

3. **PARKING ENFORCEMENT ISSUES ARISING FROM THE 2008 REVIEW OF THE TRAFFIC AND PARKING BYLAW (QUARTERLY UPDATE FOR JANUARY 2009)**

General Manager responsible:	General Manager Regulatory and Democracy Services, DDI 941-8462
Officer responsible:	Inspections and Enforcement Unit Manager
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PURPOSE OF REPORT

1. The purpose of this report is to update the Regulatory and Planning Committee following a Council resolution of 19 June 2008:
 - Requesting staff to review how adequate the Parking Enforcement current data collection system is in meeting the requirements to demonstrate nuisance issues when the Council reviews or considers making new bylaws.
 - Requesting staff to report back on a quarterly basis on the implementation and enforcement of the Traffic and Parking Bylaw 2008, including any requests for service.

EXECUTIVE SUMMARY

Adequacy of Parking Enforcement Data Collection as it relates to Parking Nuisances

2. The number of complaints/nuisances received by Parking Enforcement which fall outside either current legislation or bylaw offences is minimal. Information provided by the Parking Enforcement Team indicates that approximately less than three complaints of this nature are received each week. Instructions have, as of 1 October 2008, been issued to the Customer Call Centre that any parking related complaint or nuisance that falls outside current legislation and bylaws are to be entered into the Request For Service System and forwarded to Parking Enforcement Team for collation. At the Regulatory and Planning Committee meeting held on 4 December 2008, staff were directed to report annually on parking related complaints that are currently not enforceable under the Traffic and Parking Bylaw 2008.

Quarterly Report on the Implementation and Enforcement of the Traffic and Parking Bylaw

3. This is the second quarterly report to be provided to the Regulatory and Planning Committee for consideration. The timing of the quarterly reports will be as close to the months of October, January, April and July as the Regulatory and Planning Committee agenda allows. This report serves as the quarterly report for January 2009.
4. The attached schedule of complaints (see **Attachment 1**) details the number of complaints received and enforcement action taken in relation to Clauses 9, 10, 19, 20, 21, 22 and 23 of the Traffic and Parking Bylaw 2008 for the period 1 October 2008 through to 31 December 2008.
5. In relation to clauses 9 and 10, the attached schedule identifies the areas/streets where a number of complaints have been received in the reporting period.
6. Unless signage is installed, clauses 9 and 10 of the new bylaw currently remain unenforceable as an offence. Signage is required to enforce clauses 9 and 10 pursuant to the Traffic Control Devices Rule 2004.
7. The Parking Enforcement Team, however, is proactively enforcing parking on grass berms and verges through other means. This is achieved through installing and enforcing no-stopping signs in areas such as around Hagley Park on Riccarton Avenue and Moorhouse Avenue. No-stopping signage has also been erected in Travis Road and Northcote Road for the purposes of protecting grassed areas. From 1 July 2008 until 31 December 2008, there have been only 10 infringement notices issued in these areas.
8. The attached schedule details the number of infringements issued for parking in these no-stopping areas (10 in 2009 to date). Please note that the disparity between the number of complaints received and the number of infringements issued is either due to the offending vehicle no longer being present at the time the officer attends to the complaint, or because as there is no signage; the matter cannot be enforced.

9. Complaints relating to “heavy vehicles parked in residential areas” where a restriction in regard to this is not already in place (clause 10), is being monitored by Parking Enforcement. As the Regulatory and Planning Committee have now adopted the operational policy, complainants are advised of the process laid out in the policy and requested to write to the Council outlining issues they believe warrant a restriction being installed. Any such requests are considered by the Transport and Greenspace Unit and they advise that two such requests have been received to date.
10. Enforcement action as it relates to clauses 19, 20, 21, 22 and 23 can only be pursued by way of prosecution. This is because those clauses contained in Part 5 of the Traffic and Parking Bylaw 2008 were made pursuant to the Local Government Act 2002. There is no infringement (ticket) regime currently in place for bylaw offences created pursuant to the Local Government Act 2002. A submission seeking an infringement regime has been prepared by the Legal Services Unit and it is anticipated that this will be forwarded to the Minister of Local Government this month (February 2009).
11. Where prosecution is the Council's only option, such action is determined with reference to the Solicitor General's guidelines on prosecution. Those guidelines demand that before matters are pursued by way of prosecution, consideration must be given to the evidence available to substantiate the charge and whether, in each individual case, it is in the public interest to pursue the matter through the criminal courts. The general duty placed on enforcement agencies pursuant to the Solicitor General's guidelines demands consideration of whether the individual matter warrants the intervention of the criminal law. Given the relatively low-level nature of the offences created under the bylaw as compared with general criminal matters, it is implied through the Solicitor General's guidelines that, wherever appropriate, warnings should be given to offenders prior to enforcement agencies resorting to the criminal courts for resolution. As such, and in response to the fact that clauses made under Part 5 of the Traffic and Parking Bylaw 2008 do not carry the option currently to issue an infringement notice, Parking Enforcement have started to collate data on warnings issued for breaches of those offences. The authority to take prosecution action currently rests solely with the Inspections and Enforcement Unit Manager. Operational instructions issued by the Inspections and Enforcement Manager to the Parking Enforcement Team require any individual who has been issued with two warnings in relation to clauses 19, 20, 21, 22 and 23 be brought to the Team Leaders attention for consideration as to whether it is in the public interest to pursue a prosecution.

FINANCIAL IMPLICATIONS

12. There are no financial implications arising out of this report.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

13. Not applicable.

LEGAL CONSIDERATIONS

14. There are no legal considerations arising out of this report.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

15. Not applicable.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

16. Not applicable.

CONSULTATION FULFILMENT

17. No public consultation has been undertaken in relation to this report, however the matter has been consulted internally with the Transport and Greenspace Unit.

STAFF RECOMMENDATION

It is recommended that the Regulatory and Planning Committee receive this report for information.