

SEVENOAKS JOINT TRANSPORTATION BOARD – 11TH MARCH 2008

THE INTRODUCTION OF THE TRAFFIC MANAGEMENT ACT 2004 PART 6 AND THE IMPLICATIONS IN RESPECT TO PARKING ENFORCEMENT.

Report of the: Community and Planning Services Director

Status: For information

Executive Summary: This report advises Members of the implications of the introduction of Part 6 of the Traffic Management Act 2004 upon the parking enforcement service.

This report supports the Key Aim of the effective and efficient use of Council resources.

Portfolio Holder Cllr. Williamson

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: It be **RESOLVED** that Members note the contents of this report.

Introduction

1. At the end of July 2007, the Department for Transport informed all local authorities outside London that Part 6 of the TMA and the regulations made under it will be used to provide a single framework in England for the civil enforcement of parking, bus lanes, some moving traffic offences and the London lorry ban. This will be achieved by the TMA replacing the relevant sections of the Road Traffic Act 1991, the London Local Authorities Act 1996 and the London Local Authorities and Transport for London Act 2003.
2. The provisions of the TMA Part 6 are being implemented in stages, beginning with parking. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 will bring the new parking legislation into effect on 31st March 2008 in respect to local authorities outside London. Similar changes having already been introduced in London in July 2007.
3. In conjunction with the change to the TMA, the Department for Transport is replacing the current “Guidance on Decriminalised Parking Enforcement Outside London” (Local Authority Circular 1/95) with a new “Parking Policy and Enforcement Guidance to Local Authorities”.

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4. The Guidance will revise operational practices that local authorities should follow in undertaking parking enforcement. It will advise all English enforcement authorities of the procedures that they must follow, the procedures to which they must have regard and the procedures that the Government recommends they follow when enforcing parking restrictions. The Guidance has yet to be published.
5. There are many minor operational and procedural effects which will need to be taken into account but which are not worthy of mention in this report. The main aspects of the introduction of the TMA are as follows:-
 - Decriminalised Parking Enforcement will become known as Civil Parking Enforcement (CPE);
 - Parking Attendants will become known as Civil Enforcement Officers (CEOs);
 - Differential penalties will apply depending upon the seriousness of the parking contravention which will be designated as higher or lower level;
 - New powers to be provided to serve a Penalty Charge Notice (PCN) by post if a CEO has started to issue it but the driver has driven away before it can be served;
 - Clamping and removal activities should only take place where they have clear traffic management benefits, although there is an acknowledgement that these methods may be used to deal with repeat offenders where it has not been possible to collect payment for penalties;
 - The provision of new offences for parking across a dropped footway (i.e. pavement crossings and drive accesses) and double parking (parking more than 50 cms from the kerb). However, due to the legality of these contraventions having been challenged by the National Parking Adjudication Service, they might not be introduced immediately;
 - Adjudicators will have the power to refer appeals back to the local authority for reconsideration where it considers the authority should have used its discretion to cancel the Notice to Owner (i.e. upon appeal to the local authority). Such cases should be directed to the office of the Chief Executive and should not be dealt with by the team who considered the original representation.
 - Authorities are to publish certain items of financial and statistical information.

Penalty Levels

6. The types of higher and lower contraventions are detailed in an appendix to be tabled at the meeting. Local authorities can choose to introduce the penalty levels in one of two bands:-

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- Band 1: a £60 charge for higher level contraventions and a £40 charge for lower level contraventions (reduced to £30 and £20 respectively for early payment).
 - Band 2: a £70 charge for higher level contraventions and a £50 charge for lower level contraventions (reduced to £35 and £25 respectively for early payment).
7. The current penalty charge level is £60 reduced to £30 if paid within 14 days. Taking into account the proportion of contraventions issued by this Council which will be set at the higher and lower penalty levels, the selection of either band would have a negative financial effect upon income from penalty charge notices. Band 1 would reduce income by £72,000 (26%) and Band 2 by £25,000 (9%).
8. Because of the financial implications and the need to take this issue into account as part of the Council's budget planning process, proposals were outlined in the Annual Review of Parking Charges reported to Cabinet on 20th December 2007. Cabinet resolved to adopt the Band 2 penalties levels and to amend the on-street and off-street Orders to take account of the new legislation.

Civil Enforcement Officers

9. Although parking attendants are to be known as Civil Enforcement Officers, it is recommended that their enforcement duties be restricted to parking rather than wider enforcement activities a local authority may undertake. The (draft) Guidance states "The Secretary of State is of the view that this means if CEOs are used for duties that do not involve stationary vehicles, they should only be for duties related to other road traffic contraventions that their authority is responsible for enforcing."

Appeals

10. It is likely that we will have some appeals referred back to the Chief Executive for reconsideration. The proportion of the total number of appeals that go to the Adjudication Service to which this might apply is difficult to forecast because it will depend on the circumstances and merits of each case and, to some extent, the view of the individual Adjudicator.

Financial and Statistical Information

11. The requirement to publish information has been introduced to make parking enforcement more accountable, open and transparent. Published information should include:-
- The total income and expenditure of the on-street and off-street parking accounts;
 - A breakdown of income by source (i.e. pay & display, permits, PCNs, etc.)

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- The total surplus or deficit of the on-street parking account and action taken with respect to this, including details of how any surplus has been spent and benefits that can be expected;
- The number of higher and lower level PCNs issued;
- The number of PCNs paid and paid within 14 days;
- The number of PCNs against which formal or informal representation has been made;
- The number of PCNs cancelled and written off;
- The number of vehicles clamped or removed.

Tasks to be Completed for Implementation

12. This authority will need to undertake the following tasks to implement the TMA:-
 - Make necessary changes to the IT system. The existing system for processing PCNs will need to remain in operation for possibly up to one year to allow PCNs issued up to 30th March to be progressed, whilst a new system will be provided to process the new TMA higher / lower level PCNs issued from 31st March. Both systems will need to run in parallel;
 - Ensure all printed stationery and standard letters are updated to reflect the new legislation and requirements (this includes PCNs, Notice to Owners and various Certificates);
 - Update all Traffic Regulation Orders and Off-Street Parking Places Orders to ensure they accord to the new legislation;
 - Inspect all signing and lining to ensure it is consistent and complies with the legislation (on and off-street);
 - Change the wording on the Parking Attendants' uniforms;
 - Ensure staff are properly trained and aware of the new procedures;
 - Advise the public of the changes to enforcement and the changes to the penalty charge levels.

IT System

13. The implementation of the TMA is being co-ordinated through the Kent Parking Group with the intention of ensuring consistency of approach and to minimise costs wherever possible. This includes the necessary changes to the IT systems (three different systems are operated throughout Kent), to documentation and proposals for publicity. By far the biggest cost to be incurred is for the IT system which will be in the region of £8,000 (to be split between the on-street and off-street accounts), otherwise there are only fairly minor cost implications in respect to other changes required.

Publicity

14. Through the Kent Parking Group we are arranging for a standard press release to be issued county-wide (via each authority), preparing an article to feature in local authority publications and producing an information leaflet explaining the changes to parking enforcement. The Kent Parking Group comprises the Kent Districts, Kent County Council and Medway Council.
15. Publicity is being co-ordinated with the Council's own Communications team. It is expected that details will be released to the public during March in the run up to the start of the new arrangements. Fortunately, this coincides with the next publication of the Council's "In-Shape" on 10th March.

Financial

16. The financial implications of the differential penalty levels were outlined in the Annual Review of Parking Charges reported to Cabinet on 20th December 2007. Please refer to this report for further details.

Summary

17. The changes as outlined in this report are required to respond to new parking enforcement legislation and guidance and to ensure the Council's continued ability to enforce parking restrictions.
18. The new arrangements will need to be brought into operation on 31st March when the new legislation takes effect.

Sources of Information: Notifications from the Department for Transport including proposed Parking Policy and Enforcement Operational Guidance to Local Authorities and relevant draft legislation referred to therein.

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KRISTEN PATERSON,

COMMUNITY AND PLANNING SERVICES DIRECTOR

RISK ASSESSMENT STATEMENT

The changes are required in response to new legislation and to ensure the continuance of parking enforcement in the District from 31st March 2008.

