

**IN THE MATTER OF THE PROPOSED PARKING AND TRAFFIC
REGULATIONS OUTSIDE LONDON ADJUDICATION JOINT COMMITTEE**

ADVICE

1. I am asked to advise on the need for and the suitability of a new Joint Committee arrangement and agreement to operate the parking and traffic offence adjudication service which is to operate outside London under the provisions of the Traffic Management Act 2004.
2. Up until now the administration of the National Parking Adjudication Service which fulfils the functions of parking authorities in providing an adjudication service under the provisions of the Road Traffic Act 1991 has been administered through a joint committee set up under an arrangement created by an agreement dated 12th October 2001 – which itself followed on from an earlier agreement.
3. On March 31st new provisions for the civil enforcement of parking contraventions came into force. Section 81 of the Traffic Management Act 2004 made provision for regulations to determine how arrangements should be set up by enforcement authorities for the administration of the parking adjudication service. Regulation 16 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 provides

“1(1) The functions of the non-London enforcement authorities relating to adjudicators under section 81 of the 2004 Act and under regulations 17 and 18 shall be discharged jointly, under arrangements made under section 101(5) of the Local Government Act 1972, by a joint committee or joint committees appointed under section 102(1)(b) of that Act of which at least three of the non-London enforcement authorities are constituent authorities.”

4. This is similar in form to the requirements of the Road Traffic Act 1991 and regulation 16(3) provides that

“Any arrangements for the discharge of functions by a joint committee under section 73 of the Road Traffic Act 1991, as that section was applied to local authorities outside Greater London, which were—

- (a) made between local authorities outside Greater London; and
- (b) subsisting immediately before the coming into force of these Regulations,

shall continue in force and shall have effect as if made under this regulation, until such time as those arrangements are varied or replaced.”

5. In my view, if any new authority chose to join or set up joint committee arrangements after March 31st then such a joint committee would have to be set up under the new powers. The existing arrangements could not simply continue in existence with new members joining as before. It is necessary, therefore, to produce a new agreement setting up arrangements under the new legislation.
6. In any event, because of the coming into force of the new powers and their potential extension to deal with other traffic offences it is appropriate to update the existing agreement.
7. I have seen the final draft of the Parking and Traffic Regulations Outside London Adjudication Joint Committee Agreement and this appears to me to follow the same principles as the earlier agreements and to take into account the effect of the new statutory provisions. In my view it will meet the requirements of section 81 of the Traffic Management Act and Regulation 16 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007. The agreement provides for the appointment of a Lead Authority to provide the staff and facilities for what is in effect an adjudication service. It provides a flexible and workable set of arrangements for administering that adjudication service.
8. The Agreement allows for four “original” signatories and for other local authorities who perform the functions of a civil enforcement authority to join by signing or executing a memorandum. For administrative purposes this structure has been retained even in relation to existing members of the joint committee. The main body

of the agreement (dealing with the operation of the functions of the constituent members) will not, therefore, come into force until a date after the original four authorities have signed the agreement. This delay will allow those other authorities to sign up to the terms of the agreement by use of the memorandum so that all existing members will have joined the Joint Committee when the new agreement takes effect and replaces the existing agreement. After the agreement has come into force then new members can join in the usual way.

9. I must stress the importance, however, of ensuring that all relevant authorities do complete and return the memorandum of participation by the required timescale – i.e. before the new agreement has come into force. Once a certain number of authorities have joined the new arrangements then the existing agreement will have been varied and the existing arrangements will cease to have effect by virtue of regulation 16. Any authority which has failed to join the new arrangements by the required date will then have no extant arrangements for adjudication between the date on which the agreement comes into force and the date of their completion of the memorandum of participation.
10. The constituent authorities of the joint committee may include county or county borough councils in Wales.
11. In my view, therefore, the Agreement is suitable for its purpose under the 2004 Act and the 2007 regulations and is reasonable in its terms.
12. If I can be of any further assistance no doubt my Instructing Solicitor will contact me.



Stephen Sauvain Q.C.

8th April 2008



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