

Report of the Director of City Strategy

## **Traffic Management Act 2004; Implications for Parking**

### **Summary**

1. This report advises Members of the implications for parking services of Part 6 of the Traffic Management Act 2004 (TMA), which is being implemented on 31 March 2008. The report also requests a decision on the level of the penalties that the Council will charge from 31 March 2008.

### **Background**

2. The TMA came into force on 22 July 2004. Members may recall a report that was brought to the Executive on 9 November 2004, which provided a detailed overview of the whole Act. The intention of the Act is to give local authorities additional tools to tackle congestion and reduce disruption of the road network for the benefit of the travelling public.
3. The TMA has seven parts, which deal with traffic management on trunk roads, network management on local roads, management of strategic roads in London, permit schemes for works, street works, the civil enforcement of traffic contraventions, and miscellaneous related provisions. The Department for Transport's (DfT) timetable for implementation of the Act is shown at Annex A. Further reports will be brought to the Executive as and when the statutory guidance is issued.
4. Specifically for parking, the Government's stated aim is to strengthen the existing system of Decriminalised Parking Enforcement (DPE), which will become known as Civil Parking Enforcement (CPE), by providing a regulatory framework, and associated statutory and operational guidance for enforcement authorities across England. It is hoped that this will produce a high level of public understanding and acceptance of CPE, which will, in turn, lead to reductions in congestion and improvements in safety, and management of the highway network.
5. The TMA is an enabling Act, which, as such, grants powers to the Secretary of State to bring in regulations and prescribe by guidance how the provisions of the Act should be enacted.
6. Section 87 of the TMA gives the Secretary of State the power to produce guidance to which local authorities must have regard. The statutory guidance on the civil enforcement of parking contraventions was issued by the DfT in July and the draft operational guidance in August. The guidance in these

documents advises local authorities how to implement the civil parking enforcement provisions in Part 6 of the Act, covering the setting of charges, techniques of enforcement, the exercise of discretion and the consideration of challenges, representations and appeals against the issue of a penalty charge notice (PCN).

7. This report concerns the implementation of the parking provisions in Part 6 of the TMA which replaces part II and Schedule 3 of the Road Traffic Act 1991 and provides for the civil enforcement of most parking contraventions.

## **Consultation**

8. In 2002, the DfT consulted local authorities and a number of representative organisations about proposals to give local authorities outside London the additional powers that had been taken by London authorities since the Road Traffic Act 1991. The responses showed clear support for this approach.
9. Following the successful passage of the Traffic Management Bill in 2004, the Government gave further consideration to proposals to strengthen DPE. DfT held a stakeholder workshop and a number of meetings of the working group involving representations from a wide range of parking stakeholders, including local authorities.
10. The DfT sought views in July 2006 on draft regulations, draft Statutory Guidance, a partial Regulatory Impact Assessment and a Consultation Document that set out the Government's position on Civil Parking Enforcement.
11. Section 87 of the TMA gives the Secretary of State the power to produce guidance to which local authorities must have regard. Where the guidance states that a local authority must do something, then the authority has no choice, as it is a requirement of the legislation. In other areas the guidance makes recommendations about what a local authority should do. Whilst a recommendation may be disregarded, the local authority should be able to demonstrate why it has decided not to implement the recommendation. Annex B describes what the guidance specifies must be done and what is recommended.

## **Implications of Civil Parking Enforcement**

12. DPE was introduced across the whole of the City of York Council area on 8 October 2000. These powers transferred responsibility for most parking offences from the Police to the City Council. Some exceptions, that were retained by the Police, are dangerous parking, obstruction and parking on pedestrian crossings and their approaches.
13. The parking provisions in Part 6 of the TMA extend those parking contraventions to include additional parking offences, introduce the concept of differential penalty charges, allow PCN's to be issued by post in certain circumstances, and make changes to the administrative procedures involved in the processing of PCN's. The introduction of differential penalty charges is covered in more detail below and a comprehensive list of all the major changes is provided at Annex B.

14. At the present time, a PCN which is issued in the City of York Council area is set at £60, with a reduction to £30 if it is paid within 14 days. The £60 charge is applicable for every type of parking contravention irrespective of the seriousness of the contravention. For example, whether a vehicle is parked on double yellow lines causing a hazard to traffic, or a motorist simply arrives ten minutes late back to a car park, a PCN can only be issued for the full £60 fee. The £60 charge has been in place in York since March 2002.
15. In an effort to make the penalty fairer and more acceptable to the public the TMA introduces the concept of differential penalty charges. This means that a higher charge will be made for parking contraventions that cause the most disruption and danger to pedestrians and other road users. Furthermore, in order to give greater protection to residents and disabled badge holders, the higher charges will also apply in resident permit zones and disabled bays. Each type of parking contravention is allocated either a higher-level charge or a lower level charge dependent upon the considered seriousness of the parking contravention. A full list of the parking contraventions that are applicable outside London, together with their allocated differential charge level, is shown at Annex C,

## Options

16. Local Authorities cannot decide which parking contraventions should be charged at the higher or lower rate but they can decide what the higher or lower rate should be for their area. The choice lies between two bands (See Table Below). The Secretary of State recommends that local authorities choose one band for the whole of their area and considers that a variety of bands within an authority's area is not appropriate.
17. A 50% discount for payment within 14 days will apply for all the rates and there will be a requirement to re-set the discount for a further 14 days if a motorist challenges the issue of a PCN, within the initial 14 day discount period, but the local authority, following consideration of the challenge, decides to reject it.

	Higher Rate (More Serious)	Discount Charge (if paid within 14 days)	Lower Rate (Less Serious)	Discount Charge (if paid within 14 days)
Band 1	£60	£30	£40	£20
Band 2	£70	£35	£50	£25
Current Charge	£60	£30	N/A	N/A

## Analysis

18. The Government has included guidance at paragraphs 421, 422 and 424 of the draft 'Parking Policy and Enforcement Operational Guidance' regarding

which band local authorities should choose when setting the penalty charge level for their area.

19. In summary, the guidance recommends that local authorities should choose the band which would encourage compliance with the parking regulations, maintain a high level of public acceptability and produce a system of civil parking enforcement that is self-financing.
20. Bearing the above guidance in mind and the fact that the charge level for this authority is currently £60, it is considered that the charge level consistent with a high level of public acceptability and compliance is Band 2. It is expected that Band 2 will maintain compliance at existing levels and the civil parking enforcement scheme will thus continue to be self-financing.
21. The approval of the charge band needs to be made promptly in order to allow sufficient time for the legal framework and administration to be in place for 31 March 2008 when the TMA regulations will be enacted.

### **Corporate Priorities**

22. Parking Services contribute to the corporate priority to increase the use of public and other environmentally friendly modes of transport.
23. The implementation of the parking regulations of Part 6 of the TMA is designed to improve the system of civil parking enforcement. An efficient parking system will play a part in improving road safety and reducing traffic congestion and associated emissions. This, in turn, will contribute to the corporate priority of encouraging, empowering and promoting people to reduce the environmental impact of their activities.

### **Implications**

#### **Financial**

24. There are additional one off costs in implementing the provisions of the TMA. These consist of upgrading the Parking Office software (15K), Uniform changes for CEO's (10K), Changes to Stationery (4K) and Training (8K). It is expected that these costs can be absorbed within the overall parking budget.
25. Following a detailed analysis, based on the number of PCN's issued for each parking contravention in the previous year, it is estimated that there would be a small increase in the revenue from PCN recovery of approximately 10K, should Band 2 be chosen by Members. If Band 1 were introduced then compliance may fall particularly in the car parks where a PCN paid at the discount rate would only be £20, and the revenue from PCN recovery is also estimated to fall by approximately 90K.

#### **Human Resources (HR)**

26. The Parking Attendants will become known as Civil Enforcement Officers and there will be some additional parking contraventions to enforce such as double parking and parking at dropped kerbs. There is a need to fully train all the Parking Staff in the new regulations. Consultation has taken place with the Parking Attendants and their union representatives on all these changes.

27. It is also recommended, in the Statutory Guidance, that applicants for CEO's undergo Criminal Records Bureau (CRB) checks because they are required to work near schools and similar sensitive areas and will be seen as a uniformed figure of authority. In the absence of a corporate policy on the issue, it has been agreed locally, following consultation with the Parking Attendants and their union representatives that CRB checks will only apply to new applicants.

### **Equalities**

28. There are no equalities implications

### **Legal**

29. The Head of Legal and Democratic Services confirms that the Council needs to comply fully with all the requirements of the 2004 Act if the car parking system is to remain lawful on and after 31 March 2008.

### **Crime and Disorder**

30. There are no crime and disorder implications.

### **Information Technology (IT)**

31. There is a requirement to upgrade the Parking Office PCN processing system to enable it to be compliant for the new regulations and procedures of the TMA. The existing supplier of the software has identified the necessary changes and these have been agreed with IT.

### **Property**

32. There are no property implications

### **Risk Management**

33. In compliance with the Council's risk management strategy the main risks identified are those that would lead to the inability to meet business objectives (Strategic) and to deliver services (Operational), leading to financial loss (Financial). In stark terms, if the changes to the IT system, uniforms, stationery and the administrative and legal framework, are not implemented then the authority will be unable to issue any PCN's after 30 March 2008 because of failure to comply with the TMA. This would mean that there would be no enforcement of the parking restrictions in the City of York Council area.

## Recommendations

34. It is recommended that:

- a. The content of the report be noted.
- b. Band 2 be chosen as the option for the penalty charge rate to operate from 31 March 2008.

35. Reason: it is considered that the charge level consistent with a high level of public acceptability and compliance, and is likely to provide a self-financing system, is Band 2.

## Contact Details

**Author:**  
***Russ Broadbent***  
***Parking Services Manager***  
***City Strategy***  
***Ext No 1621***

**Chief Officer Responsible for the report:**  
***Bill Woolley***  
***Director of City Strategy***

**Report Approved**  **Date** 13/12/07

## Specialist Implications Officer(s)

Financial  
Patrick Looker  
City Strategy Finance Manager  
Ext No 1633

Legal  
Colin Langley  
Head of Legal and Democratic Services  
Ext No 1004

Human Resources  
Janet Neeve  
City Strategy HR Business Partner  
Ext No 1661

IT  
Tracey Carter  
Head of IT  
Ext No 3419

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the author of the report**

## Background Papers:

Traffic Management Act 2004

Traffic Management Act 2004 – Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions.

Traffic Management Act 2004 – Draft Parking Policy and Enforcement Operational Guidance to Local Authorities.

Statutory Instruments 2007 Road Traffic, England. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

Draft Statutory Instruments 2007. Road Traffic, England. The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.  
Statutory Instruments 2007 Road Traffic, England. The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007.  
Statutory Instruments 2007 Road Traffic, England. The Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007.  
Final Regulatory Impact Assessment (RIA). Proposals to implement the parking provisions of Part 6 of the Traffic Management Act 2004.  
The Traffic Management Act – Report to Executive 9 November 2004  
Review of Parking Services – Report to Executive 25 September 2007

## **Annexes**

- A – Department for Transport's Timetable for Implementation of TMA 2004
- B - Main Changes Introduced by the TMA 2004
- C – Parking Contraventions Applicable Outside London from 31 March 2008