



Leicester
City Council

WARDS AFFECTED
All

Cabinet

31st March 2008

TRAFFIC MANAGEMENT ACT 2004

Report of the Corporate Director Regeneration & Culture

1. Purpose of Report

- 1.1 Changes in parking enforcement are being brought about from 31st March by implementation of the provisions contained within Part 6 of the Traffic Management Act 2004. This report is to inform members of the main changes in parking enforcement from this date.
- 1.2 One change concerns the introduction of different levels of penalty charges to reflect the seriousness of the parking contravention. At present the penalty is £60- for all parking contraventions. Approval is sought to introduce the lower level of £50- for a lesser contravention and £70- for a more serious contravention. Another change includes obtaining the powers to enforce where vehicles are found parked across dropped kerbs causing obstruction. Agreement is sought to only enforce initially where either a pedestrian crossing or driveway is clearly marked on the highway

2 Summary

- 2.1 Following a consultation review of local authority parking enforcement by the Department for Transport changes in parking enforcement are being brought about from the 31st March by implementing provisions contained within Part 6 of the Traffic Management Act 2004. Under this act Decriminalised Parking Enforcement will become known as Civil Parking Enforcement (CPE). This will cover civil enforcement of parking contraventions. Moving traffic offences are also expected to be enforced in the future by the Council once the necessary powers are provided. These include failing to comply with a traffic order that is conveyed by a traffic sign including one way streets, no entry, prohibited turns, yellow box junctions and pedestrian zones etc. In recognition of the wider role of parking attendants they will become known as Civil Enforcement Officers or (CEOs).
- 2.2 To reflect the seriousness of the parking contravention the present level of penalty set at £60- will vary with the introduction of a lower level for a lesser contravention and higher level for a more serious contravention. It is proposed that from 31st March these are £50- and £70- as per the guidelines laid down by the Secretary of State.
- 2.3 Additional parking contraventions will also be introduced from 31st March including the ability to take enforcement action in the following circumstances:

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- i. Double parking where a vehicle is parked more than 50cm away from the kerb.
 - ii. Vehicles found parked across a dropped footway including a dropped vehicle or pedestrian crossing.
 - iii. Vehicles found parking on zig-zags approaching a pedestrian crossing such as a zebra.
- 2.4 Authorities will also have the power to issue penalty charge notices (PCNs) by post where evidence is either obtained by use of an approved device such as a CCTV camera. Also where the civil enforcement officer is prevented from issuing a PCN by the driver's actions or the vehicle being driven away it can be also be sent by post.
- 2.5 The Council has the powers to clamp and remove vehicles although this is not being carried out at present. As part of The Traffic Management Act the government's view is that clamping is only to be used in limited circumstances such as where a motorist persistently breaks the parking regulations and it is not possible to collect payment. Where, however a vehicle is found parking causing a hazard or obstruction it should be removed rather than immobilized.
- 2.6 The objective of civil parking enforcement is to ensure it fits in and contributes to the Councils overall transport policy. This is to ensure that traffic is able to move freely and to improve road safety, the local environment, the quality and accessibility of public transport as well as meeting the needs of people with disabilities. At the same time it is important that enforcement is carried out openly, fairly and effectively.
- 2.7 As part of the review of parking enforcement in future information will be made available on the parking operation which will include producing and publicising an annual report concerning enforcement activities over the previous 12 months. The report will provide both financial and statistical data ie. income and expenditure, number of PCNs paid and number cancelled etc.

3 Recommendations

3.1 Cabinet is recommended to:

- Note the main changes to parking enforcement being introduced by the implementation of the provisions contained within Part 6 of the Traffic Management Act 2004 from 31st March 2008.
- Approve the penalty charge of £50- for a lesser contravention and £70- penalty charge for a more serious contravention, as per the guidelines laid down by the Secretary of State.
- Agree to the enforcement of parking across a dropped footway only where the crossing is clearly marked.

3.2 The Town Clerk be authorised to:

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- Advertise the changes to the penalty charges in accordance with Part 3 of schedule 9 of the Traffic Management Act 2004.

4. Report

Background

- 4.1 The Road Traffic Act 1991 made it possible for all local authorities to take on responsibility for the civil enforcement of non-endorceable parking contraventions from the Police where they were finding it increasingly difficult to find the resources to enforce the on-street restrictions. The City Council obtained decriminalized parking enforcement powers and has been responsible for the enforcement of the on-street restrictions since January 2007. Part 6 of the Traffic Management Act 2004 provides for the civil enforcement of most types of parking contraventions and replaces Part II and Schedule 3 of the Road Traffic Act 1991.
- 4.2 From 31st March with implementation of Part 6 of the TMA decriminalized parking enforcement will become known as civil parking enforcement (CPE). This will in effect have largely brought the enforcement powers of London and non-London enforcement authorities into line in order to provide greater consistency across the country while allowing for parking policies to suit local circumstances. The powers to deal with moving traffic offences covered by failing to comply with a traffic order including one way streets, no entry, prohibited turns, yellow box junctions, pedestrian zones etc are expected to be provided in the near future to enforcement authorities outside of London. These contraventions are already being enforced by the London authorities.

Policy Issues

- 4.3 *The Future of Transport White Paper*, published in July 2004, set out a long term strategy for a modern, efficient and sustainable transport system backed up by sustained high levels of investment over 15 years. Effective management of the road network is a key part of this and the Traffic Management Act 2004 imposes on local authorities an explicit duty to manage their network to reduce congestion and disruption and to appoint a traffic manager. The Act also provides additional powers to do with parking, including increased scope in future to take over the enforcement of driving and parking offences from the police.
- 4.4 Parking policy is an integral part of a local authority's transport strategy and policies aimed at tackling congestion and ensuring that the transport network operates as smoothly as possible by minimizing both dangerous and obstructive parking. Effective management of all on-street and off-street parking either directly or indirectly is essential to achieving this goal.
- 4.5 The object of civil parking enforcement under the TMA is that the motoring public understands the system and that enforcement is carried out fairly, accurately and transparently. The aim overall is to increase compliance with the parking restrictions through clear, well designed, legal and enforced parking controls. This will lead to effectively delivering wider transport strategies and objectives. Effective enforcement should ensure expeditious movement of traffic as required under the TMA network management duty as well as improving road safety, the local environment, quality and accessibility of public transport. It should also meet the needs of disabled people some

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of whom will be unable to use public transport and rely entirely on the use of a car as well as generally managing and reconciling the competing demands for kerb space.

Enforcement Matters

- 4.6 The primary purpose of the penalty charges is to encourage compliance with the parking regulations. At the present time a PCN of £60- is imposed which is reduced to £30- if settled within 14 days. There is now a perceived unfairness of receiving the same penalty regardless of the seriousness of the contravention. For example parking in a place where it is always prohibited such as on double yellow lines or in a disabled bay without displaying a valid blue badge is considered as more serious than overstaying where parking is permitted for example in a limited waiting bay. For this reason and in order to emphasise the traffic management purposes of CPE enforcement authorities must now apply different parking penalties to different contraventions. Local authorities are able to charge either a penalty of £60 - or £70 - for a more serious contravention or £40 - or £50 - for a less serious contravention. Each of these penalty charges are subject to a 50% reduction if paid early. Based upon the average monthly PCNs issued over the last 12 months where 70% of the PCNs would have been issued at the higher rate and 30% at the lower rate it is proposed that the £70 - and £50 - penalty charges are adopted. This is to maximise the effect of parking enforcement and to act as a deterrent to encourage motorists to abide by the parking restrictions and to park correctly.
- 4.7 In addition to the parking contraventions presently being enforced both on-street and on the car parks additional parking contraventions will also be introduced from 31st March including the ability to take enforcement action in the following circumstances:
- i. Double parking where a vehicle is parked more than 50cm away from the kerb where the vehicle is found to be causing an obstruction.
 - ii. Vehicles found parked across a dropped footway including a dropped vehicle or pedestrian crossing.
- 4.8 It is proposed that enforcement action will only be carried out at dropped kerbs where they are marked with a white "H" marking that draws attention to the dropped footway or where there is a traffic regulation order in force. The parking enforcement contractor will be made aware of those existing marked dropped kerbs and informed of any new "H" markings laid following a request from the public where for example a driveway is being obstructed. The new regulations allow the owner of a property where the access is located or other people with the owners consent to park across the access without penalty. Unfortunately there is no way for the enforcement officer to know whether or not a vehicle is parked by the property owner or with the property owners consent. In this instance if a PCN is issued the person parking the vehicle who receives it will have to make a challenge. Providing evidence is produced showing that it was parked with the owners consent the penalty notice would be cancelled.
- iii. Vehicles found parking on zig-zags approaching a pedestrian crossing such as a zebra.

- 4.9 From 31st March any vehicles found parked on zig-zags on the approach to a pedestrian crossing such as a pelican, toucan or zebra crossing will be liable to receive a PCN. At the present time this is only subject to Police enforcement so extension of powers to local authorities will enable both dangerous and obstructive parking to be dealt with to a far greater extent.
- 4.10 Authorities are being given the power to issue PCNs for parking contraventions detected with a camera and associated recording equipment known as an approved device. It is recommended by the Secretary of State that these approved devices are only used where enforcement is difficult or sensitive and enforcement by the civil enforcement officer is not practical. It is not foreseen at this stage that parking enforcement will be dealt with in this manner. Additional powers are expected, however to be awarded to local authorities in the future to deal with moving traffic offences such as failing to comply with a traffic order conveyed by a traffic sign including one way streets or carrying out prohibited manoeuvres, such as carrying out a no right or no left turn. Again evidence is obtained by use of a camera and associated recording equipment. In both cases the PCN would be sent out by post.
- 4.11 In future where the civil enforcement officer is prevented from issuing a PCN by the driver`s actions or the vehicle being driven away it will be possible to send the PCN to the motorist by post.
- 4.12 Few authorities now immobilize vehicles using clamps and it is now the Secretary of State`s view that immobilisation should only be used in limited circumstances such as where the same vehicle repeatedly breaks the parking restrictions and it has not been possible to collect payment for penalties incurred. The advice is that a `persistent evader` defined as a vehicle with 3 or more PCNs outstanding should only be `clamped` where it is not causing a hazard or obstruction on the highway, for example where parking is permitted. However, where such a vehicle is found parked causing a hazard or obstruction, whether a persistent evader or not, it should be removed rather than immobilized. In these circumstances such as on double yellow lines it can be removed as soon as the PCN has been served.

Although the Council already has the powers to either clamp or remove vehicles at the present time this is not being carried out. The different options for implementing a tow away removal and clamping service are presently being investigated and it is proposed that when introduced it would operate on the above basis in dealing with either vehicles causing a hazard on the highway or where a vehicle is found to be a persistent evader.

Annual Reports

- 4.13 Reporting on parking enforcement is an important part of public accountability, Regular and consistent reporting should ensure transparency and help in ensuring the public understand and accept decriminalized parking enforcement. With implementation of the TMA from 31st March enforcement authorities will have to produce an annual report about parking enforcement activities within 6 months of the end of each financial year. The report should be published and cover financial, statistical and other relevant parking data. An account of all income and expenditure in respect of operating the on-street pay & display spaces must also be kept.

4.14 Annual reports will be expected to include the following:

Financial

- Total income and expenditure on the parking account.
- A breakdown of income by source for example either from the on-street pay& display charges and penalty charges.
- Total surplus or deficit to the parking account.
- Action taken with respect to whether there is a surplus or deficit on the parking account.
- Details of how any financial surplus has been or is to be spent, including the benefits that can be expected as a result of the expenditure.

Statistical

- Number of higher level PCNs issued.
- Number of lower level PCNs issued.
- Number of PCNs paid
- Number of PCNs paid at discount rate
- Number of PCNs against which an informal or formal representation was made.
- Number of PCNs cancelled as a result of an informal or formal representation being successful.

5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

5.1. Financial Implications

5.1.1 Implications of the changes relate to the introduction of differential penalty charges as follows:

- a) At the present time the PCN level is £60- reduced to £30- if settled within 14 days
- b) From 31/3/08 local authorities are given the option of imposing a higher penalty of either £70- or £60- and a lower penalty of either £50- or £40-.
- c) During the first 12 months of operating DPE based upon 74% of the PCNs being paid £148,110 was generated per month.
- d) If the £60- higher penalty and £40- lower penalties are adopted based upon 70% issued at the higher rate, based on PCN issue levels over the first 12 months, £133,290 will be generated per month. This will result in an annual loss to the account of £177,840.
- e) If the £70- higher penalty and £50- lower penalties are adopted again based upon 70% issued at the higher rate £157,975 will be generated per month. This will result in an annual surplus to the account of £118,380.
- f) The DRS for 08/09 onwards assumes that the authority would agree the £70/£50 penalties and the additional income of £118k has been included in the budget.
(Full details are set out in Appendix A)
Martin Judson, Head of Finance, Ext 297390.

5.2 Legal Implications

5.2.1 Section 74 of the Traffic Management Act 2004 provides for all areas where decriminalised parking enforcement has been introduced under the Road Traffic Act 1991 to become civil enforcement areas for parking contraventions.

5.2.2 Part 3 (paragraphs 7 to 9) of schedule 9 of the Traffic Management Act 2004 provides for the setting by enforcement authorities outside Greater London of the levels of penalty charges under Part 6 of the Act (Civil Enforcement of Traffic Contraventions) and requires those levels to accord with guidelines given by the Secretary of State for Transport. It is proposed that the higher level penalty charge is set at £70 and the lower level penalty charge set at £50. The Council will advertise these changes in penalty charges 14 days prior to 31st March when they are scheduled to come into effect.
Jamie Guazzaroni, Legal Services, Ext 296350.

6. Other Implications

OTHER IMPLICATIONS	YES/NO	Paragraph references within the report
Equal Opportunities	NO	
Policy	YES	4.3 - 4.5
Sustainable and Environmental	YES	2.6, 4.5
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	

7. Risk Assessment Matrix

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/appropriate)
Delays in implementation of changes to implement TMA 2004 by 31/3/08 resulting in loss of PCN income.	L	H	Project Management in place to ensure necessary software configuration and PCN processing procedures are in place before 31/3/08.

8. Background Papers – Local Government Act 1972

- I. Traffic Management Act 2004 Parking Policy & Enforcement Operational Guidance to Local Authorities issued by Dept for Transport.
- II. Civil Enforcement of Parking Contraventions (Guidelines on Level of Charges) (England) Order 2007 issued by Dept for Transport.
- III. Traffic Management Act 2004 Statutory Guidance for Local Authorities on the Civil Enforcement of Parking Contraventions issued by Dept for Transport.

9. Consultations

Regeneration & Culture Finance Section and Resources Access & Diversity Legal Services have been consulted in the preparation of this report.

10. Report Author

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Key Decision	Yes
Reason	Is significant in terms of its effect on communities living or working in an area comprising more than one ward.
Appeared in Forward Plan	Yes
Executive or Council Decision	Executive (Cabinet)