

<b>REPORT TO THE EXECUTIVE</b>		Report No. 16
<b>Date of Meeting</b>	17 <sup>th</sup> January 2008	
<b>Title of Report</b>	<b>Introduction of Differential Charges for Penalty Charge Notices under the Traffic Management Act 2004</b>	
<b>Portfolio</b>	<b>Built Environment</b>	
Link to Corporate Priorities	Environment	
Key Decision	Yes	
Executive Workplan Ref	B381	
Public Report	Yes	

### Summary of Report

To inform the Executive of the changes to the legislation used to issue and enforce Penalty Charge Notices and to seek agreement to use the Band 2 level (£70 & £50) as the level for Penalty Charge Notices (PCN) charges for the off street car parks in North Wiltshire.

### Officer Recommendations

**That the Executive:-**

- a) **Adopts Band 2 for all Penalty Charge Notices, as set out in paragraph 3.5 and Appendix 1 to this report, with effect from 31 March 2008.**
- b) **Authorises the Legal Services Manager to take any necessary steps to amend the Off-Street Parking Places Order so as to make it comply with the Traffic Management Act 2004 and to give effect to the revised PCN levels.**

Other than those implications agreed with the relevant Officers and referred to below, there are no other implications associated with this report.

Financial Implications	Legal Implications	Community & Environmental Implications	Human Resources Implications	Equality & Diversity Implications
Yes	Yes	None	Yes	None

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## **1. Introduction**

- 1.1 This report is prepared by the Senior Parking Officer to inform the Executive of the changes in Penalty Charge Notice (PCN) levels due to the change in legislation under which PCNs are issued from The Road Traffic Act 1991 to the issuing of PCNs under the Traffic Management Act 2004 on the 31<sup>st</sup> March 2008.

## **2. Options and Options Appraisal**

- 2.1 Option 1: For the Executive to agree to issue PCNs under Band 2 (£70 higher & £50 lower). This will result in a loss of income to the Council of approximately £25k from PCN fine payments from off street car parks based on issuing statistics of the previous 12 months.
- 2.2 Option 2: For the Executive to agree to issue PCNs under Band 1 (£60 higher & £40 lower). This will result in a loss of income to the Council of approximately £51k from PCN fine payments from off street car parks based on issuing statistics of the previous 12 months.

## **3. Background Information**

- 3.1 North Wiltshire District Council introduced Decriminalised Parking Enforcement (DPE) in partnership with Wiltshire County Council using powers under the Road Traffic Act 1991 in September 2006.
- 3.2 All London Authorities and 177 Local Authorities outside of London undertake Decriminalised Parking Enforcement using the Road Traffic Act 1991 and various other legislation for specific areas or roles including the Road Traffic Regulation Act 1984 and the Transport Act 2000.
- 3.3 The Traffic Management Act (TMA) 2004 repeals the relevant sections of the Road Traffic Act 1991. Part 6 of the TMA deals with the Civil Enforcement for Road Traffic Contraventions. This is further split into three main areas
- Civil Parking Contraventions
  - Civil Moving Traffic Contraventions
  - Civil Bus Lane Contraventions

The Regulations implementing these provisions were published in December 2007 and will come into effect on 31 March 2008.

- 3.4 Since the Act was first proposed various studies have tried to identify the reasons for the public's poor perception of parking enforcement. Statutory and Operational Guidance has now been produced to replace the 1/95 circular previously given to local authorities advising how to set up and run DPE. The new guidance promotes best practice in parking enforcement and has taken recommendations from a number of the studies to try to increase the public's satisfaction and understanding with the service.
- 3.5 From a Local Authority's perspective the biggest change under the TMA is the introduction of differential parking charges. As from 31 March 2008 there will be a higher and a lower PCN rate for different contraventions (see Appendix 1). The higher rate is to be used for contraventions deemed to be more serious i.e. parking on Double Yellow Lines or in a Disabled Bay. The lower rate is to be used on contraventions deemed less serious i.e. overstaying in a car park or not displaying a P&D ticket. The contravention codes are set by the Department for Transport and all

Local Authorities across England have to abide by them. Outside London the Secretary of State has agreed the following PCN bands:

- Band 1: £60 higher rate      £40 lower rate
- Band 2: £70 higher rate      £50 lower rate

Discounts of 50% still apply to these amounts if paid within 14 days. Increases of 50% still apply if payment is not received within 56 days of the date of issue. A charge of £5 still applies if the case is referred to County Court as a debt and bailiffs will continue to be instructed 35 days after debt registration if no payment is made.

3.6 The holders of the agreement with the Secretary of State to undertake Decriminalised Parking Enforcement (in NWDC's case Wiltshire County Council) are able to choose the band that suits the authority best. Wiltshire County Council has indicated that they will be using Band 2, subject to Council approval. This replicates the picture nationally as all authorities within the British Parking Association have indicated they will be opting for the higher band as the lower band will severely reduce the income to the parking departments leading to large operational deficits. Therefore it is recommended that the off street PCN levels within the NWDC owned car parks are also on the higher Band 2 to ensure clarity for the public. The new rate has to be publicised at least 14 days before the new charges are introduced on the 31<sup>st</sup> March 2008 in at least 1 local paper and all car parks. Further details of the impact of differential charges are explained in section 8.

3.7 As part of TMA2004, the National Parking Adjudication Service will have greater powers to refer cases back to the Chief Executive of the Authority if they do not feel discretion has been used correctly by the Parking Services department. This is in addition to the powers to make a finding of fact in a case contrary to the evidence provided. Any referral unanswered within 35 days will be deemed as cancelled. All Local Authorities are awaiting the early decisions to be able to better plan the appeals policy.

#### **4. Human Resource Implications**

4.1 All staff must be trained to understand the differences between the 2 Acts to ensure they inform the public correctly. Furthermore, all Parking Attendants (called Civil Enforcement Officers under the TMA) and all back office staff must have achieved at least a City & Guilds level 2 qualification and training monies must be ring fenced. All staff will be undertaking a level 2 qualification which is a 5 day course. The level of enforcement will be reduced while officers are attending these training courses and reduce income accordingly.

#### **5. Community and Environmental Implications**

5.1 A managed approach to parking provides an opportunity to consider the environmental and community benefits in the context of better traffic management and local transport policy. Another aim of a well run Parking Services Department is to consider the affects and the benefits to local businesses and the economy of better enforcement.

#### **6. Legal implications**

6.1 All PCNs issued from 31st March 2008 must be issued under the Traffic Management Act 2004. PCN's issued prior to this date must still be pursued under the Road Traffic Act 1991. This means that for at least 3 months NWDC will have to be running 2

systems side by side. Any mistakes in information will result in the cancellation of the PCN.

- 6.2 To enforce under the TMA2004 the Off-Street Parking Order regulating the car parks must be changed to reflect the new legislation and notice of these changes must be advertised.

## 7. Financial Implications

- 7.1 Forecasts of the financial implications of differential charging have been produced based on figures collated 1<sup>st</sup> October 2006 to 1<sup>st</sup> October 2007 and the payment rates received for PCNs issued during that period. If the higher and lower contraventions were in place during that period the following forecast can be made.

- Issuing PCNs under Band 1 would have resulted in a 32% reduction of income against the actual income received.
- Issuing PCNs under Band 2 would have resulted in a 15% reduction of income against the actual income received.

Full details of the predicted losses can be seen in Appendix 2. This is replicated in the national picture where the losses are predicted to be in the region of 25%. The off street operation, for financial year 2006/2007 provided a surplus of £588k.

- 7.2 Parking Services is predicted by the financial model to in deficit for the first 3 years of operation. In the financial year 2006/2007 the on street enforcement, Parking Services returned a deficit of £39k for the six months of operation. Appendix 3 forecasts the losses for all contraventions, both on and off street. If both on and off street enforcement is set at Band 2 the loss is forecast to be in the region of £28k. However if the on and off street enforcement is set on Band 1 the loss is forecast to be in the region of £84k.

## 8. Risk Analysis

- 8.1 There are no specific risks associated with the introduction of the Traffic Management Act 2004 beyond the impact to the forecasted income as highlighted above. The legislation is better, fairer and clearer for all Parking Services departments and members of the public.

<b>Appendices:</b>	<ol style="list-style-type: none"> <li>1. Appendix 1 – Higher/Lower Contravention Codes</li> <li>2. Appendix 2 – Financial implications Off Street only</li> <li>3. Appendix 3 – Financial implications: On and Off Street</li> </ol>
<b>Background Documents Used in the Preparation of this Report:</b>	<ul style="list-style-type: none"> <li>• Traffic Management Act 2004 – Part 6</li> <li>• Traffic Management Act 2004 – Operational Guidance for Local Authorities (Draft for Consultation)</li> </ul>

### Previous Decisions Connected with this Report

Report	Committee & Date	Minute Reference
<ul style="list-style-type: none"> <li>• None</li> </ul>		