

## **Annex B**

### **Main Changes Introduced by the Traffic Management Act**

#### Part 6 of the Traffic Management Act 2004 (Parking Regulations)

The main changes from Part II of the 1991 Road Traffic Act::

- 1) Decriminalised Parking Enforcement (DPE) will become known as Civil Parking Enforcement (CPE)<sup>1</sup>.
- 2) Parking Attendants will be renamed as Civil Enforcement Officers (CEO's)<sup>2</sup>.
- 3) Special Parking Area (SPA) and Permitted Parking Area (PPA) will be known as the Civil Enforcement Area (CEA)<sup>3</sup>.
- 4) Local Authorities will be able to set up a Special Enforcement Area (SEA) where double parking and parking at dropped footways will be enforceable. A SEA must be within a CEA or cover the same area as one<sup>4</sup>. It is understood, following information received from the Department of Transport (DfT), that the CEA will automatically become an SEA without the need to make application for permission to the DfT. However, the enforcement of double parking and dropped kerb contraventions is unlikely to be available on 31 March 2008 because it has now been recognised that there is a need for legislation to remove the requirement for signing of the restriction not to double park or park at dropped footways.
- 5) Parking on Pedestrian Crossings, and their zig zag approaches, will become enforceable by Local Authorities as well as the Police<sup>5</sup>.
- 6) Different parking penalties will apply for different contraventions<sup>6</sup>. Local Authorities must choose a higher charge of £70 or £60 (discounted to £35 and £30 for early payment) and a lower charge of £50 or £40 (discounted to £25 and £20)<sup>7</sup>. The higher charge will apply to waiting and loading restrictions and most on-street contraventions plus parking in restricted areas off-street, including disabled bays<sup>8</sup>. The lower charge will apply to all other contraventions.
- 7) Clamping of vehicles should only be used in limited circumstances such as for persistent evaders (i.e. three or more unpaid and unchallenged PCN's)<sup>9</sup>.
- 8) It is strongly recommended that an applicant for a job as a CEO undergo a Criminal Records Bureau check because they "are required to work near schools and similar sensitive areas and will be seen as a uniformed figure of authority"<sup>10</sup>.
- 9) CEO's must have a personal identity number and it is recommended that they carry a photo-identity card that includes the number but not the CEO's name. The CEO's identification number must be on the penalty charge notice<sup>11</sup>.

10) Local Authorities will, in three circumstances, be able to issue a penalty charge notice (PCN) by post, within 28 days of the contravention occurring<sup>12</sup>.

The three circumstances are:

- based on the evidence from a CCTV camera.
- if the CEO is prevented from serving the pcn (i.e. the motorist will not let a CEO place the PCN on the vehicle or will not accept it being handed to them).
- if the CEO did not have enough time to serve the PCN before the vehicle was driven away. This is clarified to mean that a CEO must have started to prepare the PCN – merely observing a vehicle does not count<sup>13</sup>.

11) First class post must be used for all correspondence that is sent to motorists by local authorities and posting must occur on the date that they are printed<sup>14</sup>. This has already been implemented by Parking Services.

12) It is recommended that received envelopes for payments be kept as the franking can be used as evidence of the date of posting<sup>15</sup>. This has already been implemented by Parking Services.

13) Time limits will be set for the processing of PCN's, objections and representations. Notice to Owners (NTO), a legal document that must be sent to the registered keeper of the vehicle if a PCN remains outstanding after 28 days, should be sent within 56 days of the PCN with an absolute legal limit of 6 months, which can only apply if there are exceptional circumstances. Any photographic evidence of the contravention should be sent with the NTO<sup>16</sup>.

14) Representations must be considered within 56 days of receipt and it is recommended that all decisions be served within 21 days<sup>17</sup>.

15) In addition to the current grounds for making representations there are new ones as follows:

*a) That there has been a procedural impropriety on the part of the enforcement authority*

A procedural impropriety is clarified to mean a failure by the council to follow proper procedure, particularly with regard to timescales, when issuing or recovering a pcn<sup>18</sup>.

*b) There are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge<sup>19</sup>. (i.e. mitigating circumstances)*

16) The independent adjudicators, who consider appeals from motorists whose representations to the Local Authority have been rejected, will now be able to refer cases back to the Local Authority's Chief Executive if they consider that the enforcement authority should have used its discretion to cancel the PCN. This concerns cases where there are no statutory grounds for the appeal to be allowed but the adjudicator believes that there are compelling mitigating

circumstances for the council to use its discretion and cancel the charge. When a case is referred back, the Local Authority must reach a decision on whether to accept the adjudicator's recommendation within 35 days<sup>20</sup>. If a decision is not reached within 35 days the council will be deemed to have accepted the adjudicator's recommendation and must cancel the charge<sup>21</sup>.

- 17) It is asked that Local Authorities consider helping the DVLA track down Vehicle Excise Duty (VED) evaders by notifying them of any vehicles that are not displaying a valid VED disc<sup>22</sup>.
- 18) In an effort to make parking enforcement more transparent, various financial and operational reports will need to be produced including an annual report and a parking policy document<sup>23</sup>. Members may recall that an annual report, incorporating a parking policy, was published by this authority for 2006/07 following a report by the Director of City Strategy to the Executive in September 2007<sup>24</sup>.
- 19) Increased charges for the removal, storage and disposal of vehicles have been set at £105, £12 a day and £50 respectively<sup>25</sup>. The current charges in York are £75, £6 and £25.
- 20) On a practical level, all uniforms and stationery will need changing and the software used will require upgrading and there is a requirement to ensure that all staff, both CEO's and Office staff, "have the skills, training, authority and resources to give the public a high quality, professional, efficient, timely and user-friendly service"<sup>26</sup>.
- 21) Elected members and unauthorised staff should not, under any circumstances, play a part in deciding the outcome of challenges or representations against the issue of PCN's. This is to ensure that only fully trained staff make decisions on the facts presented. The authority's standing orders should be specific as to which officers have the authority to cancel PCN's. There should also be a clear audit trail of decisions taken with reasons for those decisions<sup>27</sup>.

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<sup>1</sup> Statutory Guidance Paragraph 7

<sup>2</sup> Ibid

<sup>3</sup> Ibid

<sup>4</sup> Ibid, Paragraph 19

<sup>5</sup> The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulation 7.

<sup>6</sup> Statutory Guidance Paragraph 22

<sup>7</sup> The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007. Paragraph 2, Table 1

<sup>8</sup> Ibid, Paragraph 2, Table 2 & Table 3

<sup>9</sup> Statutory Guidance Paragraph 51 and Paragraph 65

<sup>10</sup> Ibid Paragraph, 37

<sup>11</sup> Ibid, Paragraphs 42 & 43

<sup>12</sup> The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulation 10 (4)

<sup>13</sup> Ibid, Regulation 10 (1)

<sup>14</sup> Statutory Guidance Paragraph 68

<sup>15</sup> Ibid, Paragraph 72

<sup>16</sup> Ibid, Paragraphs 75 & 76

<sup>17</sup> Ibid, Paragraph 94

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<sup>18</sup> The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007  
Regulation 4 (4)(f) & (5)

<sup>19</sup> Ibid, Regulation 4 (2) (b) (ii)

<sup>20</sup> Ibid, Regulation 7 (5).

<sup>21</sup> Statutory Guidance Paragraph 104

<sup>22</sup> Ibid, 119

<sup>23</sup> Ibid, 113-117 and Annex A

<sup>24</sup> Review of Parking Services – Report to Executive 25 September 2007

<sup>25</sup> The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007.  
Paragraph 3, Table 4

<sup>26</sup> Statutory Guidance Paragraph 34

<sup>27</sup> Ibid, Paragraph 92