
Report to
Cabinet Member (City Services)

28th February 2008

Report of
Director of City Services

Title
Implementation of Traffic Management Act 2004 – Part 6

1 Purpose of the Report

1.1 To request approval of measures required to enable the City Council to implement parking contraventions under Part 6 of the Traffic Management Act 2004 (TMA) and note the implications for parking services in Coventry.

2 Recommendations

2.1 The Cabinet Member is recommended to:

- i) Approve the level of Penalty Charges in respect of Civil Parking Enforcement at £70.00 for Higher Level Contraventions and £50.00 for Lower Level Contraventions, as set out in appendix 1 of this report.
- ii) Request the Director of Finance and Legal Services to advertise the proposed Penalty charge levels and any other information as required by the Traffic Management Act 2004 part 6
- iii) Delegate the Council's powers as a "Civil Enforcement Authority" to the Head of Highway Services and authorise the Parking Services Manager or nominee(s) to cancel Penalty Charge Notices where appropriate.
- iv) Note the full and comprehensive lists of the higher and lower level type contraventions as set out in appendix 2 of this report.

3 Introduction and Background

3.1 Those parts of Part 6 of the Traffic Management Act (TMA) 2004 relating to parking contraventions will be implemented with effect from 31st March 2008. From that date Part II and Schedule 3 of the Road Traffic Act (RTA) 1991 under which decriminalised parking is currently carried out, will be repealed. Other parts of Part 6 of the TMA 2004 relating to enforcing bus lanes and certain moving traffic offences will be activated by the DfT at a later date.

3.2 Part 6 of the TMA will eventually provide a single framework for the civil enforcement of parking, bus lanes and some moving traffic offences. However, the implementation of these new powers of enforcement is being undertaken in stages, beginning with parking.

- 3.3 Coventry City Council was designated a Decriminalised Parking Authority ('DPE' authority) by Order made under the Road Traffic Act 1991, and as such has been undertaking civil enforcement of parking and waiting restrictions since April 2005.
- 3.4 The introduction of Part 6 of the Traffic Management Act 2004 on 31st March 2008 will automatically designate all existing DPE authorities as Civil Enforcement Authorities (CPE authority) for the purpose of enforcement of parking and waiting contraventions. This will mean that there will be changes to the way in which civil enforcement of parking and waiting restrictions will operate and that all Councils enforcing parking will have to comply with new rules (currently contained in draft DfT guidance issued in August 2007) regulating how parking enforcement can be undertaken.
- 3.5 Within Coventry the current charge for a parking contravention (PCN) is £60, discounted by 50% to £30 if it is paid within 14 days of issue.
- 3.6 The main implications arising from the introduction of the TMA 2004 are as follows:
- The Council will be a Civil Parking Enforcement Authority under the Traffic Management Act, rather than a DPE authority under the Road Traffic Act 1991.
 - Differential Penalty Charges will apply in respect of different types of contravention, depending upon the seriousness of the contravention.
 - In certain circumstances, penalty charge notices will be able to be served by post rather than be issued in person.
 - Parking Attendants will be called "Civil Enforcement Officers" ("CEOs").
 - CEO's will be given additional powers to commence enforcement of parking restrictions on zigzag lines at pedestrian crossings (jointly with the Police), unauthorised parking on taxi ranks and unauthorised parking on bus stops / bays.
 - All parking stationery (i.e. PCNs etc.) will need to be changed to comply with the requirements of the Traffic Management Act 2004.
 - Charges for removals must comply with guidelines set by the Secretary of State.
 - Guidance recommends that existing parking policies are developed, published and appraised.
 - The Council will be required to publish an annual report concerning its parking enforcement activities.
 - The Council will need to determine which named officers are authorised to cancel penalty charge notices.

4 Main Issues for Consideration

- 4.1 Under existing arrangements under the Road Traffic Act 1991, there is no differential or distinction made between the various types of parking contraventions. Therefore, all types of contravention incur the same level of penalty charge.
- 4.2 The TMA 2004 requires that with effect from 31st March 2008 enforcement authorities must apply either a higher or lower level of penalty charge in respect of different contraventions

depending on the level of severity of the contraventions, as there is currently a perceived unfairness.

- 4.3 The TMA 2004 therefore, proposes a two tier / band system of charging in accordance with the "Schedule of The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007" which is included as appendix 1 to this report.
- 4.4 Regulations set out which contraventions attract the higher level of penalty charge. For example parking on double yellow lines will attract a higher level of penalty charge (PCN) than parking without a ticket or overstaying in a parking bay, as it is likely to have a significant effect on congestion and impact on the needs of other road users.
- 4.5 The details of the specific types of contravention that are considered to fall within the "higher level" are shown within Table 2 of appendix 1. All other contravention types are considered to be "lower level" and would attract the lesser level of charge.
- 4.6 Full and comprehensive lists of the higher and lower level type contraventions for on and off-street parking are included as appendix 2 to this report.
- 4.7 Under statutory guidance, Decriminalised Parking Enforcement (DPE) authorities are required to set charge rates at levels that are acceptable and reasonable. DPE authorities should not misuse and abuse these powers in order to maximise income and generate revenue.
- 4.8 Regulations give CPE authorities two options in relation to the charging bands for higher and lower level of penalty charge and the Council needs to determine which band it will use and set these charges accordingly. The options are set out in the table below:

Band	Higher Level Penalty charge	Lower Level Penalty Charge	Higher level Penalty Charge Paid early	Lower level penalty Charge Paid early	Higher Level Penalty Charge after Service of charge certificate	Lower Level Penalty Charge after Service of charge certificate
Option 1	£60	£40	£30	£20	£90	£60
Option 2	£70	£50	£35	£25	£105	£75

- 4.9 Option 2 has a higher-level of contravention charge of £70, discounted by 50% to £35 if paid within 14 days and a lower level contravention charge of £50, discounted by 50% to £25 if paid within 14 days.
- 4.10 From information obtained it would appear that the majority of local authorities involved with parking enforcement will adopt the higher level of charge (i.e. Option 2 above).
- 4.11 It is recommended that Coventry City Council adopt Option 2 described in the table above, as this would be considered a reasonable and proportionate approach to parking enforcement.

- 4.12 In so doing it is hoped that the higher level of charge (i.e. £70) for more serious contraventions (e.g. parking on double yellow lines) will act as an increased deterrent to motorists who park illegally. Ultimately this may result in a greater level of compliance.
- 4.13 During 2006 / 2007 approximately 23.7% of PCNs were issued for lower-level type contraventions in Coventry and 76.3% for the higher-level type contraventions.
- 4.13.1 Based upon this historical data it is estimated that adopting Option 2 scale of charges, will generate a small increase in income. However, there are numerous variables that might affect this outcome (e.g. productivity rates, changes in the levels of PCNs issued for each type of contravention, the time taken to pay PCNs after issue, effectiveness of debt recovery). It should also be remembered that an increase in the level of compliance as a result of the higher charges could have an adverse effect on income levels.
- 4.13.2 Adopting Option 1, would have an adverse effect on income levels on the basis that the new maximum threshold of £60 is the same as the existing maximum level charge, yet the new lower level minimum threshold of £20 is less than the existing lower level minimum threshold of £30.
- 4.14 In accordance with part 6 of the TMA 2004, local authorities will have additional powers in relation to the enforcement of zigzags at pedestrian crossings (jointly with the Police).
- 4.15 In addition, local authorities will have the power to issue some PCNs via post where the CEO has been prevented from serving the PCN or where the CEO has started to prepare the PCN but the vehicle has been driven away.
- 4.16 It is incumbent upon the local authority to amend internal standing orders to reflect the officers who are authorised and approved as having delegated powers to cancel PCNs. This will ensure that only fully trained officers make the decisions and that there a clear, written audit trail. The list of all officers needs to be published.

5 Other specific implications

5.1

	Implications (See below)	No Implications
Best Value		✓
Children and Young People	✓	
Comparable Benchmark Data		✓
Corporate Parenting		✓
Coventry Community Plan		✓
Crime and Disorder	✓	
Equal Opportunities		✓
Finance	✓	
Health and Safety		✓
Human Resources	✓	
Human Rights Act		✓

	Implications (See below)	No Implications
Impact on Partner Organisations		✓
Information and Communications Technology	✓	
Legal Implications	✓	
Neighbourhood Management		✓
Property Implications		✓
Race Equality Scheme		✓
Risk Management		✓
Sustainable Development		✓
Trade Union Consultation	✓	
Voluntary Sector – The Coventry Compact		✓

5.2 Finance

Based upon historical data it is expected that any financial consequences arising from changes to PCN charge levels will be minimal.

5.3 Human Resources

Under TMA 2004, Parking Attendants will be known as “Civil Enforcement Officers” (“CEOs”). This change in job title will be the subject of consultations with Trade Union colleagues and those staff affected.

5.4 Information and Communications Technology

The existing computer system software will be upgraded to reflect the changes arising from the introduction of the Traffic Management Act including the two-tier scale of charges. Similarly, all stationery and correspondence will be replaced with versions that refer to the TMA 2004 as opposed to the Road Traffic Act 1991.

5.5 Legal Implications

From 31st March 2008 the Council's parking enforcement function must be carried out under the authority of the Traffic Management Act 2004. Until midnight on Sunday 30th March 2008, enforcement will continue under the Road Traffic Act 1991 and there will a transitional period when appeals against PCNs and recovery of charges will continue under the RTA 1991 after 31st March 2008.

Draft DfT guidance states that a notice setting out the new differential PCN charges must be publicised in a local newspaper no later than 17th March 2008.

5.6 Trade Union Consultation

Ultimately, CEO's will be given additional powers to commence enforcement of parking restriction utilising CCTV equipment. This will necessitate changes to duties and responsibilities. Therefore, it is intended that there will be adequate and appropriate consultation with Trade Union colleagues and those staff affected.

6 Monitoring

- 6.1 CPEs are required to produce an annual report about their parking enforcement activities within six months of the end of the financial year. The report will need to be published and cover financial, statistical and other data set out in the Statutory Guidance.

7 Timescale and expected outcomes

7.1 The parking contravention elements of Part 6 of the TMA 2004 will come into effect from 00.01hrs on Monday 31st March 2008.

	Yes	No
Key Decision		✓
Scrutiny Consideration (if yes, which Scrutiny meeting and date)	5th March 2008	
Council Consideration (if yes, date of Council meeting)		

List of background papers

Proper officer: Interim Head of Highways Services – Phil Matley

Author:

Paul Bowman – Acting Parking Services Manager, City Services
(Any enquiries should be directed to the above)

Telephone 024 76834243

Other contributors:

Mark Smith, Finance & Legal Services, Telephone 024 76833037

Caron Archer, City Services, Telephone 024 76832062

Elaine Tierney, Finance & Legal Services, Telephone 024 76833726

Liz Knight, Customer & Workforce Services, Telephone 024 76833073

Martin Parrott, City Services, Telephone 024 76832820

Papers open to Public Inspection

Description of paper

Location

None

STATUTORY INSTRUMENTS

2007 No. 3487

ROAD TRAFFIC, ENGLAND

**The Civil Enforcement of Parking Contraventions (Guidelines
on Levels of Charges) (England) Order 2007**

<i>Made</i> - - - -	<i>10th December 2007</i>
<i>Laid before Parliament</i>	<i>14th December 2007</i>
<i>Coming into force</i> - -	<i>20th January 2008</i>

The Secretary of State for Transport makes the following Order in exercise of the power conferred by paragraph 8 of Schedule 9 to the Traffic Management Act 2004(a).

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 and shall come into force on 20th January 2008.

(2) In this Order “the General Regulations” means the Civil Enforcement of Parking Contraventions (England) General Regulations 2007(b).

(3) This Order applies only to England.

Guidelines

2. The guidelines given by the Secretary of State, as appropriate national authority for England, for the setting by enforcement authorities outside Greater London of the level of charges for parking contraventions are those set out in the Schedule.

Signed by authority of the Secretary of State for Transport

10th December 2007

Rosie Winterton
Minister of State,
Department for Transport

(a) 2004 c. 18.
(b) S.I. 2007/3483.

SCHEDULE

Article 2

GUIDELINES FOR THE SETTING BY ENFORCEMENT AUTHORITIES OUTSIDE GREATER LONDON OF CHARGES FOR PARKING CONTRAVENTIONS

Scope of guidelines

1. These guidelines apply to the setting by enforcement authorities outside Greater London—
 - (a) of penalty charges and charges for release from immobilisation devices to be imposed by such authorities under the General Regulations; and
 - (b) of charges for removal, storage and disposal to be made by such authorities under section 102 of the Road Traffic Regulation Act 1984(a),

in respect of vehicles found on or after 31st March 2008 in civil enforcement areas for parking contraventions.

Penalty charges

- 2.—(1) Penalty charges for parking contraventions must be set—
 - (a) for higher level contraventions, at the level specified in column (2) of one of the bands in table 1; and
 - (b) for all other contraventions, at the level specified in column (3) of the band selected for higher level contraventions.

(2) The discounted level for a penalty charge which is paid early (that is within 21 days in the case of penalty charges imposed on the basis of a record produced by an approved device under regulation 10(1)(a) of the General Regulations and 14 days in all other cases) must be set—

- (a) for higher level contraventions, at the level specified in column (4);
- (b) for all other contraventions, at the level set in column (5),

of the band specifying the levels of the penalty charges.

(3) The surcharged level for payment of a penalty charge after a charge certificate has been issued must be set—

- (a) for higher level contraventions at the level specified in column (6);
- (b) for all other contraventions at the level specified in column (7),

of the band specifying the levels of the penalty charges.

Table 1

(1) <i>Band</i>	(2) <i>Higher level penalty charge</i>	(3) <i>Lower level penalty charge</i>	(4) <i>Higher level penalty charge paid early</i>	(5) <i>Lower level penalty charge paid early</i>	(6) <i>Higher level penalty charge paid after service of charge certificate</i>	(7) <i>Lower level penalty charge paid after service of charge certificate</i>
1.	£60	£40	£30	£20	£90	£60
2.	£70	£50	£35	£25	£105	£75

(a) 1984 c. 27; section 120 was amended by the Local Government Act 1985 by the Road Traffic Act 1991 (c. 40) section 68 and Schedule 8

(4) An enforcement authority may set penalty charges in accordance with different bands in the table in different parts of its area, provided that all the charges in each part of its area are set in accordance with the same band.

(5) “Higher level contraventions” are those falling within one or more of the descriptions of contravention listed in column (2) of table 2 (on street contraventions) or table 3 (off street contraventions), being descriptions based on Version 6.5 of the Standard PCN Codes used by local authorities engaged in parking enforcement and have the code number shown in column (1) of that table.

Table 2

<i>(1) Code</i>	<i>(2) Description</i>
01	Parked in a restricted street during prescribed hours
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force
12	Parked in a residents' or shared use parking place without clearly displaying either a permit or voucher or pay and display ticket issued for that place
14	Parked in an electric vehicles' charging place during restricted hours without charging
16	Parked in a permit space without displaying a valid permit
18	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited
20	Parked in a loading gap marked by a yellow line
21	Parked in a suspended bay/space or part of bay/space
23	Parked in a parking place or area not designated for that class of vehicle
25	Parked in a loading place during restricted hours without loading
26	Vehicle parked more than 50 centimetres from the edge of the carriageway and not within a designated parking place
27	Parked adjacent to a dropped footway
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge
41	Parked in a parking place designated for diplomatic vehicles
42	Parked in a parking place designated for police vehicles
45	Parked on a taxi rank
46	Stopped where prohibited (on a red route or clearway)
47	Stopped on a restricted bus stop or stand
48	Stopped in a restricted area outside a school
49	Parked wholly or partly on a cycle track
55	A commercial vehicle parked in a restricted street in contravention of an overnight waiting ban
56	Parked in contravention of a commercial vehicle waiting restriction
57	Parked in contravention of a coach ban
61	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways
62	Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking)
99	Stopped on a pedestrian crossing and/or crossing area marked by zig-zags

Table 3

<i>(1) Code</i>	<i>(2) Description</i>
70	Parked in a loading area during restricted hours without reasonable excuse
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited
81	Parked in a restricted area in a car park
85	Parked in a permit bay without clearly displaying a valid permit
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge
89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area
91	Parked in a car park or area not designated for that class of vehicle
92	Parked causing an obstruction

Charges for the removal, storage and disposal of vehicles

3. Charges for the removal, storage and disposal of vehicles found in a civil enforcement area must be those in table 4.

Table 4

<i>(1) Item</i>	<i>(2) Type of charge</i>	<i>(3) Amount of charge</i>
1.	Vehicle removal charge	£105.00
2	Vehicle storage charge	£12 for each day, or part of day, during which the vehicle is impounded
3.	Vehicle disposal charge	£50.00

Release of vehicle from an immobilisation device under Section 79 of the Traffic Management Act 2004

4. The charge payable under regulation 14(2)(b) of the General Regulations for the release of a vehicle from an immobilisation device must be £40.

Saving for powers of the Secretary of State

5. Nothing in these guidelines prejudices or affects the power of the Secretary of State, under paragraph 8(3) of Schedule 9 to the Traffic Management Act 2004, to permit an enforcement authority to depart from these guidelines.

EXPLANATORY NOTE

(This note is not part of the Order)

Part 3 (paragraphs 7 to 9) of Schedule 9 to the Traffic Management Act 2004 provides for the setting by enforcement authorities outside Greater London of the levels of charges under Part 6 of that Act (civil enforcement of traffic contraventions) and requires those levels to accord with guidelines given by the appropriate national authority, except where that authority permits an enforcement authority to depart from the guidelines.

By this Order the Secretary of State for Transport, as appropriate national authority for England, gives to English enforcement authorities outside Greater London the guidelines on charges for parking contraventions set out in the *Schedule*. The guidelines govern the setting of charges which will apply from 31st March 2008.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from Traffic Management Division, Department for Transport, 2/06 Great Minster House, 76 Marsham Street, London SW1P 4DR (telephone 020 7944 8692) and can be found on the website of the Department for Transport at www.dft.gov.uk/.

Traffic Management Act 2004 part 6 - Details of Parking Contraventions

▪ **HIGHER LEVEL CONTRAVENTIONS**

ON-STREET

Code	Description
01	Parked in a restricted street during prescribed hours
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force
12	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and display ticket issued for that place
14	Parked in an electric vehicles' charging place during restricted hours without charging
16	Parked in a permit space without displaying a valid permit
18	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited (off street)
20	Parked in a loading gap marked by a yellow line
21	Parked in a suspended bay/space or part of bay/space
23	Parked in a parking place or area not designated for that class of vehicle
25	Parked in a loading place during restricted hours without loading
26	Vehicle parked more than 50cm from the edge of the carriageway and not within a designated parking place
27	Parked in a special enforcement area adjacent to a dropped footway
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge in the prescribed manner
41	Parked in a parking place designated for diplomatic vehicles
42	Parked in a parking place designated for police vehicles
45	Parked on a taxi rank
46	Stopping where prohibited (on a red route or clearway)
47	Stopped on a restricted bus stop/stand
48	Stopped in a restricted area outside a school when prohibited
49	Parked wholly or partly on a cycle track
55	A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban
56	Parked in contravention of a commercial vehicle waiting restriction
57	Parked in contravention of a coach ban
61	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways
62	Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking)
99	Stopped on a pedestrian crossing and/or crossing area marked by zig-zags

OFF-STREET

Code	Description
70	Parked in a loading area during restricted hours without reasonable excuse
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited
81	Parked in a restricted area in a car park
85	Parked in a permit bay without clearly displaying a valid permit
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge in the prescribed manner

89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area
91	Parked in a car park or area not designated for that class of vehicle
92	Parked causing an obstruction

▪ **LOWER LEVEL CONTRAVENTIONS**

ON-STREET

Code	Description
04	Parked in a meter bay when penalty time is indicated
05	Parked after the expiry of paid for time
06	Parked without clearly displaying a valid pay & display ticket or voucher
07	Parked with payment made to extend the stay beyond initial time
08	Parked at an out-of-order meter during controlled hours
09	Parked displaying multiple pay & display tickets where prohibited
10	Parked without clearly displaying two**** valid pay and display tickets when required
11	Parked without payment of the parking charge
19	Parked in a residents' or shared use parking place or zone displaying an invalid permit, an invalid voucher or an invalid pay & display ticket
22	Re-parked in the same parking place within one hour* of leaving
24	Not parked correctly within the markings of the bay or space
30	Parked for longer than permitted
35	Parked in a disc parking place without clearly displaying a valid disc
36	Parked in a disc parking place for longer than permitted
63	Parked with engine running where prohibited

OFF-STREET

Code	Description
73	Parked without payment of the parking charge
80	Parked for longer than the maximum period permitted
82	Parked after the expiry of paid for time
83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock
84	Parked with additional payment made to extend the stay beyond time first purchased
86	Parked beyond the bay markings
90	Re-parked within one hour* of leaving a bay or space in a car park
93	Parked in car park when closed
94	Parked in a pay & display car park without clearly displaying two**** valid pay and display tickets when required
95	Parked in a parking place for a purpose other than the designated purpose for the parking place
96	Parked with engine running where prohibited