

TRANSPORT FOR LONDON

BOARD

SUBJECT: DELEGATION OF TFL HIGHWAYS ENFORCEMENT POWERS ON THE TLRN TO THE LONDON BOROUGH OF WANDSWORTH

DATE: 5 NOVEMBER 2008

1 PURPOSE AND DECISION REQUIRED

- 1.1 The purpose of this paper is to seek approval to the proposed delegation of certain TfL highway enforcement powers on the Transport for London Road Network (TLRN) to the London Borough of Wandsworth.
- 1.2 The TfL Board is asked to:
- a) approve a six month trial of the delegation of certain TfL highway enforcement powers in relation to the removal of pavement obstructions on part of the Transport for London Road Network (TLRN) comprising the A24 Tooting High Street/Upper Tooting Road between Coverton Road and Lynwood Road in the London Borough of Wandsworth; and
 - b) authorise the Managing Director, Surface Transport, to agree the terms of an agreement under section 101(5) of the Local Government Act 1972 to enable the London Borough of Wandsworth to exercise those highways enforcement powers on behalf of TfL for this trial.

2 BACKGROUND

- 2.1 Currently, highways maintenance of the TLRN is carried out under three separate geographically defined contracts which run for a minimum of six years (to 2013) and a maximum of ten years. Until such time as these contracts are terminated, the majority of the maintenance functions cannot be cost effectively transferred to other highway authorities.
- 2.2 There are, however, some functions exercised outside of these contracts where transfer to a borough is feasible in the short term and may be mutually beneficial to TfL and the borough, namely, the ordering/tendering of specific improvement schemes and the exercise of highways enforcement powers on the TLRN.
- 2.3 TfL has the statutory power to enter into agreements with other highway authorities for the construction, alteration, improvement or maintenance of highways for which either party is the highway authority. TfL has successfully entered into such agreements for capital improvement schemes in the past and is seeking to widen the scope for these collaborative arrangements.

- 2.4 Agreement to delegate TfL's highway powers to other highway authorities is a matter reserved to the Board under TfL's standing orders.

3 PROPOSAL

- 3.1 The London Borough of Wandsworth has proposed a six month trial delegation from TfL to its Director of Technical Services in relation to certain highway enforcement powers. The relevant enforcement powers for this trial relate to the enforcement of obstructions on the pavement. These could take various forms but typically will comprise obstructions such as display boards, tables and chairs, foodstuffs, storage units and so on.
- 3.2 The London Borough of Wandsworth's Director will use his or her discretion as to whether, and if so how, any obstructions will be dealt with. He or she will also determine whether any court proceedings should be brought against offenders. Although the powers will be delegated to the Director who will be responsible for their discharge, the functions will be carried out on a day to day basis by appropriate officers in the Technical Services Department of the London Borough of Wandsworth. For this reason, the delegation needs to enable the Director to delegate the actual discharge of the functions at an operational level to the relevant officers in his or her team.
- 3.3 TfL is currently undertaking a qualitative analysis of the constituent parts of the TLRN to better understand the degree of enforcement activity that different parts of the network require. This will be completed by the end of November 2008 and will allow more targeted and cost-effective enforcement action. It will also enable the relative costs and effectiveness of borough and TfL inspection activity to be evaluated with a view to maximising service efficiencies. This will confirm, or otherwise, the potential for efficiencies in the delegation of such enforcement powers to other boroughs where they have an interest in undertaking the functions on behalf of TfL.
- 3.4 The outcome of the trial and TfL's qualitative review of highway enforcement levels on the TLRN will be considered in parallel with potential cost efficiencies and TfL's other obligations to determine whether it is practical and appropriate to progress any permanent delegation of such activities.

4 CRIME AND DISORDER AND RISK MANAGEMENT IMPLICATIONS

Crime and Disorder

- 4.1 Any improvements in TLRN highways enforcement and the potential increased presence of Council Inspectors are likely to have a positive impact on levels of crime and disorder. This and any other potential general crime and disorder impacts will be identified during the pilot and an impact assessment undertaken to inform conclusions before any further rollout to the London boroughs is considered.

Risk Management

- 4.2 The proposed trial of the delegation of Highways Act enforcement powers on the TLRN to the London Borough of Wandsworth allows costs relative to level of service and any unforeseen risks to be addressed and mitigated before any

further rollout to London boroughs is considered. TfL will be seeking an indemnity from the London Borough of Wandsworth against claims and liability that may arise from any default on the Council's part during the trial.

5 LEGAL AND FINANCIAL IMPLICATIONS

Legal

- 5.1 The Highways Act 1980 imposes a statutory duty on TfL to protect the public's rights to use the highway and creates the offence of wilful obstruction by those who wilfully obstruct the highway.
- 5.2 TfL's Highways Act enforcement powers on the TLRN can be undertaken by other highway authorities under section 101(5) of the London Government Act 1972 which allows TfL to enter into "joint arrangements" with other highway authorities for the discharge of any of its functions.
- 5.3 The legislation provides for two different types of joint arrangements: delegation of functions to a joint committee of both authorities, or delegation of functions to an authorised officer of the other authority. The latter arrangement, which is the present proposal, would allow TfL to delegate highway functions to an authorised officer of a London borough. As explained in paragraph 3.2, this trial will delegate the powers to the London Borough of Wandsworth's Director of Technical Services and will enable him or her to delegate the actual discharge of the functions at an operational level to the relevant officers in his or her team.

Financial Implications

- 5.4 The cost of the trial is estimated to be £12,000 and will be met from the Directorate of Road Network Management's revenue budget but as this cost is similar to TfL's current costs of undertaking this function, overall the trial is likely to be cost-neutral for TfL. However, as mentioned in paragraphs 3.3 and 3.4, it is possible that the trial will identify qualitative benefits that can be achieved by the boroughs carrying out this particular function given their existing obstruction enforcement activities in the local area on their own highway network.
- 5.5 The above costs do not include the cost of bringing any court proceedings against offenders which may also be undertaken by the borough under the proposal. This will be one of the detailed terms to be negotiated by the Managing Director, Surface Transport.

6 CONCLUSION AND NEXT STEPS

- 6.1 If approval is received from the TfL Board, then the trial delegation will be put in place by 1 December 2008, for a period of six months. On completion of this trial, a review will be undertaken to evaluate the benefits realised and to determine the appropriateness of any wider roll-out to other interested London boroughs.

7 RECOMMENDATIONS

7.1 The TfL Board is recommended to:

- a) APPROVE a six month trial of the delegation of TfL Highways Act 1980 enforcement powers in relation to the removal of pavement obstructions on that part of the Transport for London Road Network comprising the A24 Tooting High Street/Upper Tooting Road between Coverton Road and Lynwood Road to the London Borough of Wandsworth's Director of Technical Services (including the ability for the Director of Technical Services to delegate the discharge of the functions to officers within his or her team); and
- b) AUTHORISE the Managing Director, Surface Transport, to agree the terms of an agreement under section 101(5) of the Local Government Act 1972 to enable the London Borough of Wandsworth's Director of Technical Services to exercise those highways enforcement powers on behalf of TfL for this trial.

8 CONTACT

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