

Title:	Introduction of Differential Charges for Penalty Charge Notices under the Traffic Management Act 2004
Portfolio holder:	Linda Conley - Environment
Reporting officer:	John Follows – Property and Commercial Services Manager
Key decision:	No

Purpose

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

Background

The Traffic Management Act (TMA) 2004 deals with the Civil Enforcement for Road Traffic Contraventions. The Regulations implementing these provisions were published in December 2007 and will come into effect on 31 March 2008. They will have an effect in West Wiltshire when Civil Parking Enforcement is introduced on 16 June 2008.

Key issues

The biggest change under the TMA is the introduction of differential parking charges which reflect the seriousness of the contravention. The higher rate is to be used for contraventions deemed to be more serious e.g. parking on double yellow lines or in a disabled bay. The lower rate is to be used on contraventions deemed less serious e.g. overstaying in a car park or not displaying a pay and display ticket. Two possible bands are prescribed:

- 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.

The holders of the agreement with the Secretary of State to undertake Civil Parking Enforcement (in this Council'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, for on-street contraventions. 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 West Wiltshire District Council owned car parks are also on the higher Band 2 to ensure consistency and clarity for the public.

Effect on strategies and codes

The new rate has to be publicised before the new charges are introduced on the 16 June 2008 in at least one local paper and all car parks.

Risk management implications

There are no specific risks associated with the introduction of the Traffic Management Act 2004 beyond the impact to the forecasted income as highlighted below.

If the lower Band 1 is adopted then the PCN charges will be different for on-street and off-street offences. This would introduce inconsistencies within West Wiltshire and between other districts.

Finance and performance implications

The financial impact of the changes has been modelled and the full breakdown of how the changes are forecast are shown in appendix 1 (£70/£50 PCN level) and appendix 2 (£60/£40 PCN level).

The introduction of Civil Parking Enforcement was approved by Cabinet in January 2007. The effect of these changes to PCN levels will increase the deficit as summarised in the table below:

Band	Off-street difference	On-street difference	Total difference
Higher £70/£50	-£20,293	£9,574	-£10,719
Lower £60/£40	-£45,660	-£14,361	-£60,022

70% of the on-street contraventions are likely to be at the higher level whilst only 10% of off-street contraventions will be however the combined effect will be to reduce income and increase the forecast deficit.

The pending implementation of the regulations was known when compiling the budget for 2008/09 and the anticipated net loss of income if PCN charges were set at Band 2 was taken into account. If the charges are set at Band 1 then further funding of up to £50,000 will be required

Options and way forward

Option 1: Issue PCNs under Band 1 (£60 higher & £40 lower). This will result in a loss of income to the Council of approximately £60,022.

Option 2: Issue PCNs under Band 2 (£70 higher & £50 lower). This will result in a loss of income to the Council of approximately £10,719.

Legal and human rights implications

All PCNs issued from 16 June 2008 must be issued under the Traffic Management Act

2004.

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.

Next Steps

The next steps will be to advertise the changes to PCN charges in time for their implementation in June 2008.

Recommendations

CMT are recommended to:

- Adopt Band 2 for all Penalty Charge Notices as set out in option 2.
- Authorise the Property and Commercial Services Manager to take any necessary steps to amend the Off-Street Parking Places Orders to comply with the Traffic Management Act 2004 and to give effect to the revised PCN levels.

Background papers

Documents relied upon in compiling this report are located in Property and Commercial Services Room G38 Bradley Road and at Riverway Depot.

Appendix 1

West Wiltshire District Council - c. 12k PCNs per annum, split 50:50 on-street off-street Higher Band £70/£50 PCN Level

Of PCNs issued:				Current PCN values				Future PCN values - Higher				Future PCN values - lower				
				£30	£60	£90	Totals	£35	£70	£105	Totals	£25	£50	£75	Totals	
				60%	8%	2%		60%	8%	2%		60%	8%	2%		
Off	Higher	619	10% of off-street	£11,137	£2,970	£1,114	£15,220	£12,993	£3,465	£1,299	£17,757					
	Lower	5568	90% of off-street	£100,229	£26,728	£10,023	£136,980					£83,525	£22,273	£8,352	£114,150	
Off Total		6187		Off total:			£152,200									
On	Higher	4087	70% of on-street	£73,559	£19,616	£7,356	£100,530	£85,819	£22,885	£8,582	£117,285					
	Lower	1751	30% of on-street	£31,525	£8,407	£3,153	£43,084					£26,271	£7,006	£2,627	£35,904	
On Total		5838		On Total:			£143,615									
Grand Total		12025		Grand Total:			£295,815					£135,042				
												Future PCN total: <u>£285,096</u>				
												Total Difference: -£10,719		-4%		
												Off-street difference: -£20,293		-13%		
												On-street difference: £9,574		7%		

Appendix 2

West Wiltshire District Council - c. 12k PCNs per annum, split 50:50 on-street off-street Lower Band £60/£40 PCN Level

Of PCNs issued:				Current PCN values				Future PCN values - Higher				Future PCN values - lower			
				£30 60%	£60 8%	£90 2%	Totals	£30 60%	£60 8%	£90 2%	Totals	£20 60%	£40 8%	£60 2%	Totals
Off	Higher	619	10% of off-street	£11,137	£2,970	£1,114	£15,220	£11,137	£2,970	£1,114	£15,220				
	Lower	5568	90% of off-street	£100,229	£26,728	£10,023	£136,980					£66,820	£17,819	£6,682	£91,320
Off Total		6187				Off total:	£152,200								
On	Higher	4087	70% of on-street	£73,559	£19,616	£7,356	£100,530	£73,559	£19,616	£7,356	£100,530				
	Lower	1751	30% of on-street	£31,525	£8,407	£3,153	£43,084					£21,017	£5,604	£2,102	£28,723
On Total		5838				On Total:	£143,615								
Grand Total		12025				Grand Total:	£295,815				£115,750				£120,043

Future PCN total: £235,793

Total Difference: **-£60,022** -20%
 Off-street difference: **-£45,660** -30%
 On-street difference: **-£14,361** -10%

