

CABINET

ITEM OF URGENT BUSINESS

Traffic Management Act 2004 Penalty Charge Notices – Charging Levels

Report of Corporate Director (Finance and Performance)

PURPOSE OF REPORT			
The report deals with the implementation of the Traffic Management Act 2004 and in particular the charging levels for Penalty Charge Notices.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	28 th January 2008		
This report is public			

RECOMMENDATIONS OF COUNCILLOR GILBERT

- (1) To approve Option 2 – Band 2 of the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 as laid down in Statutory Instruments 2007 No 3487.
- (2) To make a new Off Street Parking Places Order to reflect the requirements of the Traffic Management Act 2004 and the amended penalty charge levels with effect from 31st March 2008.
- (3) That in order to implement the decision as a matter of urgency it be recommended that the call-in procedure be waived in accordance with Overview & Scrutiny Procedure Rule 17 (a).

1.0 Introduction

- 1.1 Part 6 of the Traffic Management Act 2004 affects parking enforcement and is being introduced on 31st March 2008. The aims of the legislation are to introduce as much national consistency as possible while allowing parking policies to suit local circumstances and to have systems that are fair to the motorist but also effective in enforcing parking regulations.

1.2 This report deals with the perceived unfairness of receiving the same penalty regardless of the seriousness of the contravention and the introduction of differential penalty charge levels that are required by the new legislation.

1.3 The report also outlines the reasons for this matter being dealt with through the urgent business procedure and the recommendation to waive the call-in period.

2.0 Proposal Details

2.1 The current level of payment for Penalty Charge Notices (PCNs) is set out in the Road Traffic Management Act 1991 and is £60.00 reduced by 50% to £30.00 if paid within 14 days and £90.00 if paid after service of the Charge Certificate. The City Council carries out parking enforcement across the district under an agreement with the County Council as Highway Authority through the decriminalised parking enforcement operations known as DPE.

2.2 The Road Traffic Management Act 1991 is being replaced by the Traffic Management Act 2004 (TMA) on 31st March 2008. A number of changes will be implemented including Parking Attendants (PAs) becoming Civil Enforcement Officers (CEOs) and Decriminalised Parking Enforcement (DPE) being known as Civil Parking Enforcement (CPE). A briefing note is being prepared for all Members to provide a summary of the parking enforcement changes required by the TMA.

2.3 One of the main changes is the introduction of differential penalty charge levels depending on the parking contravention committed. This is largely based on the view that a higher charge should apply to more serious contraventions such as parking where parking is **not permitted** and the lower charge should apply to less serious contraventions such as over parking where parking is **permitted**. For example, the higher charge would apply to a vehicle parked on double yellow lines and the lower charge would apply to a vehicle parking over time in a pay and display car park.

2.4 The Department of Transport (DfT) has published Statutory Guidance, Draft Operational Guidance and Statutory Instrument 2007 No. 3487 with contravention codes and descriptions and the option to choose one of the following PCN charging bands:

Band	Higher Level	Lower Level	Higher Level (paid at discount in 14 days)	Lower Level (paid at discount in 14 days)	Higher Level paid after Charge Certificate	Lower Level paid after Charge Certificate
1	£60	£40	£30	£20	£90	£60
2	£70	£50	£35	£25	£105	£75

All local authorities outside London are concerned about the financial implications of introducing reduced PCN charges that would apply to PCNs attracting the lower level, irrespective of whether Band 1 or Band 2 is chosen as both charging levels (as highlighted above) are less than the existing £60 and £30 charges.

At the present time the City Council is generating a small surplus from DPE although the majority of the other districts within the Lancashire Parkwise partnership are operating in deficit. All Lancashire districts and the County Council have therefore

agreed to minimise any financial implications on DPE/CPE operations by recommending to their respective authorities to adopt **Band 2**.

This would result in uniformed charging levels across the Parkwise districts in line with the DfT's expectation of consistent charges where Councils are operating in partnership.

- 2.5 The DfT guidance referred to in paragraph 2.4 has only been reaffirmed very recently along with the recently published Statutory Instrument. Officers within the parking operations team and Legal and Human Resources have considered the implications of the differential charges being reaffirmed and the legal process to adopt the changes and the associated timescales.

These implications require a new Off Street Parking Places Order to reflect general TMA changes and specifically the differential charges. The timescale required to formalise this process for implementation by 31st March 2008 require the new Order to be drafted and a Notice of Proposal to be advertised on 8th and 13th February. This requires a decision to be made during the first week in February to achieve this deadline.

The implications of not achieving this deadline and the TMA implementation on 31st March 2008 are that Parking Attendants would not be able to carry out off-street parking enforcement and the subsequent operational, enforcement and financial implications.

3.0 Details of Consultation

- 3.1 Many Councils have expressed concern to the DfT over the financial implications of implementing differential penalty charges and the confusion this will create for customers receiving PCNs. The County Council submitted a response on behalf of the Parkwise districts to the consultation on the Statutory and Draft Operational Guidance highlighting these two aspects. Concern was also expressed about the DfT carrying out minimal consultation with Councils outside London.
- 3.2 As previously mentioned the Councils operating DPE as part of the Parkwise partnership have agreed to recommend to their respective Council's the adoption of Band 2 to reduce the financial implications and to have uniformed charging levels across the Lancashire County area.

4.0 Options and Options Analysis (including risk assessment)

4.1 Option 1 – Band 1

This option would have an adverse financial impact of approximately £39,100 p.a. on the on-street parking enforcement account and £57,400 p.a. on the off-street parking enforcement account.

The option would also be inconsistent with the 11 other authorities operating DPE across Lancashire.

Option 2 – Band 2

This option minimises the financial impact with a favourable variance of £15,000 p.a. on the on-street enforcement account and an adverse variance of £25,800 p.a. on the off-street parking enforcement account.

This option is in line with the suggested recommendation for the other districts and will allow uniformed penalty charging levels across the County. This option is also consistent with all other authorities outside London unless there are exceptional circumstances.

5.0 Officer Preferred Option (and comments)

- 5.1 Option 2 is the preferred option as this minimises the overall financial effect on DPE and is in line with the suggested recommendation for all the other districts.

RELATIONSHIP TO POLICY FRAMEWORK

Council Core Values: Sound Financial Management

Cabinet Priorities: 1.1 Keeping the City Council element of Council Tax to 4.5% in 2008/09.

Indirect link with Secondary Priority 3.4 regarding tougher approach to enforcement although this is not the justification for the recommendations.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The ongoing operation of DPE/CPE has community safety impacts in terms of improving road safety, and vehicle and personal security. DPE/CPE also has sustainability impacts in terms of reducing traffic congestion and operating in financial balance.

FINANCIAL IMPLICATIONS

The financial implications are included in the Options and Options Analysis and are also included in the following table:

Account/PCN Level	Band 1	Band 2
On-Street	£39,100	(£15,000)
Off-Street	£57,400	£25,800
TOTALS	£96,500	£10,800

The financial implications of the preferred option – Option 2 Band 2 have been included in the 2008/09 draft budget. Should Members decide to introduce Option 1 Band 1 the total budgetary difference of £85,700 would need to be included in the draft budget.

It should also be noted that any on-street enforcement surplus is paid to the County Council in accordance with the DPE Agency Agreement.

By not implementing these arrangements on 31st March would create operational and management issues highlighted within the report along with an estimated cost of £6,000 per month to the off street parking enforcement account. The off street fees budget is approximately £150,000 per month and a further detrimental impact on this budget would arise due to the lack of enforcement.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

Legal are to draft the OSPPO 2008 to ensure compliance with the Traffic Management Act 2004. There are no other legal implications arising from this report.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Statutory Guidance and Draft Operational Guidance on Part 6 of the Traffic Management Act 2004.

Statutory Instruments 2007 No 3487

Minutes of Parkwise Mangers' Meetings

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