey Board meetings by Elected Members, though noted that this could have been due to Members being happy with the current management arrangements of the Companies. However, it was felt that Members should seek to attend in order to broaden their understanding and knowledge as there was a concern that there were misconceptions amongst residents of the work undertaken through Thameswey, in particular of the benefits for the Borough. Overall, the Committee were content with the revisions set out in Appendix 2 to the report.

OSC17-026

RECOMMENDED to the Executive

That the revised Protocols of the Thameswey Group of Companies, as set out in Appendix 2 to the report, be considered and recommended for adoption by Council.

EXECUTIVE - 18 JANUARY 2018

FIXED PENALTY NOTICE (FPN) POLICY FOR FLY TIPPING OFFENCES

Executive Summary

The purpose of this report is to seek authorisation for the level of penalty to be fixed to enable authorised officers to issue fixed penalty notices (FPNs) for contraventions of section 33(1)(a) of the Environmental Protection Act 1990 (EPA) for fly tipping.

The new provisions (Regulation 2 of the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 enacted on 9 May 2016 provide for an amount of not less than £150 and not more than £400 as specified by the Waste Collection Authority and £200 if no amount is specified by the Local Authority.

Reasons for Decision

The introduction of a fixed penalty notice scheme for fly tipping offences is considered a necessary and proportionate response to the current environmental issues facing the Council.

Recommendations

The Executive is requested to:

RECOMMEND to Council That

- i) **the Council issue fixed penalty notices for fly tipping under the Environmental Protection Act 1990;**
- ii) **the level of fixed penalty notices shall be set at £400 per penalty notice for fly tipping, such penalty to be reduced to £300 if paid within 10 days as provided for under Regulation 2 of the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016;**
- iii) **authority be delegated to the Assistant Director (Place), in consultation with the Portfolio Holder for Environmental and Well Being Services, to vary the level of all environmental fixed penalty notice charges in accordance with legislation; and**
- iv) **authority be delegated to the Assistant Director (Place) to authorise any persons to issue fixed penalty notices for fly tipping under the Environmental Protection Act 1990.**

<p>This item will need to be dealt with by way of a recommendation to the Council.</p>

Background Papers:

Sustainability Impact Assessment
Equalities Impact Assessment

Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences

Reporting Person:

Douglas Spinks, Deputy Chief Executive
Ext. 3440, E Mail: Douglas.Spinks@woking.gov.uk

Contact Person:

Geoff McManus, Neighbourhood Services Manager
Ext. 3707, E Mail: Geoff.McManus@woking.gov.uk

Janine Knighton, Deputy Environmental Health Manager
Ext. 3017, E Mail: Janine.Knighton@woking.gov.uk

Portfolio Holder:

Cllr Beryl Hunwicks
E Mail: CllrBeryl.Hunwicks@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ken Howard
E Mail: cllrken.howard@woking.gov.uk

Date Published:

10 January 2018

Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences

1.0 Introduction

- 1.1 On 9 May 2016, the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 amends section 33 of the Environmental Protection Act 1990 (EPA) by inserting a new section 33ZA into the EPA 1990 granting powers to Waste Collection Authorities to issue fixed penalty notices (FPNs) for fly tipping, as an alternative solution to prosecution.
- 1.2 These regulations introduce powers to serve a fixed penalty notice on a person found to be responsible for fly tipping offences (this excludes operators in the waste management industry, those responsible for the tipping of hazardous waste and repeat offenders).
- 1.3 Section 33 (1) (a) of the Environmental Protection Act 1990 creates an offence for depositing controlled waste or knowingly permitted controlled waste to be deposited on any land unless the person has a valid permit authorising them to do so. A person in contravention of this provision is liable to prosecution. Woking Borough Council is an enforcement authority under the provisions of the Act.
- 1.4 An FPN offers the offender the opportunity to discharge their liability by accepting a fixed penalty notice instead of prosecution.
- 1.5 It is intended that fixed penalty notices will typically be used by officers to deal with small to medium sized fly tips, with the larger scale fly tips being referred to Legal to consider prosecution and hazardous waste offences remaining the responsibility of the Environment Agency.

2.0 Background

- 2.1 Fly tipping is a significant problem to local communities and is a risk to the environment. It is a drain on Council resources and undermines legitimate waste businesses, where unscrupulous operators undercut those that operate within the law.
- 2.2 In 2014/15, local authorities reported 900,000 incidents of fly tipping, costing taxpayers in England an estimated £50 million to clear. The costs to local authorities of investigating, bringing prosecutions, clearance and disposal of fly tipping are considerable. Where fines are issued, as a result of a successful prosecution, they are paid to the court rather than the prosecuting authority.
- 2.3 At present, the Council has the ability to issue Fixed Penalty Notices (FPNs) for a variety of environmental offences as an alternative to prosecution including littering, dog fouling, smoke free offences and unlicensed waste carriers. These FPNs are issued by authorised officers within the Environmental Health and Neighbourhood teams and also Environmental Enforcement Officers contracted through Kingdom. The same authorised officers will be responsible for issuing FPNs for small to medium scale fly tipping offences.
- 2.4 Fly tipping is an offence under section 33 (1) (a) of the Environmental Protection Act 1990. Currently the Council has two options when enforcing against a fly tipping offender, as follows:
 - Taking formal court proceedings by way of a prosecution; or
 - Issuing a £75.00 (reduced to £50.00 if paid within 10 days) Fixed Penalty Notice for the offence of littering.
- 2.5 Many parts of the Borough are subject to persistent fly tipping, especially in rural and secluded areas. Council Officers with delegated powers use a range of techniques to

Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences

identify perpetrators, which include the use of CCTV cameras, investigating the ownership of vehicles seen dumping waste illegally and searching through fly tipped waste to look for evidence. It is important that perpetrators receive a sanction that properly reflects the damage to the environment and local community, the cost to the Local Authority in clearing the dumped waste, which also acts as a deterrent against future offending, both for the identified offender and, if suitably publicised, for others who may be minded to tip. A £75.00 penalty under the current rules falls short on all counts.

- 2.6 The Environmental Protection Act 1990 does not provide a comprehensive definition of litter or refuse. However, it is considered that a single plastic sack of rubbish should normally be considered fly tipping rather than litter. Controlled waste is defined at section 75(4) of the EPA 1990 to mean household, industrial and commercial waste or any such waste.
- 2.7 In determining the appropriate levels of fixed penalty to be imposed for small to medium scale fly tipping, the Council will need to take into account the deterrent effect of different levels, peoples' readiness to pay and the levels of fines for fly tipping currently imposed in the magistrates' courts. Fixed penalties that are set too high for local conditions or are likely to be higher than a fine imposed by the Court in the event of non-payment, will lead to substantial non-payment rates and so are counter-productive.
- 2.8 There is a set legal standard payment period of 14 days for the payment of fixed penalties. Once a fixed penalty notice has been issued, an authority cannot prosecute for the offence if the fixed penalty is paid within this period, and this must be stated on the notice itself. For this reason, the period during which a discount for early payment is offered must be less than 14 days and in line with the Regulations cannot be more than 10 days. Again, this will be consistent with the standards set by other local authorities and this approach is already in place for other fixed penalty notices for environmental offences.
- 2.9 The Council's new FPN powers for small to medium scale fly tipping will be used as part of the package of enforcement options available in accordance with the Council's Corporate Enforcement Policy.
- 2.10 The provision of fixed penalty notices for fly tipping will allow officers to serve FPNs of between £150 and £400 for small to medium scale fly tipping offences as an alternative to prosecution, which will ultimately save the Authority money and negate the need for a formal prosecution. The FPN can be served on any identified perpetrator, including home owners / occupiers, business owners and registered keepers of vehicles seen depositing larger amounts of waste from a vehicle.
- 2.11 As shown in the table below reports of fly tipping in Woking are unfortunately not slowing despite ongoing promotional and enforcement activity.

Financial year 2016/2017 (Full year)	April 2017 to November 2017 (Part year)
Highway – 414	Highway – 246
Council Land – 918	Council Land – 720
Footpath – 3	Footpath - 0
Total – 1335	Total – 966

- 2.12 Investigations into fly tipping are resource intensive and can be lengthy and complex. It is proposed that the fixed penalty notice amount is set at the maximum £400, to be paid within 14 days (as prescribed by the legislation) with a reduction to £300 if paid within the first 10 days.

Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences

2.13 This will incorporate the clear up costs and takes into account officer time and other overheads, which are involved in removing this type of waste from public areas. This will provide a more proportionate and expeditious approach to deal with small scale fly tipping offences. The Council will continue to prosecute serious cases and repeat offenders through the court, together with those who fail to pay the FPN.

3.0 Proposals

3.1 It is proposed that Council:

- Endorses the issuance of fixed penalty notices for fly tipping;
- Sets a fixed penalty amount of £400 for fly tipping, payable within 14 days and reduced to £300 if paid within 10 days in accordance with the Unauthorised deposit of Waste (Fixed Penalties) Regulations 2016;
- Delegates to the Assistant Director (Place), in consultation with the Portfolio Holder for Environmental and Well Being Services, the ability to vary all environmental FPN charges in accordance with legislation; and
- Delegates to the Assistant Director (Place) the ability to authorise any persons to issue fixed penalty notices for fly tipping under the Environmental Protection Act 1990.

4.0 Implications

Financial

4.1 The use of FPNs has the potential of yielding a modest income. In accordance with the current Regulations, FPN receipts will be used for the purpose of exercising functions to improve street cleanliness and enforcement of offences; it is not being regarded as an 'income generator'.

4.2 It is not envisaged that the revenue generated from the fines will be significant, but it will reduce the need to pursue costly prosecution in some cases and enable a more flexible approach in dealing with specific offences under the Environmental Protection Act 1990.

Human Resource/Training and Development

4.3 The implementation of one additional fixed penalty option will have no significant impact on current departmental resources.

Community Safety

4.4 There are no adverse community safety implications. Improvements to personal accessibility and the wider public realm are likely to have a positive effect upon access and public safety.

Risk Management

4.5 All Authorised Officers are fully trained and competent in serving fixed penalty notices. Any new staff will be assessed to ensure that relevant training is provided in relation to fly tipping enforcement and the serving of fixed penalty notices.

Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences

Sustainability

- 4.6 Implementation of the proposal will aim to reduce fly tipping through enforcement and education and this will improve the aesthetics of the Borough whilst promoting health and wellbeing.

Equalities

- 4.7 The proposals set out in the report have been the subject of an Equality Impact Assessment and no adverse implications have been identified.

5.0 Consultations

- 5.1 The Portfolio Holder for Environmental and Well Being Services has been consulted in the drafting of this report.

6.0 Conclusions

- 6.1 The introduction of a fixed penalty notice scheme for fly tipping offences is considered a necessary and proportionate response to the current environmental issues facing the Council and will equally save the time and expense of instigating prosecutions through the courts. The recommended level of fine at £400 with a reduction to £300 if paid within 10 days would provide a targeted response to existing problems of fly tipping within the Borough, in accordance with the new Legislative Framework.

REPORT ENDS

EXE17-082

Fixed Penalty Notice (FPN) Policy for Fly Tipping Offences

APPENDICES

Equality Impact Assessment

The purpose of this assessment is to improve the work of the Council by making sure that it does not discriminate against any individual or group and that, where possible, it promotes equality. The Council has a legal duty to comply with equalities legislation and this template enables you to consider the impact (positive or negative) a strategy, policy, project or service may have upon the protected groups.

		Positive impact?			Negative impact?	No specific impact	What will the impact be? If the impact is negative how can it be mitigated? (action) THIS SECTION NEEDS TO BE COMPLETED AS EVIDENCE OF WHAT THE POSITIVE IMPACT IS OR WHAT ACTIONS ARE BEING TAKEN TO MITIGATE ANY NEGATIVE IMPACTS
		Eliminate discrimination	Advance equality	Good relations			
Gender	Men					X	
	Women					X	
Gender Reassignment						X	
Race	White					X	
	Mixed/Multiple ethnic groups					X	
	Asian/Asian British					X	
	Black/African/Caribbean/Black British					X	
	Gypsies / travellers					X	
	Other ethnic group					X	

		Positive impact?			Negative impact?	No specific impact	What will the impact be? If the impact is negative how can it be mitigated? (action) THIS SECTION NEEDS TO BE COMPLETED AS EVIDENCE OF WHAT THE POSITIVE IMPACT IS OR WHAT ACTIONS ARE BEING TAKEN TO MITIGATE ANY NEGATIVE IMPACTS
		Eliminate discrimination	Advance equality	Good relations			
Disability	Physical					X	Vulnerable person's definition to be considered.
	Sensory					X	
	Learning Difficulties					X	
	Mental Health					X	
Sexual Orientation	Lesbian, gay men, bisexual					X	
Age	Older people (50+)					X	
	Younger people (16 - 25)					X	
Religion or Belief	Faith Groups					X	
Pregnancy & maternity						X	
Marriage & Civil Partnership						X	
Socio-economic Background						X	

The purpose of the Equality Impact Assessment is to improve the work of the Council by making sure it does not discriminate against any individual or group and that, where possible, it promotes equality. The assessment is quick and straightforward to undertake but it is an important step to make sure that individuals and teams think carefully about the likely impact of their work on people in Woking and take action to improve strategies, policies, services and projects, where appropriate. Further details and guidance on completing the form are [available](#).

Sustainability Impact Assessment

Officers preparing a committee report are required to complete a Sustainability Impact Assessment. Sustainability is one of the Council's 'cross-cutting themes' and the Council has made a corporate commitment to address the social, economic and environmental effects of activities across Business Units. The purpose of this Impact Assessment is to record any positive or negative impacts this decision, project or programme is likely to have on each of the Council's Sustainability Themes. For assistance with completing the Impact Assessment, please refer to the instructions below. Further details and guidance on completing the form are [available](#).

Theme (Potential impacts of the project)	Positive Impact	Negative Impact	No specific impact	What will the impact be? If the impact is negative, how can it be mitigated? (action)
Use of energy, water, minerals and materials			X	
Waste generation / sustainable waste management	X			Use of proper facilities
Pollution to air, land and water	X			Use of proper facilities / less pollution
Factors that contribute to Climate Change			X	
Protection of and access to the natural environment	X			Clean and safe environment
Travel choices that do not rely on the car			X	
A strong, diverse and sustainable local economy	X			Improved aesthetics
Meet local needs locally			X	
Opportunities for education and information	X			Enforcement and education
Provision of appropriate and sustainable housing			X	
Personal safety and reduced fear of crime	X			Clean and safe environment
Equality in health and good health			X	
Access to cultural and leisure facilities			X	
Social inclusion / engage and consult communities			X	
Equal opportunities for the whole community			X	
Contribute to Woking's pride of place	X			Clean and safe environment

EXECUTIVE - 18 JANUARY 2018

PARKING FOR THE FAITH COMMUNITY AND COMMUNITY GROUPS

Executive Summary

This report recommends that there should be no material change to the Council's Policy Statement for Parking Charges for Members of the Faith Community and Community Groups (the only changes will be (i) to record that the Policy Statement was affirmed by the Executive on 18 January 2018 and (ii) provide for a review in January 2023).

Reasons for Decision

The Policy Statement was due to be reviewed in July 2017.

Recommendations

The Executive is requested to:

RESOLVE That

there be no change in the Council's Policy Statement for Parking Charges for Members of the Faith Community and Community Groups (save for (i) recording that the Policy Statement was affirmed by the Executive on 18 January 2018 and (ii) providing for a review in January 2023).

The Executive has authority to determine the above recommendations.

Background Papers:

None, save for those appended to this report.

Reporting Person:

Peter Bryant, Head of Democratic and Legal Services
Ext. 3030, E Mail: Peter.Bryant@woking.gov.uk

Contact Person:

Peter Bryant, Head of Democratic and Legal Services
Ext. 3030, E Mail: Peter.Bryant@woking.gov.uk

Portfolio Holder:

Cllr David Bittleston
E Mail: CllrDavid.Bittleston@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ann-Marie Barker
E Mail: cllrann-marie.barker@woking.gov.uk

Date Published:

10 January 2018

Parking for the Faith Community and Community Groups

1.0 Introduction

- 1.1 On 18 July 2013, the Executive clarified the Council's policy in respect of allowing members of the faith community and other community groups to park free of charge in the Council's car parks. The policy is set out in the attached Policy Statement (Appendix 1).
- 1.2 The context for the clarification was an allegation that the Council's practice of allowing the faith community to park free of charge amounted to unlawful discrimination. This followed the commissioning, by the Council, of an independent Equality Impact Assessment ("2012 EqIA") of its Sunday car parking practice. The 2012 EqIA was undertaken by Skyers-Poorman Research and Consulting. The clarification took account of, and was consistent with, the conclusions of the 2012 EqIA.
- 1.3 Paragraph 6 of the Policy Statement provides for it to be reviewed on 12 July 2017. This report details the outcome of that review.

2.0 Review

- 2.1 The review of the Policy Statement has necessitated a review of the 2012 EqIA. Dr Sophia Skyers (CIBS IQ Research) was, therefore, appointed to review and update the 2012 EqIA (Dr Skyers was the joint author of the 2012 EqIA).
- 2.2 In November 2017, Dr Skyers produced her report on the review of the 2012 EqIA ("2017 Report"). A copy of the 2017 report is appended as Appendix 2.
- 2.3 The recommendation in the 2017 Report is that:-

"WBC continue with the practice in relation to Sunday parking charges of allowing worshippers to park for free as the Council has determined that it is a proportionate means of achieving a legitimate aim, and having proper regard to all of the issues contained in the [2012] EqIA and [the 2017 Report]."
- 2.4 In deciding whether to follow the recommendation in the 2017 Report, the Executive should have regard to the issues it considered on 13 October 2011, 31 May 2012 and 18 July 2013. Copies of the relevant reports are appended as Appendix 3.
- 2.5 It is acknowledged that the practice of allowing the faith community to park free of charge, in the Council's off-street car parks, in order to attend a place of worship for the purpose of, or in connection with, worship on that faith community's primary day of worship amounts to indirect discrimination under the Equality Act 2010. However, this practice will be justified if it is a proportionate means of achieving a legitimate aim.
- 2.6 The "legitimate aim" remains as set out in the earlier reports, i.e. the support of the faith communities in Woking. Places of worship, and the faith communities that they serve, play an important role, both in society in general and Woking in particular. They encourage people to participate in society, thereby promoting social inclusion. In addition, considerable voluntary work is organised by faith communities, often for the benefit of the more disadvantaged members of our society.
- 2.7 The small reduction in income to the Council resulting from allowing members of the faith community to park free of charge is estimated to be £1,000 per week (if everyone entitled to free parking chose to pay). On an annual basis, this sum (£52,000) is a small proportion of the Council's overall budgeted car parking income of £7,453,000, and is taken into account when the Council's estimates/budgets are prepared. As such, the reduction in

Parking for the Faith Community and Community Groups

income is proportionate when compared with the benefits resulting from the Council's "legitimate aim".

3.0 Conclusions

- 3.1 Having considered the 2012 EqIA, the 2017 Report and the earlier reports to the Executive, it is concluded that there should be no change to the Council's policy on parking for the faith community and community groups. Insofar as it relates to the faith community, the policy is a proportionate means of achieving a legitimate aim.

4.0 Implications

Financial

- 4.1 As this report recommends continuing with the Council's existing approach to free car parking, there are no financial implications arising directly from this report.

Human Resource/Training and Development

- 4.2 None arising directly from this report (for the reason given in paragraph 4.1 above).

Community Safety

- 4.3 None arising directly from this report (for the reason given in paragraph 4.1 above).

Risk Management

- 4.4 None arising directly from this report (for the reason given in paragraph 4.1 above).

Sustainability

- 4.5 None arising directly from this report (for the reason given in paragraph 4.1 above).

Equalities

- 4.6 These are expressly referred to in the report and supporting documents.

5.0 Consultations

- 5.1 None.

REPORT ENDS

EXE18-001

APPENDICES

Woking Borough Council

Parking Charges for Members of the Faith Community and Community Groups

Policy Statement

1. Places of worship, and the faith communities that they serve, play an important role, both in society in general and Woking in particular. They encourage people to participate in society, thereby promoting social inclusion. In addition, considerable voluntary work is organised by faith communities, often for the benefit of the more disadvantaged members of our society.
2. The Council will, where it is reasonable and proportionate to do so, support the faith communities in the borough of Woking.
3. In furtherance of this aim (a “legitimate aim” under the Equality Act 2010), the Council will allow members of a faith community to park free of charge, in the Council’s off-street car parks, in order to attend a place of worship for the purpose of, or in connection with, worship on that faith community’s primary day of worship.
4. The Council recognises that non-faith based community groups can (i) similarly encourage people to participate in society, thereby promoting social inclusion, and (ii) undertake considerable voluntary work, often for the benefit of more disadvantaged members of our society.
5. The Council will, where it is reasonable and proportionate to do so, support non-faith based community groups in the borough of Woking. Such support will include the provision of free car parking in the Council’s off-street car parks in appropriate circumstances.
6. This Policy Statement was adopted by the Council on 18 July 2013. It will be reviewed on 12 July 2017, or sooner if there is a material change in circumstances.

Sunday Car Parking Charges

Equality Impact Assessment Update: Report to Woking Borough Council

Dr Sophia Skyers, Consultant Researcher

November 2017

1. Introduction

1.1 **Context and background:** Woking Borough Council (WBC) has a statutory responsibility under the Equality Act, 2010, to consider the impact of its decisions in relation to age, disability, sex, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, and sexual orientation. In addition, WBC also has a statutory duty to foster good relations between different groups of people, coupled with a responsibility to promote equality of opportunity. In 2008, WBC introduced a policy of allowing worshippers at Coign Church, Christ Church, Trinity Methodist Church, and Woking United Reform Church to park free of charge on Sunday mornings in Victoria Way and Brewery Road public car parks. At the same time, concessionary Sunday charging arrangements also applied in respect of other users of Woking town centre car parks on a Sunday. The practice of allowing worshippers attending the Town Centre churches to park free on a Sunday was subject to a challenge under the terms of the Equality Act 2010.

1.2 In 2012, Skyers-Poorman Research and Consulting were commissioned by Woking Borough Council to undertake a full and independent Equality Impact Assessment (EqIA) on its Sunday car park charging practice. An EqIA is a systematic and comprehensive assessment of a policy or practice through the prism of equality. The EqIA therefore assessed the positive, negative and/or differential impacts in relation to the following:

- a) The impact of free Sunday parking on churchgoers
- b) The cost of free Sunday parking to the Council
- c) The impact of free Sunday parking on the wider community

1.3 Following completion of the EqIA in 2012, the Council agreed that it would review its Sunday car park charging practice within a specified four-year timeframe. The Council has therefore appointed Dr Sophia Skyers (CIBS IQ Research) to review and update the 2012 EqIA, in line with this. This short report therefore reviews the findings of the 2012 EqIA, examines whether anything has changed since the EqIA was undertaken, specifically, the nature of the policy and the context within which the policy operates. This report also examines some of the key specific actions that were contained in the recommendations, and the associated action plan that accompanied the 2012 EqIA, as there were some issues highlighted in relation to the operation of the practice that required further examination. The 2012 EqIA should therefore be read in conjunction with this report as it sets out the relevant background, religion and non-belief groups in Woking, and provides a detailed assessment of the potential impact of the policy on protected groups that there is no need to repeat in this report.

2. Car parking charges

2.1 **The current position and issues arising from the 2012 EqIA:** The policy of WBC is to review its discretionary fees and charges at least once each year to maximise its income and its annual review of its discretionary fees provides detailed information on this. As part of WBC's

review of parking charges, Sunday parking charges were introduced in the Town Centre in 2003 and in 2008 as part of a two-staged process. The policy of rescinding Sunday parking charges for those attending church in Woking town centre was introduced as a reactive practice in response to representations made to the Council by church attendees. The Sunday parking charge is capped for non-churchgoers and is therefore concessionary in comparison with the other days of the week. Since the 2012 EqIA was undertaken, WBC has not made any changes to the policy, or to the practice, and there are none anticipated at this stage. As referred to briefly above, there were two specific issues highlighted in the 2012 EqIA, and the associated action plan. The first issue related to the operation of the on street disabled parking bays, and the second issue related to the impact of the policy on protected groups whose religious observance took place on days other than a Sunday.

2.2 Disabled on street parking bays: WBC has received no specific correspondence regarding the issue raised in the 2012 EqIA regarding the potential for adverse impact relating to the three hour parking limit in the Town Centre disabled bays. In practice, the three-hour period is more than sufficient to accommodate attendance at Church Services on a Sunday. Moreover, the turnover of motorists in the disabled bays effectively means that more disabled motorists have the opportunity to use the parking bays that are located in prime positions in and around the Town Centre. This enhances positive impacts for this group.

2.3 Days of religious observance: In relation to the issue raised in the 2012 EqIA concerning days of religious observance other than a Sunday, WBC parking services team provides assistance to faith groups as well as individuals outside of the Town Centre where it is appropriate and safe to do so. This assistance spans a very broad spectrum, and it ranges for example from local parking discretion following bereavement, to much wider parking discretions that have been agreed specifically to assist worshippers attending Friday prayers at local mosques.

3. Conclusion

3.1 Synthesis, recommendations and Action Plan: This updated EqIA has found that there have been no changes to the policy or practice of allowing Sunday worshippers to park for free in Woking Town Centre. Therefore, there is no requirement to undertake a full EqIA, as the detailed assessment of potential impact in the 2012 EqIA is current. It is therefore recommended that:

1. WBC continue with the practice in relation to Sunday parking charges of allowing worshippers to park for free as the Council has determined that it is a proportionate means of achieving a legitimate aim, and having had proper regard to all of the issues raised in the EqIA and this updated report.

3.2 The relevant part of the action plan that relates to continuing with the current practice, and that accompanied the 2012 EqIA, summarising the potential, positive and negative impact, and mitigation measures in relation to the disabled bays, and to other days of religious observance has been updated and appended to this report.

Appendix D – EqIA Action Plan

Equality Impact Assessment on Woking Sunday Car Parking
Action Plan –Update November 2017

Sunday Charging Policy	Positive Impact	Potential Negative Impact	Mitigation Measures
<p>1. That WBC continue with the practice of allowing worshippers to park free as the Council has determined that it is a ‘proportionate means of achieving a legitimate aim’ and having had proper regard to all of the issues raised in the EqIA and the update</p>	<p>The impact on the entire community has been considered in relation to all of the protected characteristics and protected groups within groups and has informed a more carefully nuanced practice in relation to free parking for worshippers.</p>	<p>Potential negative impact for religious groups whose religious day of observance is not on a Sunday</p> <p>The current Sunday charging practice does not encompass on street parking for disabled people. The three-hour restriction in the bay could potentially impact adversely on the ability of disabled people to attend church and related church activities on a Sunday.</p>	<p>Assistance is given to enable attendance at Friday prayers and Mosques in the borough</p> <p>The Council adopts a flexible approach in considering requests on a case-by-case basis, within the framework of its policy on parking charges.</p> <p>The three-hour parking limit is more than sufficient to accommodate attendance at church services on a Sunday of disabled people requiring use of the Town Centre disabled bays.</p> <p>The turnover of motorists who require use of parking in the disabled bays in the Town Centre, as a result of the three-hour limit means that more disabled motorists have the opportunity to use parking bays that are located in prime positions in Woking Town Centre.</p>

EXECUTIVE - 18 JULY 2013

PARKING FOR THE FAITH COMMUNITY AND COMMUNITY GROUPS

Executive Summary

On the 12 July 2012, the Council adopted a Policy Statement in respect of Parking Charges for Members of the Faith Community. This allows members of the Faith Community to park free of charge, in the Council's off-street car parks, in order to attend a place of worship for the purpose of, or in connection with, worship on that faith community's primary day of worship.

A Letter of Claim has been received from solicitors acting for Keith Porteous Wood alleging that he was unlawfully discriminated against when he was required to pay for car parking when he visited Woking on Sunday 14 April 2013.

This report advises the Executive of the Council's response to the Letter of Claim, and recommends that the Policy Statement be clarified so that it refers to the Council's existing practice of allowing members of other Community Groups to park free of charge in the Council's car parks.

Reasons for Decision

To advise the Executive of the potential legal challenge to the Council's Policy Statement in respect of car parking charges for the Faith Community, and to recommend an amendment to that Policy Statement.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) the position regarding a possible legal challenge to the Council's Policy Statement in respect of car parking charges for the Faith Community be noted, and
- (ii) the clarification of the Policy Statement contained in Appendix 5 to the report be adopted from 18 July 2013.

The Executive has authority to determine the above recommendations.

Background Papers:

None.

Sustainability Impact Assessment
Equalities Impact Assessment

Reporting Person:

Peter Bryant, Head of Democratic and Legal Services
Ext. 3030, E Mail: Peter.Bryant@woking.gov.uk

Parking for the Faith Community and Community Groups

Contact Person:

Peter Bryant, Head of Legal Services
Ext. 3030, E Mail: Peter.Bryant@woking.gov.uk

Portfolio Holder:

Cllr John Kingsbury
E Mail: cllrjohn.kingsbury@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ann-Marie Barker
E Mail: cllrann-marie.barker@woking.gov.uk

Date Published:

11 July 2013

Parking for the Faith Community and Community Groups

1.0 Introduction

- 1.1 On 12 July 2012, the Council adopted a Policy Statement in respect of Parking Charges for Members of the Faith Community. This allows members of a faith community to park free of charge, in the Council's off-street car parks, in order to attend a place of worship for the purposes of, or in connection with, worship on that faith community's primary day of worship. A copy of the Policy Statement is attached as Appendix 1.
- 1.2 The Policy Statement expressly reflects the Council's view that there are particular benefits to Woking from the social inclusion and participation that the faith communities encourage, not least the considerable voluntary work organised by faith communities in Woking.
- 1.3 The Policy Statement was adopted by Council following consideration by the Executive, at its meeting on 31 May 2012, of a detailed report and Equality Impact Assessment (Appendix 2).
- 1.4 On 30 May 2013, solicitors acting for Keith Porteous Wood (Executive Director of the National Secular Society) sent a Letter of Claim to the Council alleging that he was unlawfully discriminated against when he was charged for car parking when he visited Woking on Sunday 14 April 2013. A copy of this letter is attached as Appendix 3.
- 1.5 A formal reply denying liability was sent by the Council on 25 June 2013 (Appendix 4).

2.0 Present Position

- 2.1 The solicitors acting for Mr Wood have, in their letter of 30 May 2013, only referred to the Council's formal Policy Statement insofar as it relates to the Faith Community. There is no reference to the Council's practice of allowing Community Groups to park free of charge in the Council's car parks (despite this having been discussed at the meeting of the Executive on 31 May 2012, as referred to in the minutes of that meeting).
- 2.2 It is clear that the free parking provided to non-faith based Community Groups is a material consideration. Members will be aware of the extent of this, but it is worth setting out the extent of this provision and the reason for it.
- 2.3 Twenty-eight parking bays in Heathside Crescent car park are set aside for free parking for voluntary groups. A total of ninety-two permits are issued each year for Relate, Surrey Disabled Peoples Partnership, Woking Citizens' Advice Bureau, Woking Association of Voluntary Services and the Surrey Care Trust. These groups carry out considerable voluntary work in Woking. Free parking has been provided to them in pursuit of the same aim which applies to the free parking which has been provided for the Faith Community, i.e. supporting social inclusion and participation in society. In addition, concessionary parking is provided to any organisation with accredited community status when booking the H G Wells Conference Centre.
- 2.4 As the Council has adopted a consistent approach to free parking for the Faith Community and other Community Groups (based, in both cases, on supporting social inclusion and participation in society and encouragement of voluntary work carried out by these groups), its formal Policy Statement should properly reflect that approach. It is therefore recommended that the Policy Statement should be amended as set out in Appendix 5.
- 2.5 The extent to which any Groups (Faith or Community based) should be allowed free parking will continue to be for the Executive to determine on an individual basis.

Parking for the Faith Community and Community Groups

- 2.6 It should be noted that the clarification of the Policy Statement merely reflects the Council's existing approach to allowing the Faith Community and Community Groups to park free of charge in the Council's car parks. As such, it is not a "new" Policy and does not need to be considered by the Council.

3.0 Implications

Financial

- 3.1 As the clarifications of the Policy Statement reflect the existing approach to free car parking, there are no financial implications arising directly from this report.

Human Resource/Training and Development

- 3.2 None arising directly from this report (for the reason giving in paragraph 3.1 above).

Community Safety

- 3.3 None arising directly from this report (for the reason giving in paragraph 3.1 above).

Risk Management

- 3.4 None arising directly from this report (for the reason giving in paragraph 3.1 above).

Sustainability

- 3.5 None arising directly from this report (for the reason giving in paragraph 3.1 above).

Equalities

- 3.6 None arising directly from this report (for the reason giving in paragraph 3.1 above).

4.0 Consultations

- 4.1 The Portfolio Holder has been consulted.

REPORT ENDS

EXE13-191

Woking Borough Council

Parking Charges for Members of the Faith Community

Policy Statement

1. Places of worship, and the faith communities that they serve, play an important role, both in society in general and Woking in particular. They encourage people to participate in society, thereby promoting social inclusion. In addition, considerable voluntary work is organised by faith communities, often for the benefit of the more disadvantaged members of our society.
2. The Council will, where it is reasonable and proportionate to do so, support the faith communities in the borough of Woking.
3. In furtherance of this aim (a "legitimate aim" under the Equality Act 2010), the Council will allow members of a faith community to park free of charge, in the Council's off-street car parks, in order to attend a place of worship for the purpose of, or in connection with, worship on that faith community's primary day of worship.
4. This Policy Statement was adopted by the Council on 12 July 2012. It will be reviewed on 12 July 2017, or sooner if there is a material change in circumstances.

EXECUTIVE - 31 MAY 2012

CAR PARKING CHARGES FOR THE FAITH COMMUNITY

Executive Summary

On 13 October 2011, the Executive was advised that the Council's practice of allowing certain churchgoers to park free of charge on a Sunday had been challenged as being in breach of the Equality Act 2010 ("the Act").

Counsel had advised that the practice amounted to indirect discrimination, but could be justified on the basis that it was a proportionate means of achieving a legitimate aim. In order to meet the justification requirements in the Act, the Council was advised to carry out a full Equality Impact Assessment ("EqIA") to measure the impact of the free parking, including the cost to the Council, and the effect it had on churchgoers and the wider community. The Executive agreed that the EqIA should be carried out.

This report advises the Executive of the outcome of the EqIA, and recommends that the Council should adopt a formal policy to cover the circumstances in which members of the faith community will be allowed to park in the Council's car parks free of charge. This policy will cover all faith communities, not just those whose primary day of worship is on a Sunday (as is the case with the Council's current practice). It will, therefore, allow some faith communities to park free of charge on days which are not a Sunday.

Reasons for Decision

To support the faith community in Woking and to comply with the requirements of the Act.

Recommendations

The Executive is requested to:

RECOMMEND That

- (i) the Policy Statement contained in paragraph 4.9 of the report be adopted by Council; and
- (ii) Council agree to provide the free parking detailed in paragraph 4.10 of the report.

This item will need to be dealt with by way of a recommendation to Council.

Background Papers:

Equality Impact Assessment (EqIA),
Report to Executive on 13 October 2011 (and appendices).

Sustainability Impact Assessment

Car Parking Charges for the Faith Community

Reporting Person:

Mark Rolt, Strategic Director
Ext. 3002, E Mail: Mark.Rolt@woking.gov.uk

Contact Person:

Peter Bryant, Head of Democratic and Legal Services
Ext. 3030, E Mail: Peter.Bryant@woking.gov.uk

Portfolio Holder:

Cllr John Kingsbury
E Mail: cilljohn.kingsbury@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ric Sharp
E Mail: cillrichard.sharp@woking.gov.uk

Date Published:

24 May 2012

Car Parking Charges for the Faith Community

1.0 Introduction

- 1.1 On 13 October 2011, the Executive considered a report which detailed the challenge which had been made to the Council's practice of allowing certain churchgoers to park free of charge on a Sunday.
- 1.2 A copy of that report (and appendices) is attached to this report so that Members are fully aware of the background to this matter (Appendix 1). The Executive agreed the recommendations contained in the report.
- 1.3 The Equality Impact Assessment ("EqIA") has been completed. A copy is attached (Appendix 2).

2.0 Public Sector Equality Duty

- 2.1 The public sector equality duty ("PSED") consists of a general equality duty, contained in Section 149 of the Equality Act 2010 ("the Act"), and specific duties contained in secondary legislation.
- 2.2 The Council is subject to the PSED. It must, in exercising its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - foster good relations between people who share a protected characteristic and those who do not.

These are known as the three aims of the general equality duty.

- 2.3 The Act provides that having due regard for advancing equality involves:
 - removing or minimising disadvantages suffered by people due to their protected characteristics;
 - taking steps to meet the needs of people from protected groups where these are different from the needs of other people; and
 - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 2.4 The PSED covers the following protected characteristics:
 - Age;
 - Disability;
 - Gender reassignment;
 - Marriage and civil partnership;
 - Pregnancy and maternity;

Car Parking Charges for the Faith Community

- Race;
- Religion or belief;
- Sex; and
- Sexual orientation.

2.5 "Religion" means any religion, and a reference to religion includes a reference to a lack of religion. "Belief" means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief. In relation to the protected characteristic of religion or belief, a reference to a person who has a particular protected characteristic is a reference to a person of a particular religion or belief, and a reference to persons who share a protected characteristic is a reference to persons who are of the same religion or belief.

2.6 Consideration of the EqIA will assist the Council in discharging its PSED. However, the Council should continue to pay due regard to the PSED when considering the issues raised in this report.

3.0 The EqIA

3.1 The EqIA was undertaken by Skyers-Poorman Research and Consulting.

3.2 With regard to the Council's practice of allowing worshippers to park free of charge on Sundays, the EqIA contains three alternative recommendations. These are:

- (i) The Council should continue with the practice if it is able to determine that it is a proportionate means of achieving a legitimate aim, having had proper regard to all of the issues raised in the EqIA; or
- (ii) The Council should rescind Sunday car parking charges for all visitors to the town centre between the hours of 7.00 a.m. and 1.00 p.m.; or
- (iii) The Council should rescind Sunday car parking charges for all visitors to the town centre on Sundays.

3.3 Paragraphs 5.2–5.6 of the EqIA analyse the impact free Sunday parking has on churchgoers. It has a positive impact on many worshippers living in Woking, and on those who attend churches in Woking from outside the Borough.

3.4 It is the more disadvantaged communities within church congregations for whom the financial benefit of free parking makes a tangible material difference. This includes, for example, women, BME residents, younger people, older people of pensionable age, carers and other groups on lower incomes.

3.5 Although the EqIA found that the vast majority of worshippers stated that a reintroduction of charges would not prevent them from attending a Sunday church service, the already disadvantaged communities would have considerable difficulty meeting the cost. The negative impact of this would be exacerbated in the present economic climate and the challenges it presents.

3.6 The introduction of charges could potentially inhibit church membership among the more disadvantaged groups and could potentially curtail new membership from such groups.

Car Parking Charges for the Faith Community

- 3.7 The introduction of charges would also adversely affect volunteers who, for example, provide crèche services and children's activities on Sunday mornings. These volunteers may choose not to, or may not be able to continue to, provide these services. This could have an adverse impact on the ability of families with small children, particularly lone parents, to attend church services.
- 3.8 The introduction of charges would run counter to the *Big Society*, and could result in the decline of important community focussed activities that have a wider social and economic value to Woking residents.
- 3.9 The EqIA states that not all church members who are disabled perceive the Council's practice as providing positive benefits. This is the case for those people who park in Surrey County Council's on-street bays, not the Council's car parks, because of concerns about accessibility and safety.
- 3.10 Paragraphs 5.13-5.15 analyse the impact free Sunday parking has on the wider community. The practice was perceived as unfair by the non church-going community. Some residents expressed frustration at the practice of allowing Sunday worshippers to park free of charge whatever their income level, whilst other non church-going residents, including those who fall within groups with other protected characteristics, cannot benefit from free parking, and are paying substantially increased charges across the board. This is seen as tantamount to being discriminated against on the grounds of having no belief or organised belief.
- 3.11 Whilst shopping on a Sunday in the town centre is important, it is not seen as solely offering a commercial and retail experience. Carers often find a Sunday a convenient day to relax by visiting the town centre as other family members who work may be around to provide some respite.
- 3.12 Lone parents balancing childcare, work, commuting and the school run may find Sunday the best day to shop.
- 3.13 For disabled residents who want to visit the town centre, shop and have a meal with family members or friends who may be working in the week, Sunday is often the most convenient day.
- 3.14 Thus, Sunday for non-worshippers accommodates flexible working patterns and fits with the rhythms of family life. This is seen as being as important as religious observance to building the social, as well as the economic, fabric of communities. Account should be taken of diverse lifestyles and secular activities that also enhance social integration.
- 3.15 The issue of equity and fairness in respect of days of religious observance was a recurring theme. It was seen as right by the Muslim community that the Council should make a concession for the town centre churches which, due to their location, have no parking attached to their premises. At the same time, it was seen as unfair in a multi-cultural society if similar concessions were not also made for faith groups whose day of religious observance was not a Sunday.
- 3.16 Paragraphs 5.7– 5.12 analyse the cost to the Council of allowing worshippers to park free of charge on Sundays. It is estimated that the reduction in income to the Council (if everyone who currently receives free parking chose to pay) is £780 or £40,560 per annum. The figures referred to in the EqIA for income from the car parks can be updated in accordance with the latest Green Book figures. The total weekly income from the car parks for 2011-12 is £90,019 (£4,681,000 per annum).

Car Parking Charges for the Faith Community

4.0 Considerations

- 4.1 Adopting either of the two recommendations set out in paragraphs 3.2(ii) and (iii) above (rescinding Sunday parking charges for all visitors to the town) would result in a significant reduction in parking income to the Council. Rescinding charges for all visitors between 7.00 a.m. and 1.00 p.m. would result in an estimated drop in income of £3,000 per week and £156,000 per annum. Rescinding charges for all visitors for the entire charging period would result in an estimated drop in income of £6,300 per week and £327,600 per annum. This reduction in income would have a material and adverse impact on the Council's ability to continue to provide the services it does. Neither of these recommendations can be supported.
- 4.2 Places of worship, and the faith communities that they serve, play an important role, both in society in general and Woking in particular. They encourage people to participate in society, thereby promoting social inclusion. In addition, considerable voluntary work is organised by faith communities, often for the benefit of the more disadvantaged members of our society.
- 4.3 The Council should, where it is reasonable and proportionate to do so, support the faith communities within Woking. This is a "legitimate aim" for the purposes of the Act.
- 4.4 The Council needs to consider whether allowing worshippers free car parking on Sundays is a proportionate means of supporting faith communities. In doing so, it must have due regard to its PSED and the results of the EqIA.
- 4.5 It is clear from the EqIA that the present practice of allowing churchgoers free parking on Sundays is of benefit to persons who share a protected characteristic based upon religion. It is also clear that some of the people who benefit share other protected characteristics, e.g. age, race, disability, sex, pregnancy and maternity etc. It is the more disadvantaged communities within church congregations for whom the financial benefits of free parking makes a tangible difference. The Sunday service is the engine of growth for the church which fuels its membership, the introduction of charges for the more disadvantaged groups could potentially inhibit church membership among those groups and could potentially curtail new membership from disadvantaged groups (paragraph 5.4 of the EqIA).
- 4.6 It is also clear from the EqIA that religious groups whose days of observance are not a Sunday are adversely affected by the practice. This cannot be justified. It is recommended that the concession be extended to all religious groups on their primary day of worship.
- 4.7 Consideration has been given to the findings of the EqIA in respect of persons with no religious belief (see in particular paragraph 5.15 of the EqIA). It is considered that the adverse effect suffered by individuals (i.e. having to pay Sunday parking charges) is proportionate when compared with the benefits resulting from the Council's "legitimate aim". The possibility of rescinding charges for all visitors to Woking has already been discounted, so the only realistic alternative to continuing with the current practice (albeit in an extended form) would be to remove the concession that applies to worshippers. This would mean that individuals visiting Woking would still have to pay car parking charges.
- 4.8 The reduction in income to the Council resulting from the concession is set out in the EqIA and paragraph 3.16 of this report. The reduction represents [0.87]% of the weekly car park income. This is a small proportion. The reduction in income is taken account of when the Council's estimates/budgets are prepared. It is estimated that extending the concession to other faith groups will result in a further reduction in income of £220 per

Car Parking Charges for the Faith Community

limit on disabled persons using them. This is intended to make the bays available to a larger number of disabled users. It is recommended that Surrey County Council be advised of the concerns detailed in the EqIA.

- 4.12 The second separate recommendation in the EqIA is that it should be made available to all who took part in the consultation underpinning it and that it is placed on the Council's website. The EqIA is a public document and this is being done.

5.0 Implications

Financial

- 5.1 These are expressly referred to in the report.

Human Resource/Training and Development

- 5.2 None.

Community Safety

- 5.3 None.

Risk Management

- 5.4 None.

Sustainability

- 5.5 Adopting the Policy Statement, and permitting free parking in accordance with it, supports and strengthens the faith community in Woking. This contributes to greater access to leisure/cultural facilities (i.e. the places of worship and ancillary accommodation etc.), social inclusion (through attending places of worship and ancillary accommodation etc.), equal opportunities for the whole community (attendance is not usually restricted to members of the particular faith concerned) and Woking's pride of place (resulting from having an active and supported faith community).

Equalities

- 5.6 These are expressly referred to in the report.

6.0 Consultations

- 6.1 There was widespread consultation as part of the EqIA (see Appendix A to the EqIA).

REPORT ENDS

EXE12-027

EXECUTIVE - 13 OCTOBER 2011

WORSHIPPERS' CAR PARKING CHARGES

Executive Summary

The Council's practice of allowing certain churchgoers to park free of charge on a Sunday has been challenged as being in breach of the Equality Act 2010.

Counsel has advised that the practice amounts to indirect discrimination, but could be justified on the basis that it is a proportionate means of achieving a legitimate aim. In order to meet the justification requirements laid down in the Equality Act 2010, the Council should carry out a full Equality Impact Assessment to measure the impact of the 'free parking', including the cost to the Council, the effect it has on churchgoers and the effect it has on the wider community.

This report recommends that the Council should commission the Equality Impact Assessment so that it can subsequently decide whether it should continue to allow churchgoers to park free of charge on Sundays.

Reasons for Decision

To enable the Council to determine, at a later date, whether its practice of allowing churchgoers to park free of charge on a Sunday constitutes discrimination under the Equality Act 2010.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) An Equality Impact Assessment to measure the impact of allowing churchgoers to park free of charge on Sundays be undertaken;
- (ii) The Head of Legal Services be authorised to appoint a suitable consultant to undertake the Equality Impact Assessment without going through the usual quotation process under Contract Standing Orders (provided he is satisfied that the contract represents value for money);
- (iii) The results of the Equality Impact Assessment be reported back to the Executive, and
- (iv) There be no change to the Council's practice of allowing churchgoers to park free of charge on Sundays whilst the Equality Impact Assessment is being undertaken and considered.

The Executive has authority to determine the above recommendations.

Background Papers:

Counsel's Advice

Letter from Mrs J Kenyon dated 30 August 2011

Extract from National Secular Society's website

Worshippers Car Parking Charges

Sustainability Impact Assessment
Equalities Impact Assessment

Reporting Person:

Mark Rolt, Strategic Director
Ext. 3002, E Mail: Mark.Rolt@woking.gov.uk

Contact Person:

Peter Bryant, Head of Legal Services
Ext. 3030, E Mail: Peter.Bryant@woking.gov.uk

Portfolio Holder:

Cllr John Kingsbury
E Mail: cllrjohn.kingsbury@woking.gov.uk

Shadow Portfolio Holder:

Cllr Ric Sharp
E Mail: cllrrichard.sharp@woking.gov.uk

Date Published:

7 October 2011

1.0 Introduction

1.1 The Council's practice of allowing certain churchgoers to park free of charge on a Sunday has been challenged as being in breach of the Equality Act 2010.

2.0 Background

2.1 Prior to 2000, no charges were levied for parking in the Council's car parks on a Sunday. In 2000, charges were introduced for parking between 1.00 p.m. and 5.00 p.m. in some of the car parks. These charges did not materially impact on churchgoers.

2.2 In 2003, the charging hours were extended so that they commenced at 11.00 a.m. At that time, the Council agreed to install a pay on foot ticket validator in ChristChurch, Woking. This enables worshippers at that church to have their car parking entry ticket for the nearby Victoria Way car park validated free of charge, following which they have a set time to leave the car park.

2.3 In 2006, the Council agreed that Sunday car parking charges would be extended to other town centre car parks when they were converted to the pay on foot on exit system. The Council also agreed to provide free parking to worshippers at other churches which were affected by the introduction of the charges.

2.4 The current position is that pay on foot validators are installed in ChristChurch and the Trinity Methodist Church. Worshippers at the Coln Church are allowed to use the validator at H G Wells. The Woking United Reform Church has been provided with 150 parking permits for their worshippers to use on a Sunday (which allow them to park free of charge)

3 The Legal Challenge

3.1 A local resident, Mrs Julie Kenyon, has written to the Head of Legal Services and certain Councillors stating that the Council's practice amounts to discrimination under the Equality Act 2010. A copy of her letter is attached as Appendix 1.

3.2 Although Mrs Kenyon refers specifically to St Dunstan's Church, this is not one of those churches which have the benefit of free parking on Sundays. This is because it is in the controlled parking zone where worshippers can park on the street on Sundays (the hours of control are Mondays to Fridays between 9.30 a.m. and 11.30 a.m). However, the Council does need to address the general allegation that its practice in respect of other churches is a breach of the Equality Act 2010.

3.3 In her letter, Mrs Kenyon states that "*Westminster Council recently voted against providing free parking for religious groups after it was drawn to their attention that they would be acting illegally by doing so.*" The City of Westminster's Head of Legal and Democratic Services has confirmed that the suggestion that there should be some form of permit scheme for churchgoers was considered and rejected by Westminster's Cabinet, but not on equalities grounds.

3.4 The Council's practice of allowing worshippers to park free of charge on a Sunday has also been questioned by the National Secular Society on the ground that it is discriminatory under the Equality Act 2010. An extract from their web-site is enclosed (Appendix 2), but there has been no direct contact from them (It is assumed that the warning they refer to is that contained in Mrs Kenyon's letter).

4 Legal Advice

- 4.1 The Head of Legal Services has sought Counsel's advice on this matter. A copy of Counsel's (Mr Peter Doughty, 12 College Place, Southampton) Advice is attached as Appendix 3.
- 4.2 Mr Doughty has advised that the Council's practice amounts to indirect discrimination, but could be justified on the basis that it is a proportionate means of achieving a legitimate aim. In order to meet the justification requirements laid down in the Equality Act 2010, the Council should carry out a full Equality Impact Assessment to measure the impact of the 'free parking', including the cost to the Council, the effect it has on churchgoers and the effect it has on the wider community.
- 4.3 The outcome of the Equality Impact Assessment referred to by Mr Doughty will determine whether the Council can continue with its practice of allowing worshippers to park free of charge on a Sunday. If the practice can't be justified (from a legal point of view), it must stop. If the practice can be justified, it can continue (although it should be reviewed on a regular basis). It would be reasonable for the Council to continue with the practice whilst it undertakes the Equality Impact Assessment.

5 Equality Impact Assessment

- 5.1 It is recommended that the Council commissions a specialist consultant to undertake the Equality Impact Assessment. This should ensure that it possesses the necessary objectivity and robustness if its conclusions are subsequently challenged by third-parties.
- 5.2 The Council does need to resolve this issue quickly. On that basis, it is recommended that the Head of Legal Services be authorised to appoint a suitable consultant without going through the usual quotation process under Contract Standing Orders (provided he is satisfied that the contract represents value for money).

6 Implications

Financial

- 6.1 The cost of appointing a suitable consultant to carry out the Equality Impact Assessment is estimated to be approximately £5,000. This can be met from existing budgets.

Human Resource/Training and Development

- 6.2 None.

Community Safety

- 6.3 None

Risk Management

- 6.4 The Council's practice of allowing churchgoers to park free of charge on Sundays is at risk of legal challenge. This risk should be reduced if an Equality Impact Assessment is carried out. The risks will need to be re-assessed when the Equality Impact Assessment has been completed.

Sustainability

Worshippers Car Parking Charges

- 6.5 There are no direct implications arising from the recommendation to carry out the Equality Impact Assessment (this will identify any implications resulting from the Council's practice of allowing churchgoers to park free of charge on Sundays)

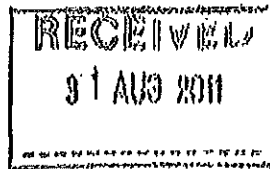
Equalities

- 6.6 There are no direct implications arising from the recommendation to carry out the Equality Impact Assessment (this will identify any implications resulting from the Council's practice of allowing churchgoers to park free of charge on Sundays).

7 Consultations

- 7.1 None, at this stage. Appropriate consultation will be undertaken as part of the Equality Impact Assessment.

REPORT ENDS



30 August 2011

12 Maybury Court

Shaftesbury Road

Woking

GU22 7PT

Breach of Equality Act 2010

Peter Bryant

Head of Legal Services

Woking Borough Council

Civic Offices

Gloucester Square

Woking

GU21 6YL

Dear Mr Bryant

Worshippers Parking Charges

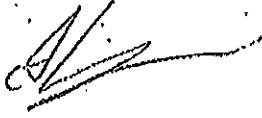
Further to a recent disclosure under a FOI request I attach for your information an email sent to various councillors who are involved with parking decisions in respect of this matter. Cllr Thomson is included as he is the councillor for the ward concerned. The contents of the email are self explanatory.

As head of legal services for the council I believe you have a duty to ensure compliance with the Equality Act – the fact that religious groups have been granted this privilege is discrimination. I have long suspected that people parking in and around Shaftesbury Road to attend St Dunstan's have been allowed to get away with parking in a controlled zone during the times a CPZ is in force whilst local residents are ticketed. One neighbour has written evidence from a police officer which states that tickets won't be issued to cars attending St Dunstan's.

The council cannot continue to operate this two tier system where some people are given privileges because of their religion – irrespective of what that religion is. It will be even more of a concern if any councillors or council employees are discovered to hold positions of authority within any of the churches in the town centre where free parking has been taken without any thought for their fellow citizens. We have already seen that on a number of occasions that decisions regarding St Dunstan's have involved people who are both councillors and members of the church – this often results in even more disruption for those who live near by.

I look forward to hearing your proposals for redressing this matter and suggestions for recovering funding that has already been spent subsidizing parking for these groups.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Julie Kenyon', written in a cursive style.

Julie Kenyon (Mrs)

CC - Jonathan Lord MP

Geoff McManus

Dear Cllrs Thomson, Lyons & Kingsbury

Further to the recent release of information regarding free parking being given to worshippers in Woking town centre I would like to know when this privilege will end. Under the Equality Act 2010 the council are acting illegally by discriminating in favour of religious groups. Westminster Council recently voted against providing free parking for religious groups after it was drawn to their attention that they would have been acting illegally by doing so.

I note that in November 2010 the council stated their intention to monitor FOI requests in order to keep tabs on "those that abuse them". I wonder exactly what abuse this form would take - perhaps it is more likely that the council don't want the truth of some decisions to be exposed.

The council's own web site lists amongst others the following behaviours for Councillors:

- are collectively the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- contribute to the good governance of the area and actively encourage citizen involvement in decision making;
- effectively represent the interests of their Ward and of individual constituents;
- respond to constituents' enquiries and representations, fairly and impartially;
- participate in the governance and management of the Council;
- maintain the highest standards of conduct and ethics; and
- serve the public interest and take decisions having regard to the interests of the whole local community.

In the course of deciding to grant parking privileges to certain members of the community the council have failed to meet a number of these behavioral standards. There are now only 2 options available to the council to address:

1. Remove all parking charges on Sunday
2. Charge everyone to park in the town

I look forward to confirmation from the council as to which of these options will be chosen.

Yours sincerely
Julie Kenyon



Donate Help us to Continue our work...
 Join Us Join or renew your membership

Search For:

Home

Home » Christians pocket thousands of taxpayers' money in waived parking fees

Subscribe to our RSS News feed

About us

Christians pocket thousands of taxpayers' money in waived parking fees

Subscribe to newsletter

Your weekly e-newsletter from the NSS

Campaigns

The National Secular Society has warned a Surrey council that it is breaking the law by allowing churchgoers to park free while charging everyone else.

Email: Go

What we do

Get Involved

E-Newsletter

Resources

NSS Shop



A Freedom of Information request to Woking Borough Council has revealed that preferential parking concessions for people going to church saved the worshippers £59,804 between 1 January 2009 and 30 June 2011.

According to the council, church congregations are able to take advantage of the parking subsidy if they are parking in Victoria Way and Brewery Road car parks. The churchgoers insert tickets in a 'valeting device' held at the place of worship. This encodes the ticket that can then be inserted into the exit barrier allowing them to leave without payment.

The figures amount to £39,221 at Coln Church, £11,137 at Christ Church and £6,504 at Trinity Methodist Church, adding up to a total of £55,864 in the two-and-a-half year period.

According to the council, the decision to introduce the system was agreed by the executive in response to the town's pay-on-foot car parks.

Sue Waddington, a youth worker and member of Trinity Methodist Church said it would be unfair to make people pay for parking who go to church. She said: "We are very limited in parking so it does help. It is given to people who want to worship, not go shopping. A lot of people who go to the church don't go shopping on a Sunday."

Geoff McLanus, the council's neighbourhood services manager, said: "The council has always been sympathetic towards car parking arrangements for town centre faith groups. Since the phased introduction from 2003 of pay-on-foot systems into council-owned car parks, arrangements have been made with three town centre churches to enable worshippers to attend morning services free of charge.

"The arrangements in place at this time are a result of direct representations to the council from the churches concerned. If we receive representations from other faith groups, the council would consider those in line with current policy."

Tony Sanderson, President of the National Secular Society, said: "This arrangement is almost certainly illegal under equality legislation and the NSS has written to Woking Council to advise them of this."

Mr Sanderson said that it was likely that many councils throughout the country are operating similar systems. He said: "I encourage our members to check the websites of their local authority to see if there are other concessionary parking arrangements for 'faith groups'. If Woking's exemptions were to be replicated throughout the country, the subsidy would amount to tens of millions of pounds.

"We have advised the council that under the Equality Act these arrangements almost certainly amount to illegal discrimination. We await their response with interest."

Fri, 02 Sep 2011

What The Papers Say...

Drop organ donation law, says Welsh Archbishop BBC, 22 September 2011

Welsh Archbishop gets a drubbing over transplant remarks Wales Online, 22 September 2011

Muslim chaplains - using public money to spread their religion BBC, 22 September 2011

More of 'What The Papers Say'

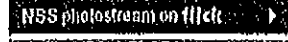
From the NSS

Faith school employment discrimination challenged in the Lords Thu, 15 Sep 2011

UK secularists plan big protest against Vatican interference in politics Thu, 18 Aug 2011

NSS given leave to intervene at ECJ in religious discrimination cases Fri, 05 Aug 2011

More from the NSS



AS PUBLISHED IN NEWS NOW >

Site map Join Contact the NSS

© 2011 National Secular Society (Limited by Guarantee). Developed by Gullfish.

IN THE MATTER OF THE EQUALITY ACT 2010 &
WORSHIPPERS' PARKING CHARGES

ADVICE

1. I have been instructed to advise on behalf of Woking Borough Council (WBC).

Background

2. The facts of this matter are relatively straightforward. WBC charge for parking on Sunday mornings in the town centre. This was implemented in two stages in 2003 and 2006. Some users of the car parks do not pay for their parking on Sunday mornings by arrangement with WBC. These users attend churches close to the car parks. This is done either by way of a validation machine or by permit issued to the church goer.

3. WBC have made it clear in my instructions that although free parking is only extended to churches there is no reason in principle why this would not cover attendees to mosques on Fridays or Synagogues on Saturdays in appropriate circumstances.

4. Objections to the policy have been received from a member of the public. She objects to the provision of free parking for those attending the local churches on a Sunday as it is discriminatory. The matter has also been discussed on the National Secular Society website. There is presently no legal challenge to the policy however concerns having been raised by a member of the public WBC thought it appropriate to seek guidance on the matter.

Analysis

5. The first issue is to decide whether the act of giving free parking to the churchgoers is in fact discriminatory. WBC is giving a free service to one group(s) of people (churchgoers) to the exclusion of others. This is unequal treatment. This would appear to be discriminatory.

6. The next question is whether the discriminatory act is direct or indirect discrimination under the Equality Act 2010. This is not entirely straightforward as at first glance this appears to be a straightforward direct discrimination claim. WBC is offering free parking to Christians attending church locally whilst everyone else irrespective of religion or belief pays. However it is not only Christians who will be attending the churches but also husbands/wives, carers, choristers, bell ringers and organ players. The benefit accrues to church attendees not solely to Christians.

7. Attendance at church is a manifestation of belief rather than the belief itself. Christians attend church however it is not necessary to be a Christian to attend church although most people who attend church are in fact Christians. So the provision criteria and practice being applied in this case is the need to attend church to get free parking on a Sunday morning. This requirement is one that other non-Christians are less likely to be able to comply with. This means that they are being indirectly discriminated against.

8. Being a case of indirect discrimination it is possible for WBC to justify the provision of free parking by proving that the provision of free parking is a proportionate means of meeting a legitimate aim. What I have struggled with in this case is what the legitimate aim is?

9. WBC has created through the charging policy a disadvantage to a particular group of people namely churchgoers. This disadvantage is connected to the characteristic of their religion. The way to remove the disadvantage (the parking charge) is to allow churchgoers to park for free.

10. The aim of the policy would appear to me to be to remove barriers to those who wish to worship on a Sunday in town centre churches. The free parking allowance removed the immediate impact of the change in car park charging policy. Moving forwards however a policy which continues to advantage one group of people over another on the grounds of a protected characteristic for an indefinite period of time may prove difficult to defend.

11. A phased transition to the new charging system would succeed as being proportionate whereas a long term subsidy would need to be the subject of a full Equality Impact Assessment (EIA) with regular reviews to ensure compliance with the Equality Act 2010.

12. In summary:

- a) The policy in relation to free parking is indirectly discriminatory.
- b) It is possible to justify indirect discrimination on the grounds that the policy is a proportionate means of achieving a legitimate aim.
- c) The legitimate aim identified by WBC is to prevent churchgoers from being disadvantaged by a characteristic connected to the Christian religion caused by WBC charging for parking on Sunday.
- d) The only way to remove the disadvantage is to remove the charge.
- e) I believe a policy of ongoing subsidy without any limitation in time could be held to be disproportionate.
- f) In order to meet the justification requirements laid down in the Equality Act 2010, I suggest that there is an EIA carried out immediately to properly measure the impact of the 'free parking' including the cost to WBC, effect it has on churchgoers and the effect it has on the wider community.

g) If it is decided having carried out the EIA that the practice of 'free parking' is to continue then the policy should be regularly reviewed to ensure that it is meeting its aim without disproportionately disadvantaging others.

Peter Doughty

Equality Impact Assessment

Sunday Parking Charges: Report to
Woking Borough Council
February 2012

Skyers-Poorman Research and Consulting
(Registered Company Skyers-Morris Associates Ltd Number 5657517)

Contact Tel: 0208 311 4347 (Office) Tel: 07956 572983 (Mobile)
email: sophia@skyers-morris.co.uk
email: janet@janetpoorman.co.uk

Table of Contents

Acknowledgements	3
Executive Summary	4
1. Introduction	6
2. The context for equality	6
3. WBC Sunday parking charges practice	9
4. Approach to the EqIA	9
5. EqIA of the Council's parking charge practice	11
6. Conclusion and recommendations	17
Appendix A - List of stakeholders	19
Appendix B - Ward Map of Woking	20
Appendix C - Background papers	21
Appendix D - EqIA Action Plan	1

Acknowledgements

We would like to thank everyone who took part in the consultation. The views expressed in this report are entirely those of Skyers-Poorman Research and Consulting and in no way represent the views of Woking Borough Council or the Equality and Human Rights Commission.

Executive Summary

Introduction

Woking Borough Council commissioned Skyers-Poorman Research and Consulting, to undertake an Independent Equality Impact Assessment (EqIA) on its current Sunday car parking practice. An EqIA is a systematic and comprehensive assessment of a policy or practice from an equality perspective and in this context, the purpose of this EqIA is to assess the positive, negative or differential impacts in relation to the following:

- The impact of free Sunday parking on churchgoers
- The cost of free Sunday parking to the Council
- The impact of free Sunday parking on the wider community

Approach to the EqIA

The EqIA has been organised around an approach involving screening WBC's practice in relation to car parking charges; desk research and documentary reviews of relevant background information from the inception of the policy in 2003 to the present; an analysis of demographic data, and in depth interviews and focus groups comprising 163 stakeholders. The participants in the interviews and focus groups included: WBC officers and elected members; representatives of the faith community in Woking; representatives of the non-faith community; a representative of the National Secular Society; the Woking Disability Access Group; the Woking Residents Panel; representatives of the business community in Woking; the Equality and Human Rights Commission (EHRC), and written responses.

Key Conclusions

The Sunday parking practice of allowing churchgoers to park for free was a reactive one that was introduced as a result of representations to WBC from churches in the Town Centre. The practice of free parking has benefits for some churchgoers, from disadvantaged groups such as black and minority ethnic (BME) residents, women, carers, and older churchgoers who are more likely to be on a limited income, and for whom public transport is not accessible. It also has positive benefits for higher income churchgoers who derive the benefits of free parking. Working residents who are disabled blue badge holders do not appear to uniformly derive positive benefits from the scheme due to the multi-storey car parks being perceived as inaccessible to some disabled people. There is also a three hour time restriction that has been imposed by Surrey County Council (SCC) on the on street disabled parking bays which are the responsibility of SCC and therefore fall outside the scope of the free Sunday parking scheme for churchgoers which is administered by WBC. There are other residents of faith groups, such as the Muslim community who are disadvantaged by the practice which does not currently recognise days of religious observance other than a Sunday. In addition, disadvantaged residents of the non-faith community who are on low incomes are potentially adversely impacted by the practice.

The church in Woking is seen as fulfilling an important community and social integration function. The discourse on parking charges it is argued also needs to be expanded to take account of diverse

lifestyles and secular activities that also enhance social integration. Along with church activities, those activities are also seen as contributing to the dynamism of the Town Centre, to its social milieu, and to its cohesion.

Recommendations

The EqIA has found that the current practice of allowing worshippers to park free on Sunday's was implemented as a reactive practice, and did not consider the needs of the wider community. The practice does not impact positively on all churchgoers as it has a negative impact on disabled Woking residents within the faith community who are excluded from its benefits, and on the wider community of residents, including disabled people who are also excluded from its benefits.

It is recommended that:

1. WBC addresses the current arrangements in relation to disabled people and Sunday parking as a matter of urgency by taking up the issue in relation to the on-street parking bays as a matter of urgency.
2. That WBC continue with the practice of allowing worshippers to park free if the Council is able to determine that it is a 'proportionate' means of achieving a legitimate aim' and having had proper regard to all of the issues raised in this EqIA.

Or

3. WBC rescind Sunday car parking charges for all visitors to the Town Centre between the hours of 7.00am and 1.00pm.

Or

4. WBC rescind Sunday parking charges for all visitors to Woking town centre on Sundays.

It is recommended that:

5. WBC make the EqIA available to all who took part in the consultation underpinning it and that it is also placed on the Council's website.

1. Introduction

Context and Background

1.1 Woking Borough Council (WBC) has a statutory responsibility under the Equality Act, 2010, to consider the impact of its decisions in relation to age, disability, sex, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, and sexual orientation. In addition, WBC also has a statutory duty to foster good relations between different groups of people, coupled with a responsibility to promote equality of opportunity. WBC has introduced a policy of allowing worshippers at Coign Church, Christ Church, Trinity Methodist Church, and Woking United Reform Church to park free of charge on Sunday mornings in Victoria Way and Brewery Road public car parks. At the same time, concessionary Sunday charging arrangements apply, capped at £3.00 in respect of other users of Woking town centre car parks on a Sunday. The practice of allowing worshippers attending the Town Centre churches to park free on a Sunday has been subject to a challenge under the terms of the Equality Act 2010 and WBC has commissioned Skyers-Poorman Research and Consulting, to undertake an independent Equality Impact Assessment (EqIA) on its current Sunday car parking practice.

1.2 An EqIA is a systematic and comprehensive assessment of a policy or practice from an equality perspective and in this context, the purpose of this EqIA is to assess the positive, negative or differential impacts of the following:

- The Impact of free Sunday parking on churchgoers
- The cost of free Sunday parking to the Council
- The impact of free Sunday parking on the wider community

Organisation of the EqIA

1.3 The EqIA is organised as follows: the following Section 2 sets the context for equality in Woking and provides a demographic profile of the borough. It sets the legislative landscape for equality, and how it relates to Sunday car parking charges. Section 3 explains WBC's current practice in relation to Sunday parking charges, and Section 4 sets out the approach adopted in conducting the EqIA. Section 5 presents the findings of the EqIA in relation to the specific issues set out above and Section 6, the final section concludes the EqIA and sets out a series of recommendations. The final section also points the reader to a separate Action Plan which accompanies this report. The Action Plan summarises the potential for positive, negative, and differential impacts identified during an analysis of the Sunday charging practice and relates to the recommendations.

2. The context for equality

A demographic profile of Woking

2.1 Woking has an estimated residential population of approximately 93,500 according to mid 2010 estimates, of which, 51.2% are male and 48.8% are female. There are also 39,941 households in Woking 28.3% of which are one person households and 30.6% of which have dependent children.

Of the resident population, 54% of residents are married, and 28% have never married. The demographics of sexual orientation, gender reassignment, and same sex couple households are difficult to establish as there are currently no reliable data. The campaigning organisation for Lesbian, Gay and Bisexual (LGB) people, Stonewall, has promoted the figure of 5-7% of a community as being LGB. In Woking this would represent 4,675 residents based on a 5% figure and 6,545 based on a 7% figure.¹ The ONS Integrated Household Survey for April 2010 to March 2011 calculates the LGB figure as 1.5% of the population.² The Gender Trust and the organisation Press for Change have produced statistical estimates of 25 per 100,000 of the population based on research into the numbers of people who have undergone gender reassignment procedures and in terms of that estimate, 23 Woking residents would be transgender.³

2.2 The largest ethnic group is the White population comprising 91.3%, and this is followed by the Asian or Asian British population which comprises 5.8%. The Black or Black British population and the Chinese population have identical proportions of 0.5%, and the Other Ethnic Group comprises 0.6%. The population of Woking is also young in terms of its age structure with 19.2% of the population being under 14 years of age, 66.1% being aged between 15-64, and 14.7% being aged 65 or over. The proportion of the population that reported having a moderate disability is 4.8% and this is most pronounced in the 55-64 age range and the 45-54 age range where the proportions are 14.6% and 9.8% respectively. A total of 13% of Woking residents reported having a long term limiting illness, the most pronounced being in the 85+, 75-84 and 65-74 age groups where the proportions are 58%, 49.7% and 30.4% respectively. The proportion of Woking residents claiming Job Seekers Allowance was 1.9% in 2011 and this is below the proportion for the South East of 2.5% and the national claimant rate of 3.6%, but above the Surrey average of 1.7%. Whilst the demographics at ward level in general mirror the averages for Woking as a district, there are some striking variations. The distribution of the BME population for example is by no means uniform in Woking. The ward with the highest proportion of BME groups is the Maybury and Sheerwater ward where the proportion is 34% and this is followed by the ward of Goldsworth East where the proportion is 11.6%. The ward with the highest economic activity rate is Goldsworth West where the proportion is 82% whilst the Pyrford ward has the lowest number of people who are economically active at 65.2%.

2.3 In terms of faith and non faith groups, 71.3% of residents describe themselves as Christian forming the largest religious group. The group with the highest proportion after Christianity is those of no religion, 15.1%, followed by those who did not state their religion 6.8%, and Muslim, 5.1%. The table below provides a breakdown of religious groups in Woking.⁴

¹ www.stonewall.org.uk

² Integrated Household Survey, April 2010 – March 2011: Experimental Statistics www.ons.gov.uk

³ www.pfc.org.uk and www.gendertrust.org.uk

⁴ POPPI and PANSI data, Woking Borough Council, 2010

Religious or Non-Religious Groups	%
Christianity	71.3
No Religion	15.1
Religion not stated	6.8
Muslim	5.1
Hindu	0.7
Jewish	0.3
Buddhist	0.3
Other religions	0.3

The legislative landscape for equality

2.4 The legislative landscape for equalities has been continually shifting since the 1960s with several additions and amendments being made to anti-discrimination law. At the time WBC introduced its parking practice, there were separate pieces of anti-discrimination legislation in relation to race, disability, gender, sexual orientation, religion and belief and age. The Equality Act 2010 replaced the principal separate pieces of legislation by consolidating and harmonising the law. It replaced the former positive public sector duties in relation to race, disability and gender, with a single general public sector equality duty which came into force in April, 2011. The legislative changes are anchored in a paradigm shift in which the focus for equality has moved from individual acts of restitution, to the delivery of equality and the tackling of inequality in a proactive and pre-emptive way, embracing entire organisational systems, cultures, practices and procedures. The public sector equality duty is underpinned by specific equality duties designed to assist public authorities in meeting the general duty. The duty applies to those who are referred to in the Act as sharing a *protected characteristic*, specifically in relation to age, disability, sex, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, and sexual orientation. The general equality duty places a legal requirement on public authorities such as WBC in the exercise of their functions to, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

2.7 The issue in relation to equality and Sunday parking is by no means straightforward and the advice of Counsel was therefore sought by WBC. The legal opinion given was that whilst the practice in relation to free parking for churchgoers could be said to be *indirectly discriminatory* under the terms of the Equality Act 2010 as it is not accessible to non-Sunday churchgoers, it could be justified if it is a *'proportionate means of achieving a legitimate aim'*. In this case, the legitimate aim

identified by Counsel, instructed by WBC is to prevent churchgoers from being disadvantaged by a characteristic connected to the Christian religion resulting from WBC's Sunday parking charges. At the same time, Counsel advised that in order to meet the justification requirements laid down in the Equality Act 2010 a full EqIA should be carried out to measure the impact of the practice of free parking for Sunday worshippers, the cost to WBC, the effect it has on churchgoers, and the effect it has on the wider community.

3. WBC Sunday parking charges practice

Introduction of free Sunday parking for churchgoers

3.1 The policy of WBC is to review its discretionary fees and charges at least once each year to maximise its income and its annual review of its discretionary fees provides detailed information on this. As part of WBC's review of parking charges, Sunday parking charges were introduced in the Town Centre in 2003 and in 2008 as part of a two-staged process. The current practice is that Sunday charges apply to anyone visiting the Town Centre car parks on a Sunday and they are applied on a 24 hour basis. The charge is £1.10 for the first hour, a further £1.10 for the second hour and a maximum charge of £3.00 for the next hour and for the remainder of Sunday. WBC received formal representations from churches located in the Town Centre stating that their worshippers would be adversely affected by the practice. WBC also received objections from local shops and retailers about the potential negative impact on trade in the Town Centre and on shoppers in relation to an increase in parking charges across the board, not specifically in relation to Sunday Parking.

3.2 When the practice of levying Sunday parking charges was introduced, representation was made by the churches in the Town Centre to the Council. WBC then implemented a responsive practice, putting in place free Sunday parking arrangements for worshippers at Christ Church, Coign Church, Trinity Methodist Church and Woking United Reform Church. The terms of this arrangement are that Christ Church, Coign Church, and Trinity Methodist Church have been given ticket validating machines by WBC allowing their members to validate their parking tickets in the pay on foot exit car parks in Victoria Way, and Brewery Road. In the case of Woking United Reform Church, which uses the Heathside Crescent car park, worshippers have been provided with parking permits as that car park does not operate a pay on foot exit system. Objections to the practice of allowing churchgoers to park free have been received by WBC from a member of the public who has stated that the practice is discriminatory in being inaccessible to non-churchgoers and people of no religious belief. The issue has also been discussed on the National Secular Society website. As already stated above, WBC, having sought the advice of Counsel has been advised that the practice is indirectly discriminatory and has been advised to carry out a full EqIA.

4. Approach to the EqIA

4.1 As a public body with a statutory responsibility to ensure equitable access to its services, WBC considers the impact of its policies and strategies from an equality perspective. The purpose is to identify whether there is potential for a positive, negative or differential impact on Woking residents, and where necessary, to take measures to mitigate any potential negative impact, as well as to enhance positive impacts. The EqIA has been organised around the following approach:

- Screening WBC's practice in relation to car parking charges.
- Desk research and documentary reviews of relevant background information from the inception of the practice in 2003 to the present.
- An analysis of demographic data including data on faith and religious groups, non-faith groups, race and ethnicity, gender breakdown, age, and other demographic data.
- In depth interviews and focus groups conducted with 163 stakeholders including: WBC officers and elected members; representatives of the faith community in Woking; representatives of the non-faith community in Woking; a representative of the National Secular Society; the Woking Disability Access Group; the Woking Residents Panel; representatives of the business community in Woking, and the Equality and Human Rights Commission (EHRC). A list of stakeholders is given in the Appendix.
- Production of a short article in the National Secular Society newsletter soliciting the views of its wider membership.
- Written responses from 4 members of the Woking Residents Panel who were unable to participate in an interview or a focus group.

4.2 The table that follows sets out the EqIA consultation respondents:

Woking Residents Panel			
One-to-One Interviews	Group Interviews and Participants		Written Responses
25	Coign Church	14	4
	Christ Church	9	
	Woking United Reform	6	
	Trinity Methodist	38	
	Portugal Road Mosque	4	
	Oriental Road Mosque	53	
	Woking Residents Panel	10	
Total 163			

EqIA assessment framework

4.3 To assess the impact of free parking on churchgoers, the cost to WBC, and the impact that it has on the wider community, the EqIA has focused its analysis on a set of questions structured around the following EqIA framework employed by a range of public bodies for which Skyers-Poorman Research and Consulting has conducted EqIA's. The questions that have guided the EqIA are set out in the following table:

EqIA assessment framework

- What are the current Sunday car parking arrangements and how do they operate?
- What are the resource implications for WBC?
- What is the existing situation in relation to protected groups as it applies to this practice?
- How do the stated aims and objectives of the practice relate to Town Centre churches?
- How does the practice of free Sunday parking for churchgoers promote equality?
- What are the groups on which the practice has a positive impact and in what way(s)?
- Are there any groups that are disadvantaged by the practice and in what way(s)?
- Can the disadvantage be mitigated? If so, in what way(s)?
- Are there any groups that are unintended beneficiaries of the practice?
- Will the practice promote a culture of equality, fairness and respect?
- Are there any issues raised by faith groups and non-faith groups about the practice?
- How does the practice apply to other days of religious observance?
- How will the results of the EqIA be publicised and monitored?

4.4 The analysis of the results of the EqIA consultation has been structured around a version of framework analysis where relevant themes and sub-themes that relate to the *positive*, *negative*, and or *differential* impact of the free Sunday parking practice, and the potential for mitigation have been identified. Arising from the analysis are a set of recommendations and a separate Action Plan.

5. EqIA of the Council's parking charge practice

5.1 This section presents the equality issues in relation to the practice of Sunday parking and in relation to the specific issues set out above which are to examine:

- The impact of free Sunday parking on churchgoers
- The cost of free Sunday parking to the Council
- The impact of free Sunday parking on the wider community

The impact of free Sunday parking on churchgoers

5.2 The rescinding of Sunday car parking charges for churchgoers has had a positive impact on many worshippers living in Woking and on those who attend churches in Woking from outside the borough. In terms of the worshippers that benefit, data delineated along the lines of the equality groups are limited and much of it is impressionistic, anecdotal, observational, and provided by church leaders and members of the faith community. There are in the region of twenty different nationalities and ethnic groups represented in the churches, a cross section of younger and older worshippers, and worshippers with a range of disabilities and access needs. Roughly an equal proportion of worshippers in Town Centre churches are men and women and this reflects the gender profile of the borough. Whilst Woking is a relatively affluent borough with a significantly lower unemployment rate compared to the national average, and has a high proportion of its population in managerial and associate professional and technical occupations, that is 20.6% and 15.2% respectively, women whom as we have seen, comprise a little more than half of the borough's population (51.2%), mirroring the national picture, will tend, disproportionately, to be in less well

paid employment and to have lower incomes.⁵ A key explanation for this is horizontal and vertical occupational segregation, as well as a range of other barriers to labour market entry and progression.⁶ Moreover, in terms of young people, as well as people already suffering the effects of disadvantage in the labour market such as BME communities and disabled people, the recession has exacerbated a legacy of high unemployment, low pay and insecure employment, and low incomes and these groups, across all areas of the UK, including areas within Woking, are feeling the pronounced impact of this. As an illustration of disparity, the level of employment for the Maybury and Sheerwater ward at the time of the 2001 census was 61.7% compared with 68.8% for the borough as a whole. This ward also had a higher proportion of BME residents, a higher proportion of lone parent households with dependent children, and a higher proportion of residents who were permanently sick and disabled compared with the borough as a whole.

5.3 Churchgoers in Woking as a religious group under current equality legislation, share a protected characteristic and experience the advantages of free parking on a Sunday. At the same time, some worshippers who share the protected characteristic based on religion, also have other protected characteristics such as on grounds of age, race, disability, sex, pregnancy and maternity and so forth, and also experience the advantages of free Sunday parking. The current arrangement enables churchgoers to worship without the burden of a financial cost, and this is congruent with Sunday traditionally being seen as a day of religious observance, prior to a relaxation of Sunday trading laws. Whilst some churchgoers benefit from the practice of free Sunday parking, it is the more disadvantaged communities within church congregations for whom the financial benefits of free parking does make a tangible material difference. This includes for example, women, BME residents, young people, older people of pensionable age, carers, and other groups on lower incomes. In addition, older people and those with caring responsibilities for example, find it difficult to use the transport network which has an extremely limited Sunday operation in Woking. As women tend to be the main carers of children, and people aged 50+ are more likely to be in a caring role, free parking is particularly important as the logistics of travel to and from church and the additional problem of navigating an infrequent Sunday bus service are major barriers.⁷

5.4 Among Woking residents who are also on low incomes, a Sunday parking charge of £3.00 per week can represent a significant portion of their individual or household income. Whilst the vast majority of worshippers stated during the EqIA consultation that a reintroduction of charges would not prevent them from attending the Sunday church service, the already more disadvantaged communities would have considerable difficulty meeting the cost. The negative impact of this would be exacerbated in the present economic climate and the challenges that it presents. As the Sunday service is the engine of growth for the church which fuels its membership, the introduction of

⁵ Shaping a Fairer Future: A review of the recommendations of the Women and Work Commission three years on, July 2009

⁶ Horizontal and vertical occupational segregation concerns the tendency of men and women to be employed in different occupations in the entire spectrum of occupations under analysis, and the tendency of men to be employed at higher levels with higher salaries, and women to be employed in lower paid occupations.

⁷ Surrey Joint Strategic Needs Assessment, 14/06/2011

charges for the more disadvantaged groups could potentially inhibit church membership among those groups and could potentially curtail new membership from disadvantaged groups.

5.5 As well as churchgoers who worship on a Sunday, all of the churches rely on members who provide voluntary services, and who come into the Town Centre at 7.00am on Sunday mornings. This is to deal directly with setting up arrangements for church services, the planning and setting up of activities, and the running of crèche services and activities to keep younger members of the church congregation occupied whilst their parents attend the church meeting. These voluntary services go on in tandem with the 9.00am and 11.00am services and they are critically important for children and for families. They enable parents to have some respite from childcare and to worship. Thus, if volunteers who are giving up their time to provide services for the church community have to pay Sunday parking charges, those volunteers who are on limited incomes may choose not to, or indeed, may not be able to continue providing those services. This could also have an adverse impact on the ability of families with small children, particularly lone parents to attend the church service. The introduction of charges would also run counter to the notion of the *BIG Society*, and could result in the decline of important community focused activities that have a wider social and economic value to Woking residents.

5.6 Whilst the free Sunday parking practice provides many positive benefits to the church community, it is by no means perceived uniformly as providing positive benefits for all members of the church who are disabled and who have a range of other physical access needs. The responsibility for highways rests with Surrey County Council (SCC) and SCC has placed a three hour time restriction to on street parking for disabled blue badge holders, a decision that was taken in consultation with WBC. Thus, disabled worshippers who attend church in Woking Town Centre, on a Sunday, are restricted to a three hour stay when using on street disabled parking bays whilst non-disabled visitors to the Town Centre who pay to park in the multi-storey car parks, or worshippers who are able to have their tickets validated at one of the pay on foot exit car parks, have no such time restrictions placed on them. Furthermore, disabled worshippers who hold a Proximity Card, enabling them to park free of charge in one of the Town Centre car parks are not able to use them in every case for a number of reasons. This is because on street disabled parking which is strategically close to local facilities is far more accessible for some disabled people and accessibility is a critical factor when a disabled visitor comes into the Town Centre, particularly if they are unaccompanied. Accessibility does not however relate solely to the location of disabled on street parking, but also to the area around the on street parking disabled bays which is large enough to ensure manoeuvrability, in contrast with the area around the majority of the standard bays in the multi-story car parks. The Town Centre car parks, being multi-story can also be intimidating for some disabled users who are vulnerable, and who are concerned about lifts breaking down.⁸ These issues are compounded by limited Sunday public transport as within the last 12 months, a number of Woking bus services have been cut, whilst other routes do not operate on a Sunday. Indeed, in the case of Woking United Reform Church, there is only one bus that passes the church on any day,

⁸ Surrey Joint Strategic Needs Assessment, 14/06/2011 refers to disabled people being more likely to be victims of hate crime. See also Hidden in Plain Sight – inquiry into disability-related harassment, EHRC

added to which, there is no Community Transport for Woking Residents on a Sunday. There are therefore a number of barriers that do cause difficulty for some disabled users to travel from the outer parts of Woking to the Town Centre churches to worship even within the terms of the current Sunday parking practice and it is critical that these issues are taken up with WCC by WBC.

The cost of free Sunday parking to the Council

5.7 WBC operates a pay on foot system in the majority of its car parks. At each of the following locations, Christ Church in the Town Square, Trinity Methodist which is on Brewery Road, and the Coign Church there are validating machines so that people attending Sunday church services on Sunday mornings can run their tickets through them and exit the car park free of charge. Woking United Reform Church uses the Heathside Crescent car park and as there is no pay on foot system at that car park, 150 parking permits have been issued which Church members display on their windscreens.⁹

5.8 As part of the process of conducting the EqIA, the cost of the current free Sunday Parking Scheme implemented in 2008 has been examined. The total financial value per week of the current scheme is estimated at £780 per week, £40,560 per annum and £121,680 for three full years' operation. In the case of the Woking United Reform Church, it should be made clear that the cost represents the cost if all permits are used. This is broken down as follows:

Estimated Cost of Free Parking Scheme Three Full Years Operation			
Church	Parkers	Value £	Rate £1.00
Coign Church	120	300	
Christ Church	50	115	
Trinity Church	25	65	
Woking United Reform ¹⁰	150	300	
Total	345	780 per week	40,560 per annum
Total estimated cost from three years operation £121,680			

⁹ At the time of writing, the Council has a pending request for an additional 50 parking permits for Woking United Reform Church

¹⁰ Charges were introduced in April 2010 in Heathside Crescent car park used by members of the United Reform Church. The church was therefore affected by the Sunday car park charging practice and 150 permits were granted for worshippers.

5.9 Prior to 2003 and the operation of the current practice, Sunday car parking charges applied in Wolsey Place, Toys R Us, Peacocks, Victoria Way and the Brewery Road car parks between 1pm and 5pm. This practice did not cause any inconvenience to local parishioners attending church services in the Town Centre. In 2003, up to the implementation of the current scheme in 2008, the timings were extended from 11.00am to 5.00pm for all of the above car parks, but at that time, excluded Brewery Road car park where the timings remained from 1.00pm to 5.00pm. The estimated cost for that period is therefore based on the Christ Church congregation having access to free parking in the Victoria Way car park as Brewery Road was accessible to all.

Weekly (provisional) Sunday Parking Scheme Victoria Way car park 2003 - 2008		
Christ Church	Parkers	Rate £1.00
	50	per week £50
	2,600	per annum £2,600
Total estimated costs £13,000		

5.10 The estimated cost to the Council is therefore £2,600 per annum for the financial years 2003 to 2008, totalling £13,000. The estimated cost to the Council is £65,000 for the five financial years from 2003 – 2008.

5.11 The comparative figures for the total gross income for Sunday parking and for weekly and annual parking, and for three years full operation are set out in the following table:

Estimated Parking Three Full Years Operation			
	Weekly	Annual	Three Years
Sunday Parking Income - All Car parks	7,740	402,500	1,207,500
Total Weekly Parking Income - All Car Parks	87,461	45,548,000	13,644,000

5.12 The Sunday parking charge which is capped at £3.00 for non churchgoers is concessionary in comparison with the other days of the week. The Director of the Shopping Centre has said that there has been no change in the footfall as a result of the introduction of Sunday Parking, and that parking charges are not a determinant of the numbers of people who go shopping. The figures for November 2011 show a footfall of 40,000 people on a Saturday and 26,000 people on a Sunday which is consistent with historical figures, and illustrates that pro-rata, given the shorter Sunday

shopping hours, Sunday is a mature shopping day in which trade is arguably bigger than on any other day of the week.¹¹

The impact of free Sunday parking on the wider community

5.13 The EqIA found that concerns about free parking for churchgoers, as well as being perceived as unfair by the non-church going community, are symptomatic of a wider problem. This relates to the frustration of residents about increased parking charges generally and concerns of residents working in the Town Centre during the weekdays, not specifically a Sunday, where parking charges can represent a significant proportion of individual and family incomes. The frustrations of residents also relate to the cost of participating in Town Centre activities, as well as concerns about increases in residential parking charges. Added to this are questions about the ad hoc manner in which the free Sunday parking practice for worshippers was introduced, and without full consideration of the impact on the wider community. This latter point was also raised by many of the beneficiaries of free Sunday parking who whilst applauding the scheme, do share concerns about the perceptions of other groups.

5.14 As part of the EqIA consultation, the views of other faith communities and non-faith communities were solicited. The largest faith community next to the Christian group in Woking is the Muslim community. The Muslim members of the Mosque on Portugal Road, close to the Town Centre, pay for on street parking from 12.00noon to 2.30pm on a Friday which is their day of religious observance. The Muslim members of the Mosque on Oriental Road have their own parking facilities and therefore parking charges is not an issue that directly affects them. In relation to the Portugal Road Mosque, the EqIA found that having to pay for on street parking at 80 pence per hour does have an adverse impact on those on low incomes or in low paid employment. In order to get around the parking costs, some members have to park a considerable distance from the controlled parking area around the Mosque whilst those who are less mobile are unable to do so and incur what they feel are excessive charges. As already stated, the issue of equity and fairness in respect of days of religious observance was also a recurring theme amongst the actual beneficiaries of the current practice. It was seen as quite right by the Muslim community that that the Council make concessions for the Town Centre churches, which, due to their location, have no parking attached to their premises. At the same time, it was seen as unfair in a multi-cultural society if similar concessions or relaxation of the rules were not also made for faith groups whose day of religious observance was not a Sunday. This is vividly illustrated by the fact that Christ Church, one of the churches that benefits from the free Sunday parking practice is approximately 150 yards from the Portugal Road Mosque. The Mosque however, due to its day of religious observance being on a Friday, is subject to parking charges and to parking restrictions. At the same time, Emanuel Chapel which is almost adjacent to the Portugal Road Mosque is not impacted by Sunday parking charges as currently, the charges do not apply on a Sunday in the parking bays in and around Portugal Road. The church also has its own small car park, and if there is overspill church members can park in the on street bays free of charge.

¹¹ Figures provided by the Director of the Shopping Centre

5.15 The second largest group in Woking other than Christians is those who state that they are of no religious belief. Whilst there has been no impact on the footfall within the Town Centre, the introduction of Sunday parking charges is seen within the context of an increase in parking charges across the borough generally. Indeed, the issue of free Sunday parking for worshippers has been a practice that has been in operation since 2003 but gained attention and added impetus in the context of rising parking charges. As such, some residents have expressed their frustration at the practice of allowing Sunday worshippers to park free of charge whatever their income level, whilst other non church going residents, including those who fall within groups with other protected characteristics, cannot benefit from free parking, and are paying substantially increased charges across the board. This is seen as tantamount to being discriminated against on the grounds of having no belief or organised religious belief. Whilst the argument has been made that non-religious groups have six other days on which to visit the Town Centre to shop, the EqIA has found that this is not in fact the case. Indeed, whilst shopping in the Town Centre on a Sunday is important, the Town Centre is not seen by non-religious groups as solely offering a commercial and retail experience. As an illustration, carers balancing home, work and their caring responsibilities often find Sunday a convenient day to relax by visiting the Town Centre as other family members who work may be around to provide some respite. Moreover, lone parents balancing childcare, work, commuting, and the school run may find Sunday the best day to shop, and for disabled residents who want to visit the Town Centre, shop and have a meal with other family members or friends who may be working in the week, Sunday is often the most convenient day. Thus Sunday for non-worshippers accommodates flexible working patterns and fits with the rhythms of family life. This is seen as being as important as religious observance to building and maintaining the social as well as the economic fabric of communities. It is seen as important to community cohesion in Woking, and to supporting diverse family values and family structures. Therefore, in the same way as the church in Woking is seen as fulfilling an important community and social integration function, the discourse on parking charges it is argued, also needs to be expanded to take account of diverse lifestyles and secular activities that also enhance social integration. Along with church activities, those activities are also seen as contributing to the dynamism of the Town Centre, to its social milieu, and to its cohesion.¹²

6. Conclusion and recommendations

6.1 The EqIA has found that the current practice of allowing worshippers to park free on Sunday's was implemented as a reactive practice, and did not consider the needs of the wider community. The practice does not impact positively on all churchgoers as it has a negative impact on disabled Woking residents within the faith community who are excluded from its benefits, and on the wider community of residents, including disabled people who are also excluded from its benefits.

6.2 It is recommended that:

¹² See for example, the Portas Review: An independent review into the future of our high streets, December, 2011 and Jane Jacobs, *The Death and Life of Great American Cities*, New York, Random House, February, 1993, (1961)

1. WBC addresses the current arrangements in relation to disabled people and Sunday parking as a matter of urgency by taking up the issue in relation to the on-street parking bays as a matter of urgency.
2. That WBC continue with the practice of allowing worshippers to park free if the Council is able to determine that it is a 'proportionate' means of achieving a legitimate aim' and having had proper regard to all of the issues raised in this EqIA.

Or

3. WBC rescind Sunday car parking charges for all visitors to the Town Centre between the hours of 7.00am and 1.00pm.

Or

4. WBC rescind Sunday parking charges for all visitors to Woking town centre on Sundays.

It is recommended that:

5. WBC make the EqIA available to all who took part in the consultation underpinning it and that it is also placed on the Council's website.

Appendix A – List of stakeholders

Equality and Human Rights Commission

Peter Bryant, Head of Legal Services, Woking Borough Council

David Johnson, Corporate Strategy Manager, Woking Borough Council 01483 743060

Geoff McManus, Neighbourhood Services Manager, Woking Borough Council 01483 743707

Refela Zaman, Senior Policy Officer, Woking Borough Council 01483 743479

Tim Keeping, Director of Shopping Centre

Tim Pulman, Store Manager, Debenhams of Woking

Peter Large, Head of Legal and Democratic Services, Westminster Council

Malcolm Kaynes, Pastor, Coign Church

Reverend Pippa Ross-McCabe, Working People of Faith Co-ordinator

Dr Sayid Naqvi, Mosque Al-Asr, Portugal Road

Mr Haziz Shamit, Oriental Road Mosque

Moevra Syed Ahmadiyya Community

Peter Harwood, Pastor, Christ Church

Philip Goldberg, Member of Guildford Synagogue

Simon Trick, Baha'i Faith Group

Clive Wood – Woking Disabled People's Group

Rev Bob Sneddon Trinity Methodist

Revd Lucy Brierly United Reform Church

Keith Porteous Wood – Executive Director, National Secular Society

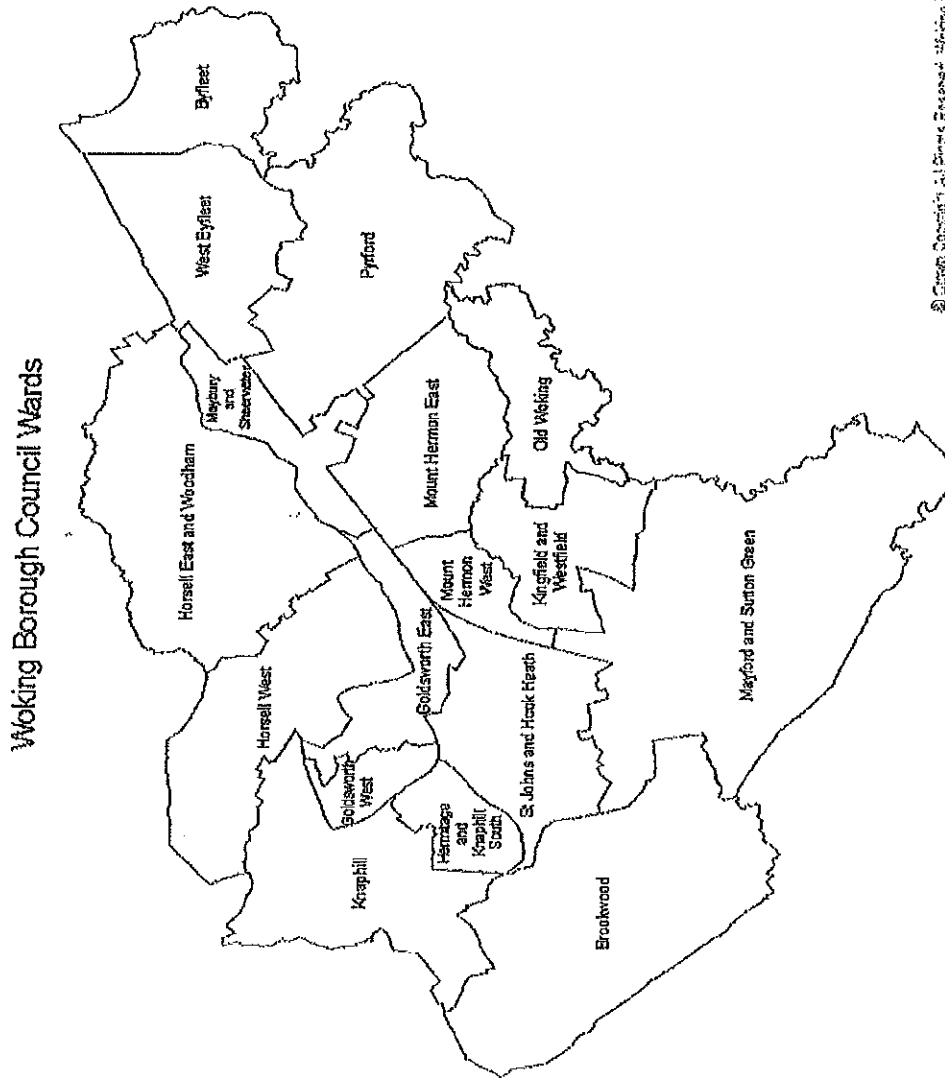
Ms Julie Kenyon – Resident

Councillor Melanie Whitehand

Councillor Liam Lyons

Clive Wood - Chief Executive Surrey Disabled People's Partnership

Appendix B – Ward Map of Woking



© Crown Copyright and Rights Reserved. Woking Borough Council 100000402

Appendix C – Background papers

Minutes -06/03/03 – Executive, Sunday Parking, Woking Borough Council

Minutes of the Meeting of the Executive, 30 November 2006, Woking Borough Council
Report-30/11/06 Fees and Charges Review, Sunday Parking, Woking Borough Council Agenda Item 9

Counsel's Advice in the matter of the Equality Act, 2010 and Worshippers' Parking Charges

Surrey Joint Strategic Needs Assessment, 14/06/2011 refers to disabled people being more likely to be victims of hate crime

Parking to stay free for church, Surrey Advertiser Friday 21 October, 2011

NSS challenges to free parking for churchgoers forces Council to act, National Secular Society Friday 21 October, 2011

Hidden in Plain Sight – inquiry into disability-related harassment, EHRC

Free parking for Woking church goers questioned, BBC News Surrey 16 October, 2011

The Portas Review: An Independent review into the future of our high streets, December, 2011

Jane Jacobs, The Death and Life of Great American Cities, New York, Random House, February, 1993, (1961)

Appendix D – EqIA Action Plan

Equality Impact Assessment on Woking Sunday Car Parking Action Plan

The Council needs to develop a coherent and sustainable practice in relation to Sunday parking practice, that is consulted on. The following is a summary of impact of the recommendations contained in this EqIA.

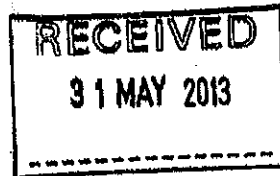
Sunday Charging Options	Positive Impact	Negative Impact	Mitigation Measures
1. That WBC continue with the practice of allowing worshippers to park free if the Council is able to determine that it is a 'proportionate means of achieving a legitimate aim' and having had proper regard to all of the issues raised in this EqIA	The impact on the entire community would be considered in relation to all of the protected characteristics and protected groups within groups to inform a more carefully nuanced practice in relation to free parking for worshippers	The element of concession on a Sunday would mean that religious groups whose day of observance is not on a Sunday would be adversely affected The current Sunday charging practice does not encompass on street parking for disabled people. On street parking is administered by Surrey County Council, in consultation with Woking Borough Council is subject to a three hour restriction. It impacts adversely on the ability of disabled people to attend church and related church activities on a Sunday.	There is already an element of concession in relation to Sunday parking and that has a positive impact on Sunday visitors to Woking Town Centre The Council should consider the loss of income and determine whether it is proportionate The Council should consider other requests on a case by case basis, within the framework of a coherent and sustainable policy on parking charges
2. That WBC addresses the current arrangements in relation to disabled people and Sunday parking as a matter of urgency	The current scheme has a positive impact on some disabled users who are able to access the multi-storey car park	Not all disabled people in Woking can access the multi-storey car park and time restrictions on the disabled parking bays administered by SCC disadvantages disabled residents.	The Council should take up the issue in relation to disabled parking with SCC as part of a coherent and sustainable policy in relation to parking charges

Sunday Carriage Options Positive Impact Existing Issues Mitigation

	Disadvantaged residents of the non-faith community who wish to visit the Town Centre and fall within a <i>protected group</i> do not benefit from the policy.		
3. Rescind Sunday car parking charges for all visitors to the Town Centre between the hours of 7.00am and 1.00pm	Positive impact on some residents attending church and residents visiting the Town Centre on a Sunday to shop and have family time	Positive impact on residents visiting the Town Centre to engage in activities in the Town Centre, particularly, carers, people, older people and other groups on low incomes As well as addressing the equality issues, the Town Centre could build a marketing and promotional campaign around the rescinding of Sunday Parking charges and gain an advantage over competitor towns	The issue of accessibility for disabled users needs to be addressed in relation to on street and multi-storey parking. The issue of accessibility for disabled users needs to be addressed in relation to on street and multi-storey parking. A flexible practice would need to be developed that extends to other groups and kept under review
4. WBC rescind Sunday parking charges for all visitors to Woking town centre on Sundays	The access issues in relation to the multi-storey car park, coupled with the three hour limit to on street parking means that disabled residents would not realise the intended positive benefits of this option	The access issues in relation to the multi-storey car park, coupled with the three hour limit to on street parking means that disabled residents would not realise the intended positive benefits of this option	The issue of accessibility for disabled users needs to be addressed in relation to on street and multi-storey parking.

Sunday Changing Options	Positive Impacts	Negative Impacts	Mitigation Measures
	Practice will ensure that volunteers setting up church activities on Sunday's and crèche activities for children will not suffer financial penalties	Does not recognise days of religious observance other than a Sunday or recognised religious beliefs that may not take place in a community with others on a Sunday	A flexible practice that extends to other days of religious observance would need to be developed and kept under review.
	Positive impact on residents visiting the Town Centre to engage in activities in the Town Centre, particularly, carers, older people and other groups on low incomes	There would be a substantial loss of income to WBC as Sunday is a mature trading day	
	As well as addressing the equality issues, the Town Centre could build a marketing and promotional campaign around the rescinding of Sunday Parking charges and gain an advantage over competitor towns		

RM1500 2497



Leigh Day

The Chief Executive
Woking Borough Council
Civic Offices
Gloucester Square
Woking Surrey
GU21 6YL

Direct Dial: 0207 650 1243

Email: rstein@leighday.co.uk

Your Ref:

Our Ref: RS SB KPW Woking

Date: 30 May 2013

LETTER OF CLAIM

Dear Sir

Our client: Keith Porteous Wood, 25 Red Lion Square, London WC1R 4RL

This is a formal Letter of Claim for the purposes of the Practice Direction on Pre-Action Conduct. Please acknowledge receipt of this letter within 14 days. Please send your reasoned Letter of Response within 28 days, i.e. by 19 June 2013.

A failure to provide a Letter of Response by this deadline may lead to our client commencing proceedings against you which may increase your liability for costs. We represent Keith Porteous Wood ('KPW') in a claim of unlawful discrimination in the provision of goods and services contrary to section 29(1) read with section 13(1) or, in the alternative, section 19(1), of the Equality Act 2010 ('EqA').

Funding

We hereby give you notice that we have entered into a Conditional Fee Agreement with KPW in this claim, which allows for a success fee and is retrospective.

Background to the claim

You are and were at all material times the owner and/or operator of a number of public car parks in Woking, Surrey, including a car park known as Heathside Crescent Car Park, situated at Heathside Crescent, Woking, Surrey, GU22 7AG and car parks at Victoria Way and Brewery Road, Woking (respectively, "Heathside Crescent", "Victoria Way" and "Brewery Road").

Leigh Day

Priony House, 25 St John's Lane, London EC1M 4LB
DX 53326 Clerkenwell

T 020 7650 1200

F 020 7253 4433

E postbox@leighday.co.uk

W www.leighday.co.uk

A list of partners can be inspected at our registered office or website.
Leigh Day is a partnership authorised and regulated by the Solicitors Regulation Authority (SRA). The firm's SRA number is 00067679.
Service of documents by email will not be accepted.

Leigh Day

In providing car parking facilities as set out above you are and were at all material times a provider of services to the public within the meaning of section 29(1) of the EqA.

KPW is not of the Christian religion or any religion and does not hold Christian beliefs or any religious beliefs. His lack of such religion or belief constitutes a protected characteristic or protected characteristics for the purposes of sections 4, 10, 13 and 19 of the EqA.

In 2003, you introduced charges for users parking in some of your town centre car parks on Sunday mornings. The charges were extended to other town centre car parks, including Heathside Crescent, in 2010.

Following the introduction of Sunday morning parking charges in your town centre car parks, you received complaints from members of churches located in Woking town centre which did not have car parking attached to their premises, namely Woking United Reform Church ("WURC") and Christ Church, Colgn Church and Trinity Methodist Church ("the Other Churches").

WURC and the Other Churches hold services of Christian worship every, or, in the alternative, almost every, Sunday morning, throughout the year.

Following the introduction of Sunday car parking charges, you agreed with members of WURC and the Other Churches that users of town centre car parks, including Heathside Crescent, would not have to pay for parking on Sunday mornings if they were visiting WURC or one of the Other Churches to attend, or in connection with, a service of Christian worship. This arrangement was adopted as your formal policy in May 2012.

To this end, you subsequently provided WURC with parking permits to give to its churchgoing members. A car park user who displays one of the said permits inside his car's windscreen is granted free parking at Heathside Crescent on a Sunday mornings between 9:30am and 1:00pm.

You provided each of the Other Churches with a ticket validating machine. A car park user who uses one of these validating machines is granted free parking at Victoria Way and/or Brewery Road on a Sunday mornings. These validating machines are only made available for the use of those who attend the relevant Church for the purpose of, or in connection with, a service of Christian worship.

Leigh Day

As a result of the unlawful discrimination, our client suffered loss.

Remedy

Our client seeks the following by way of remedy:

- (1) An apology and open admission that you have unlawfully discriminated against him because of religion or belief, contrary to EqA.
- (2) An open undertaking that you will revoke your policy of providing free car parking to faith groups on their main days of worship or parts of those days (or will extend free car parking to all car park users on those days or part days) and will not seek to re-introduce the same, or any similar, policy at any time in the future.
- (3) Damages.
- (4) Interest.

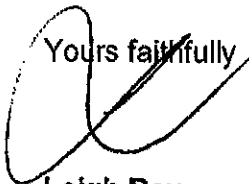
Practice Direction

We refer you to the Practice Direction on Pre-Action Conduct and in particular paragraph 4.1 of that Practice Direction, which states that the CPR enable the court to take into account the extent of parties' compliance with the Practice Direction when making orders about who should pay costs.

Conclusion

We invite you to concede liability and provide our client with the remedies that he seeks.

Yours faithfully



Leigh Day



Leigh Day,
DX 53326 Clerkenwell

By e-mail (rstein@leighday.co.uk) and DX

Civic Offices
Gloucester Square
Woking
Surrey GU21 6YL

Telephone (01483) 755855
Facsimile (01483) 768746
DX 2931 WOKING
Email wokbc@woking.gov.uk
Website www.woking.gov.uk

Your ref: RS SB KPW Woking
Our re: PB/000658

25 June 2013

Dear Sirs,

Your Client: Keith Porteous Wood; 25 Red Lion Square, London WC1R 4RL

Thank you for your letter of 30 May 2013, receipt of which was acknowledged by us by letter of 5 June 2013. We confirm that this is the Council's reasoned Letter of Response for the purposes of the Practice Direction on Pre-Action Conduct, provided to you within 28 days of receiving the Letter of Claim.

We understand that you represent Mr Keith Porteous Wood in a potential claim under section 29(1) read together with section 13(1) or, in the alternative, section 19(1) of the Equality Act 2010. We confirm that – for the reasons set out below – any such claim will be resisted by the Council.

The Background

We note what you have said in terms of Mr Wood's visit to Woking on Sunday 14 April 2013 and the car parking charge he paid when parking in Heathside Crescent that morning. We have no proportionate means of independently verifying these facts but do not seek to dispute what you have said in this regard.

It is acknowledged that the Council is the owner and/or operator of a number of public car parks in Woking, including the car park at Heathside Crescent. It is also accepted that the provision of car parking facilities in this way can amount to the provision of services to the public within the meaning of section 29(1) of the Equality Act 2010. It is further right to say that in or about 2003, the Council introduced charges for some of the town centre car parks on Sunday mornings. Charges had already applied at these car parks on other days and times during the week. It is accepted that by 2009, the Sunday morning car park charge had been extended to Heathside Crescent.

It is part of the relevant background that the introduction of car park charges on Sunday mornings led to various concerns being raised with the Council by certain churches located in the centre of Woking, which did not (due to age of building and location) have their own parking facilities for those attending Sunday morning services or other events. By introducing car parking charges coinciding

Ray Morgan OBE Chief Executive
Douglas J. Spinks Deputy Chief Executive
Mark Rolt Strategic Director
Steve Bonsor Strategic Director
Sue Barham Strategic Director



2005-2006
Sustainable Energy
2007-2008
Promoting Sustainable
Communities Through
the Planning Process
2008-2009
Tackling Climate Change



INVESTOR IN PEOPLE

with the main day of worship for Christians attending the churches in question, the Council could be said to have put members of that part of the community at a particular disadvantage (attendance at the churches on the Christian Sabbath being seen as a central tenet of their religion). To avoid that consequence, it is acknowledged that the Council acceded to the request that concessionary parking arrangements should be put in place for those attending the churches concerned on Sunday mornings.

When initially introducing this policy, the Council was not aware of any other group that had suffered a similar disadvantage and its response seemed to be proportionate, acknowledging and mitigating the particular impact that the introduction of parking charges on a Sunday morning had had on a specific group within the community. The Council, however, subsequently reviewed this policy after having commissioned independent consultants to carry out an equality impact assessment – a copy of which is available on our web-site but is also attached for ease of reference.

Having considered the content of the equality impact assessment, the Council reviewed the whole policy of concessionary parking and agreed a revised policy, in keeping with the Policy Statement adopted on 12 July 2012, a copy of which is also attached for convenience.

As the Policy Statement expressly reflects, the Council's view was that there are particular benefits to Woking from the social inclusion and participation that the faith communities encourage. Recognising that, for many, cultural identity and participation in the community will be related to places of worship and the faith communities that they serve, the Council considered that it was legitimate to support those various communities, to the extent that it was reasonable and proportionate to do so. The evidence from the equality impact assessment reflected the experience of many Woking Councillors, to the effect that many of those otherwise disadvantaged members of the Woking community gain real benefits from their membership of particular faith communities and from attendance at their respective principal days of worship. The Council recognised that this experience is not confined to the Christian community but is also the experience of other faith groupings that might have different days of worship. The Council also recognised that faith and culture are often interrelated for many members of the community and centres of worship can (and do) play a far broader role in society. In particular, the Council acknowledged the considerable voluntary work organised by faith communities in Woking.

Having identified these positive benefits, the Council considered that it was reasonable and proportionate to maintain the Sunday morning concessionary policy for off-street parking and to extend this policy to benefit other faith communities with different primary days of worship, where similar difficulties would arise for those seeking to attend the principal place of worship within the town centre.

As a matter of practice, and in pursuit of the same aim of supporting social inclusion and participation, particularly when allied to organisations that carry out considerable voluntary work in the Woking area, the Council has extended parking concessions to other organisations, namely Woking Association of Voluntary Services, Woking Citizens Advice Bureau, Relate, Surrey Disabled Peoples Partnership and, more generally, any organisation with accredited community status when booking the HG Wells Conference Centre (which is owned and operated by Woking Borough Council).

The Council has, further, expressly agreed that the policy on free car parking should be reviewed at any stage that there was a material change in circumstances and, in any event, after five years. In the interim, however, the Council would be prepared to consider extending concessionary parking for those participating in organisational activities with similar social benefits as those identified above.

The Proposed Claim

We understand that it is suggested that Mr Wood might have claims for direct or indirect discrimination as to the terms on which the Council provided car parking services to him on the morning of Sunday 14 April 2013.

We do not accept that Mr Wood has been the subject of less favourable treatment because of religion or belief. As stated above, the Council's policy on free parking extends to various faith communities on the relevant principal day of worship in each case and, in practice, extends concessionary parking more generally to those organisations that can be seen to similarly promote social inclusion and participation, particularly when allied to the carrying out of voluntary work in the community. The policy is designed to encourage the social gathering of members of the community in a way that the Council – having reviewed the equality impact assessment – considers to be beneficial (as outlined above). In respect of its policy relating to faith communities, the Council is aware that those participating in the services in question will include those who are not necessarily religious but who attend out of a sense of broader cultural affiliation. Free parking is not extended *because of* religious belief but because those attending are participating in broader communities centred around particular places of worship, which the Council considers (based on the evidence it has received) give rise to a number of social benefits. This is further demonstrated by the Council's wider practice in relation to concessionary parking for various other community groups.

We accept that the more narrowly defined policy relating to faith communities *may* give rise to questions of indirect discrimination, although Mr Wood is put to proof that this is indeed the case in this instance, particularly when the Council's broader practice plainly extends the benefit more widely. In any event, however, the Council considers that the policy is a proportionate means of achieving the legitimate aims it identified when adopting its revised policy last year (as described above).


In the circumstances, we do not accept that Mr Wood is entitled to the remedies you have described.

Alternative Dispute Resolution

Notwithstanding the Council's position as set out above, in keeping with the spirit of the Practice Direction on Pre-Action Conduct, we have sought to consider whether it might be possible to resolve the apparent dispute that Mr Wood has with Woking Borough Council in an alternative way. On the assumption that Mr Wood's concern is other than simply the cost of the £3 parking charge for his individual visit to Woking on 14 April 2013, the Council is happy to enter into a dialogue with your client as part of its on-going commitment to keep its free parking policy under review. Should it be the case, for example, that there are regular meetings taking place on specific days each week in the Woking area of other organisations (faith based or otherwise) that give rise to the same social benefits as identified above, the Council would be happy to consider whether it would be appropriate to extend the policy further.

In making this proposal, we note and refer you to the express aims of the Practice Direction and the possible costs consequences of an unreasonable refusal to consider ADR under paragraph 4.4(3).

Yours faithfully,


Peter Bryant
Head of Democratic and Legal Services

For further information please contact Peter Bryant on 01483 743030 (Direct Line) or
Email Peter.Bryant@woking.gov.uk
53F84750

Faint, illegible text in the upper left quadrant of the page.

Faint, illegible text in the upper right quadrant of the page.

Faint, illegible text in the middle left quadrant of the page.

Faint, illegible text in the middle right quadrant of the page.

Faint, illegible text in the lower middle left quadrant of the page.

Faint, illegible text in the lower middle right quadrant of the page.

Faint, illegible text in the lower left quadrant of the page.

Faint, illegible text in the lower right quadrant of the page.

Woking Borough Council

Parking Charges for Members of the Faith Community and Community Groups

Policy Statement

1. Places of worship, and the faith communities that they serve, play an important role, both in society in general and Woking in particular. They encourage people to participate in society, thereby promoting social inclusion. In addition, considerable voluntary work is organised by faith communities, often for the benefit of the more disadvantaged members of our society.
2. The Council will, where it is reasonable and proportionate to do so, support the faith communities in the borough of Woking.
3. In furtherance of this aim (a "legitimate aim" under the Equality Act 2010), the Council will allow members of a faith community to park free of charge, in the Council's off-street car parks, in order to attend a place of worship for the purpose of, or in connection with, worship on that faith community's primary day of worship.
4. The Council recognises that non-faith based community groups can (i) similarly encourage people to participate in society, thereby promoting social inclusion, and (ii) undertake considerable voluntary work, often for the benefit of more disadvantaged members of our society.
- 3.5. The Council will, where it is reasonable and proportionate to do so, support non-faith based community groups in the borough of Woking. Such support will include the provision of free car parking in the Council's off-street car parks in appropriate circumstances.
- 4.6. This Policy Statement was adopted by the Council on 12th July 2013². It will be reviewed on 12 July 2017, or sooner if there is a material change in circumstances.

