1. SUMMARY

1.1 This report seeks a formal delegation of specific functions concerning the Parking on Private Land Appeals Service (POPLA) to the London Council’s Transport and Environment Committee and authority to agree the necessary amendments to the Governing Agreement for that Committee.

2. RECOMMENDATIONS

2.1 For the reasons set out in this report Cabinet is recommended to:

2.1.1 delegate to London Council’s Transport and Environment Committee (LCTEC) the exercise of section 1 of the Localism Act 2011 for the sole purpose of providing an appeals service for parking on private land for the British Parking Association under contract

2.1.2 authorise the Director of Governance to take all relevant steps to give effect to recommendation 2.1.1 above through a formal variation to the LCTEC Governing Agreement

3. PROPOSALS

3.1 On 15 March 2012 LCTEC agreed that London Council’s should provide an appeals service for parking on private land for the British Parking Association under contract. This was on the basis that such a service would complement the Parking and Traffic Appeals Service
(PATAS) (which is also provided by London Council’s) for appeals against parking enforcement on the highway.

3.2 The Parking on Private Land Appeals Service (POPLA) enables the providers of parking on private land who are affiliated to an accredited trade association (the British Parking Association) to use the provisions of the Protection of Freedoms Act 2012 to enforce parking charges. POPLA has been provided as a service by London Council’s since 1 October 2012.

3.3 The authority of LCTEC to provide POPLA was recently challenged by an interested person via an objection to London Council’s accounts. This was investigated by London Council’s auditors, PWC, who also sought advice from the Audit Commission. The Audit Commission advice to London Council’s accepts that the London local authorities have the power under section 1 of the Localism Act 2011 to provide the POPLA service. However, it questioned whether the exercise of those functions has been properly delegated to LCTEC.

3.4 London Council’s and their advisors remain of the view that POPLA is currently being delivered on a lawful basis on behalf of all the London local authorities with their consent and authority under the existing terms of the current LCTEC Governing Agreement. However, there is an arguable case as to whether individual councils had to expressly state that they agreed that the arrangement with the British Parking Association was in accordance with the exercise by LCTEC of powers under section 1 of the Localism Act 2011.

3.5 Accordingly, London Council’s have asked all the London local authorities to expressly delegate their powers under section 1 of the Localism Act 2011 for the purpose of providing an appeals service for parking on private land for the British Parking Association under contract and this is recommended.

3.6 The variation to the Governing Agreement will confirm expressly that the London local authorities have made this delegation to LCTEC as the joint committee. Therefore, it is recommended that the Director of Governance be authorised to agree the necessary variation.

3.7 London Council’s have also asked the London local authorities to confirm that the exercise of functions delegated to LCTEC to enter into the arrangement with the British Parking Association were and continue to be delivered in accordance with section 1 of the Localism Act 2011. This would only confirm a state of affairs as set out in this report and wouldn’t change the legal position retrospectively. Therefore, it is not proposed that this confirmation is provided as it is unnecessary.

4. OPTIONS & ALTERNATIVES CONSIDERED

4.1 Cabinet could decide not to agree the recommendations. However, as all this would do is leave the current position as it is this is not recommended.
4.2 Cabinet could agree all three resolutions proposed by London Council’s as explained in paragraphs 3.5 – 3.7. For the reasons set out in paragraph 3.7 this is not recommended.

5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

5.1 The POPLA service provides easy and efficient dispute resolution for parking charge notices issued in respect of parking on private land. It operates on a full cost recovery basis and so is not a cost to the taxpayer.

6. CONSULTATION

6.1 No consultation was necessary in respect of this report.

7. IMPLICATIONS

7.1 Finance, Value for Money and Risk

7.1.1 There are no specific financial implications arising from this report. The POPLA service operates on a full cost recovery basis so it is funded by the British Parking Association under the terms of the contract.

7.2 Legal

7.2.1 The Council has the power to provide an appeals service for parking on private land under section 1 of the Localism Act 2011.

7.2.2 Under section 20 of the Local Government Act 2000 two or more authorities may arrange for the discharge of their executive functions by a joint committee. LCTEC is a lawfully constituted joint committee of the London local authorities which exercises executive functions.

7.2.3 Under the Council’s constitution Cabinet may delegate an executive function to a joint committee.

7.3 Equalities and Diversity

7.3.1 There are no specific implications arising from the recommendations of this report.

7.4 Sustainability (including climate change, health, crime and disorder)

7.4.1 There are no specific implications arising from the recommendations of this report.

7.5 Council Infrastructure

7.5.1 There are no specific implications arising from the recommendations of this report.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)