



# EXECUTIVE BOARD DECISION

<b>REPORT OF:</b>	Executive Member for Growth and Development Executive Member for Environmental Services
<b>LEAD OFFICERS:</b>	Director of Environment and Operations
<b>DATE:</b>	8 August 2019

<b>PORTFOLIO/S AFFECTED:</b>	Growth and Development	Environmental Services
<b>WARD/S AFFECTED:</b>	All	
<b>KEY DECISION:</b>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

**SUBJECT: Review of the Council’s Residential Disabled Parking Bay Policy**

## 1. EXECUTIVE SUMMARY

The current policy regarding disabled parking bays in residential areas across Blackburn and Darwen was introduced in 2000. Since the introduction of the policy, the number of applications for a residential disabled parking bay has increased significantly.

The provision of Residential disabled parking bays is a “discretionary service” therefore the Council has a choice whether or not to provide the service at all.

There are considerable, and increasing costs and resources spent on the provision of residential disabled parking bays including; the cost of administering the scheme and obtaining the relevant documents from applicants; carrying out on-site inspections to assess the best location for the bay; consulting with neighbours and then installing the residential disabled parking bay lines and signage. These costs are becoming unaffordable within the Department’s cash limited budget.

The increase in residential disabled parking bays can have an adverse impact on residents who live on the same street where multiple bays are present, as these bays can take up the majority of the available parking space on the street. This is also causing traffic congestion in some areas of the Borough where there are multiple bays within a short span of the public highway.

A robust public consultation on the Council’s current policy for residential disabled parking bays was undertaken throughout January 2019 and May 2019 to inform the options available regarding the future provision of residential disabled parking bays. The results of the two consultation processes are appended to this report along with recommendations for amendments to the current policy for consideration by the Executive Board.

## 2. RECOMMENDATIONS

That the Executive Board:

1. Notes the results and findings of the public consultation processes undertaken in January and May 2019.
2. Approves changes to the current policy for residential disabled parking bays (RDPB) to enable a restriction to be placed on the number of RDPBs in a street, i.e. residential disabled parking

bays should be 40m away from each other (around 8 terraced houses apart). This restriction would apply to new applications for a RDPB, not for existing RDPB or for applications for the renewal of existing RDPBs.

3. Approves the introduction of a £120.00 charge as a contribution towards the overall cost of installing new residential disabled parking bays.
4. Approves the introduction of a £60 charge as a contribution towards the process of renewing a residential disabled parking bay. The renewal process takes place every three years and as part of this process, the Council will re-paint the lines on the RDPB to ensure the lines remain visible and that the Council can enforce against cars parked in the bay without a blue badge.
5. Approves the removal of Residential Disabled Parking Bays when they are no-longer in use.
6. Approves amendments to the RDPB Policy to reflect the introduction of a contributory charge towards the cost of the RDPB, the contributory charge for the renewal of a bay and a 40m restriction on the location of residential disabled parking bays in a street.

### **3. BACKGROUND**

Blackburn with Darwen Borough Council has provided Residential Disabled Parking Bays since the Council became a unitary authority in 1998 and became responsible for the administration of the public roads. The provision of Residential disabled parking bays is a “discretionary service” therefore the Council has a choice whether or not to provide the service at all.

The Council’s current Residential Disabled Parking Bay Policy provides the following information on the eligibility criteria for obtaining a Residential Disabled Parking Bay (RDPB);

All applicants for a RDPB must be a valid blue badge holder with at least one year remaining and:

- They must receive the Higher Rate Mobility component of Disability Living Allowance, **or**
- War disablement pensioner’s mobility supplement, **or**
- Be aged 65 or over

All applicants who meet the criteria for a RDPB due to being aged 65 or over but are not the driver of the vehicle are referred to their General Practitioner for an assessment on their mobility. Once an application for a RDPB has been approved, the applicant has to re-apply for permission to have the bay every three years.

Since the introduction of the current policy for RDPB in 2000, the number of applications for a RDPB has increased significantly. Since 2000, we have received 2003 applications for a RDPB, 1007 of these applications have been approved and 996 have been refused for a variety of reasons. The Council currently receives approximately 70 applications for a residential disabled parking bay each year.

There are considerable, and increasing, costs and resources spent on the provision of residential disabled parking bays including; the cost of administering the scheme and obtaining the relevant documents from applicants; carrying out on-site inspections to assess the best location for the bay; consulting with neighbours and then installing the residential disabled parking bay. There is currently no charge for the installation of a residential disabled parking bay so none of these costs are recouped. Once a bay is installed it is available for use by anyone who has a valid blue badge not just the person who has applied for the bay to be installed.

There are streets in the Borough with up to eight residential disabled parking bays located on them. In some cases, the increase in bays has an adverse impact on residents who live on the same street where multiple bays are present as these bays take up the majority of the available parking space on the street. This is also causing traffic congestion in some areas of the borough where there are multiple bays located within a short span of the public highway.

During January and May 2019 consultation was undertaken to gather residents' views on the provision of RDPBs – these are parking bays marked out on residential streets. The consultation did not cover other parking locations for disabled people, such as in the town centres or on car parks.

The consultation was designed to gather views from all interested parties, but targeting specifically people who use RDPBs and those people who do not use a RDPB but who live on a street where a RDPB is located.

The January consultation saw paper questionnaires posted to the 670 Blue Badge holders who had a residential disabled parking bay, or who had had one approved, as well as a random selection of 1,000 addresses in the vicinity of a residential disabled parking bay; also an online questionnaire was promoted on Twitter and Facebook.

When analysing the responses to the January 2019 consultation, it was identified that a relatively small percentage of respondents were non users who live on a street where a residential disabled parking bay is located. In order to better understand the opinions of this group, a targeted non-user follow up consultation was undertaken in May 2019.

For each RDPB location, addresses near to the property were selected to receive a questionnaire. Neighbouring addresses were not selected as these would have been consulted when the RDPB was installed, also any addresses sent a questionnaire in January 2019 were removed from the sample.

It should be noted that not every respondent replied to all the questions, so the total number of respondents reported in the analysis of each question differs. A summary of the responses to key questions on the survey is detailed below:

### **Responses to the consultation in January 2019**

In total **573** responses were received during the January consultation.

- 183 used a RDPB
- 390 did not use a RDPB (248\* did not have a RDPB on their street, 140\* did, 4 did not reply)  
*\* two respondents selected that they did and did not have a RDPB on their street*

Of those who responded to the questions (including additionally, the 11 users from the May survey):

- 45.7% had a Blue Badge
- 66.0% were White British, 16.9% Asian British Indian, 7.0% Asian British Pakistani
- 55.4% had a disability

### **Responses to the consultation in May 2019**

In total **136** responses were received during the targeted Non-User consultation. However, 11 of these respondents were not non users as they use a RDPB. Accordingly, their responses have been included in the general survey results undertaken in January 2019 to ensure the integrity of the May 2019 Non-User survey.

The 125 respondents are non-users of a RDPB (99 have a RDPB on their street, 26 do not). Of those 125 non-users who responded to the questions:

- 18.6% had a Blue Badge
- 36.6% had a disability
- 51.3% were White British, 29.6% Asian British Indian, 6.1% Asian British Pakistani

### **Summary of key results**

Respondents were provided with a short list of options and asked whether they had experienced any issues or problems with RDPB. For users, 'other people using it' and 'people park too close to it' were the two main issues selected. For non-users with a RDPB on their street, around half said they had had no issues or problems, with the main issue being 'it restricts where I can park'.

**Charging for the installation of a RDPB** - Residents were asked if they thought there should be a one off charge to the applicant for installing a new residential disabled parking bay and if so, how much should be charged? The charging options given were; to cover the full cost of installing a residential disabled bay £1,128; or to cover about half the cost £560; or to cover about a quarter of the cost £280. In the January 2019 consultation, 91.9% of users said there shouldn't be any charge and 54.2 % of non-users said there shouldn't be any charge.

When the same question was asked in the non-user consultation in May 2019, 54.5% of all respondents said that there should be no charge. However, when this question was responded to by non-users with an unused bay on their street, 75% of respondents stated that there should be a charge. When the question of charging was asked of non-users who had specified a problem with a bay, 64% of respondents said there should be a charge.

**Restrictions on the number of RDPB on a street** - two questions were asked about restrictions on the number of disabled bays. The first asked for views on the spacing between bays, the second asked about the allocation of bays based as a percentage of houses on a street.

In the January 2019 survey, 77% of users of a RDPB were against any restrictions, and 51.2% of non-users were in favour of restrictions. However, in the May 2019 Non-user survey, 62% of non-users were in favour of restrictions. This increased to 87.5% for those non-users who live on a street which has an unused RDPB.

As with the questions on charging, respondents who had experienced a problem with a RDPB or had an unused bay on their street were more likely to agree with restrictions.

Respondents were provided with a short list of options and asked whether they had experienced any issues or problems with RDPB.

For users, 'other people using it' and 'people park too close to it' were the two main issues selected, a third had had no issues or problems.

For non-users with a RDPB on their street, around half said they had had no issues or problems, with the main issue being 'it restricts where I can park'.

A free text box gave participants the option of raising other issues. Key points raised included:

- That charging or restricting RDPB would penalise or further disadvantage disabled people or

that respondents noted they disagreed with the nature of the consultation

- That bays or blue badges are abused or used by people not eligible
- That bays remain marked out on a street when they were no-longer in use, causing an issue and / or there should be better monitoring of used and unused bays
- That there should be more enforcement / fines to ensure bays are used correctly

The results of the consultation process are appended to this report for consideration by the Executive Board.

It should also be noted that in March 2019, the Council approved a new Borough-wide Traffic Regulation Order (TRO) for residential disabled parking bays. The order will enable the Council to take enforcement action if a non-blue badge holder is parked in a residential disabled parking bay. The TRO has been advertised and subject to any objections raised, the order should be in place by September 2019.

#### **4. KEY ISSUES & RISKS**

The current policy regarding disabled parking bays in residential areas across Blackburn and Darwen has not been reviewed since it was introduced in 2000.

Then Council receives approximately 70 applications a year for Residential Disabled Parking Bays

There are considerable and increasing costs and resources being spent on the provision of residential disabled parking bays. It is estimated that each bay costs £1128 to process and install. There is currently no charge for the installation of a residential disabled parking bay so none of these costs are recouped directly.

This increase in costs and resources on the provision of RDPBs comes at a time when the fabric of the highway is under increasing strain as pothole and safety defects numbers continue to increase in the face of reducing budgets. The Highways budget can no longer sustain the increasing number of applications for disabled bays whilst maintaining the structure of the highway in a safe condition for road-users and providing a substantial, robust defence against claims from third parties for injury and damage.

In some cases, the increase in residential disabled parking bays has also had an adverse impact on residents who live on the same street where multiple bays are present and these bays take up the majority of the available parking space on the street. This was evidenced in the non-user consultation, in which 51.2% of non-users were in favour of restrictions on the number of RDPBs on street. The issue of multiple bays on streets is also causing traffic congestion in some areas of the Borough where there are multiple bays located within a short span of the public highway.

#### **5. POLICY IMPLICATIONS**

The policy regarding disabled parking bays in residential areas would need to be amended to reflect any approved changes to the current policy

#### **6. FINANCIAL IMPLICATIONS**

There are considerable and increasing costs and resources spent on the provision of residential disabled parking bays including; the cost of administering the scheme and obtaining the relevant documents from applicants; carrying out on-site inspections to assess the best location for the bay; consulting with neighbours and then installing the residential disabled parking bay. It costs the

Council £1128 to process and install a Residential Disabled Parking Bay. However, the Council receives approximately 70 applications a year for a RDPB which if all approved, would cost £78,960 per annum.

The cost of removing unused residential disabled parking bays would cost £45 per bay. This cost is based on a two-person team with line removal equipment removing ten bays per day at a cost of £450 per day. Our records show that there are currently 103 redundant bays across the Borough. The estimated cost of removing these is £4635.

The introduction of a £120.00 charge as a contribution to the overall cost of installing a residential disabled parking bay will generate an estimated £8500 per annum based on the current level of approved applications per annum, however it should be noted that the number of approved applications may reduce if the 40m restriction on the location of bays on streets is introduced.

The introduction of a £60 charge as part of the application renewal process for a residential disabled parking Bay will generate an estimated £20,100 based on the current number of bays in the borough and residents having to apply for a renewal of the RDPB every three years. The £60 charge will contribute to the application process and will include a re-lining of the bay where necessary to ensure the lines are visible and can be enforced in line with the Traffic Regulation Order for RDPB.

## 7. LEGAL IMPLICATIONS

### Equality Act 2010

There is no specific mention of a requirement as to the provision of parking in the Equality Act 2010. However, public bodies must not, in the exercise of their functions, “do anything that constitutes discrimination, harassment or victimisation” (section 29(6)).

Section 149 provides that a public authority must, in the exercise of its functions “have due regard to the need to” among other things, “advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it”. This involves having due regard to the need to “take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it”. Section 149(4) states how this applies to the treatment of disabled persons:

It says: *the steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.*

This would likely involve considering, for example, the effect of a lack of parking spaces near their residences and their freedom of movement and travel. The most common way for public authorities to evidence their fulfilment of the duty is by way of equality impact assessments and the EIA conducted considers the effect of the consultation.

### Human Rights Act 1998

Section 6 of the Human Rights Act 1998 states that a public authority must not do anything that is incompatible with a convention right.

The UK ratified the United Nations Convention on the Rights of People with Disabilities in 2009. The Convention is the basis for creating inclusionary societies in which people with disabilities enjoy the same rights and freedoms as everyone else. These include:

- governments to ensure accessibility to transport and the physical environment for people with disabilities.

- Requiring governments take action to ensure personal mobility for people with disabilities to foster independence.
- Reaffirming the right to work and employment for all.

Many rights are qualified and are not absolute and there can be legitimate aims in limiting such rights, which in this situation is the goal of balancing the availability of parking for disabled and non-disabled alike.

#### Charging

Either through section 3 of the Localism Act 2011 or Section 93 of the Local Government Act 2003 (“the 2003” Act”) there are sufficient powers for the Council to levy a charge in these cases. Section 93 of 2003 Act may be more appropriate because it refers to “discretionary services”. Thus a local authority may charge only where it is exercising a discretionary function, ie. where the authority has a choice whether or not to undertake the service at all.

The issue of residents disabled parking permits would be included in the definition of such a “discretionary service”. The aim of Section 93 is to allow local authorities to recover the cost of providing services or improvements to services that they might not otherwise have been able to justify providing or been in a position to provide (eg. due to financial constraints).

#### Enforcement

Local authorities cannot legally enforce any residential disabled parking bay violations unless they are backed by a traffic regulation order but the report has indicated earlier that a borough wide TRO is to be implemented.

### **8. RESOURCE IMPLICATIONS**

The process for administering and installing RDPBs would be resourced by Parking services and the Highways service within their existing available resources.

### **9. EQUALITY AND HEALTH IMPLICATIONS**

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

### **10. CONSULTATIONS**

During January 2019 and May 2019, consultation was undertaken to gather residents’ views on the provision of residential disabled parking bays (RDPBs). The consultation was undertaken because the number of applications for a RDPB has been increasing in recent years, this has resulted in increased workload for officers in parking services and highways services and increased costs at a time when Council budgets are under severe pressure. We also have a situation where a number of streets in the Borough have multiple RDPB located on them which is taking up the majority of parking space available for residents living on those streets. Accordingly, the consultation asked questions about charging for RDPB and limiting the number of bays on a street by introducing a minimum space

between bays or allocating RDPBs as a percentage of the number of houses on a street

The summary of the two sets of consultation has been made available. It was considered that the first consultation did not generate enough responses from those that could be likely affected by any changes, prompting the additional consultation in May 2019 in an effort to obtain broad consultation.

#### **11. STATEMENT OF COMPLIANCE**

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

#### **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>2</b>
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<b>CONTACT OFFICER:</b>	<b>Martin Eden</b>
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<b>DATE:</b>	11 July 2019
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<b>BACKGROUND PAPERS:</b>	Residential Disabled Parking Bay Policy 2001  Executive Member Decision report, dated 18 November 2018; Public consultation on the Council's Residential Disabled Parking Bay Policy  Executive Member Decision report, dated 4 March 2019; Borough of Blackburn with Darwen – Various Streets Disabled Bays
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