

Executive – 6 March 2008

CIVIL PARKING ENFORCEMENT

Report Of Strategic Director (Operations)

Statutory Powers: Traffic Management Act 2004 (TMA), Road Traffic Regulations Act 1984, s44 Control of Off Street Parking (England and Wales) Order 1978.

Financial Implications: Devon County Council has undertaken to underwrite all reasonable costs incurred by the District in running the scheme so that there are zero costs for the districts. The cost of running an ON street scheme in South Hams has been calculated at £226,000 per annum. Capital and start up costs are estimated at £136,000. In addition, up to £40,000 may be lost from current OFF street pay and display income, as a result of the new national penalty band.

The expectation by County is that the penalty charge revenue will eventually pay for the costs of running the system. Any surplus income from the ON street scheme will be used by Devon County Council for transport initiatives. If this is not achieved then the County Council has agreed to fund any justified cost deficit that may occur.

Purpose

To consider further information relating to the operation of the Civil Parking Enforcement (CPE) scheme in the 'South Devon and Dartmoor' area working in partnership with Teignbridge District Council, West Devon Borough Council and Devon County Council. The report seeks approval to implement CPE subject to the Department for Transport approving Devon's over-arching application in respect of these new powers and Devon County Council underwriting the full cost of operating on-street enforcement activity locally in the South Hams.

RECOMMENDATION

That the Executive RESOLVES

- (i) to note the contents of the report and the ongoing negotiations towards an acceptable implementation plan for Civil Parking Enforcement;**
- (ii) subject to the satisfactory conclusion of a fully-costed and workable Implementation Plan, to agree to take-on the powers for Civil Parking Enforcement on behalf of Devon County Council working in partnership with Teignbridge District and West Devon Borough Councils;**
- (iii) to delegate authority to the Strategic Director (Operations) and Deputy Monitoring Officer in consultation with the Portfolio Holder for the Clean Environment the completion of the negotiations relating to Civil Parking Enforcement; and**
- (iv) subject to (iii) above, commence the necessary operational changes required to operate Civil Parking Enforcement from**

5th May 2008 to include completion of all necessary agreements and other steps to facilitate and implement the arrangements outlined in this report, including the Agency Agreement, the procurement of ICT systems on behalf of Teignbridge and West Devon, the modification of parking notices and procedures, the recruitment of staff and training and the provision of vehicles.

Background

1. From the Executive Report presented in November 2007 (Min. E.52/07) Members will recall that the police are withdrawing parking and traffic warden services across Devon and as a consequence Devon County Council, as the Highway Authority, will be providing a Devon-wide service for Civil Parking Enforcement (CPE) using new powers contained in the Traffic Management Act.
2. The proposal for the operation of CPE in Devon, as presented by Devon to the Department for Transport for approval, is such that the County Council wishes to delegate its statutory powers for CPE to each of the Devon Districts in order to deliver 'shared two-tier' on-street enforcement service at District level.
3. Clearly it is imperative to maintain the provision of local parking enforcement for the whole of the South Hams' community. Reducing traffic congestion and avoiding unnecessary parking problems is essential for the South Hams' community and its visitors. Hence in the spirit of a new 'Integrated Devon' the District Council had been discussing taking on these powers from the County Council as Highway Authority and the commensurate under-writing of associated capital and ongoing revenue funding.
4. South Hams along with Teignbridge and West Devon officers believe that the project is a good opportunity to offer citizens a uniform approach to parking services within the 'South Devon and Dartmoor' area.

Application for Civil Parking Enforcement

5. An application was submitted by Devon County Council to the Department for Transport (DfT) for the creation of a Civil Enforcement Area (CEA) for Devon. All eight Devon District/Borough/City Councils supported this application in principle subject to further detailed discussions thereafter.
6. DfT is currently reviewing Devon's application and discussing the details of the County Council's business plan and financial model. Once the detail has been agreed by DfT, it is likely that the new Order under the Traffic Management Act will be laid before Parliament for approval 21 days before the commencement date which is 5th May 2008.
7. With such a short timescale officers have been working towards implementation of CPE since November 2007 when it was confirmed that the application to the DfT would need to include the District Councils. Members should note that there have been discussions between Devon County Council and Districts with a view to postponement of the proposed implementation date. However given this year's impending holiday season and the need to cover on-street enforcement when the Police withdraw, the date remains the 5th May.

8. The new Order will apply to all current off-street parking enforcement measures in council car parks as well as on-street highway parking enforcement.
9. Councils will continue to be able to set the pay and display charge levels as they do now in their car parks. However Members should be aware that under the new arrangements, enforcement within the Council's car parks from 5th May will fall under the Traffic Management Act 2004. This will mean that the national penalty levels and charges, which are lower than our own locally set charges for parking offences in respect of early and late payment) and the national appeals system will apply.

Operational Activity with Civil Parking Enforcement

10. Although there will be some elements of parking that the Police will still deal with, for instance parking in a dangerous position and obstruction, CPE will cover six main priority areas:-
 - Incidents on the highway (planned or unplanned)
 - Strategic Routes (traffic management)
 - Road Safety (yellow lines e.g. schools)
 - Demand Management (enforcement of pay and display and residents' parking)
 - Accessibility: Permitted parking other than Pay & Display (disabled persons' bays, bus bays and clearways)
 - Amenities (Shopping bays, limited waiting)
11. The Traffic Management Act creates Civil Enforcement Officers (CEOs) to enforce Parking Orders. Their role will be to issue penalty charge notices for parking infringements ON and OFF street. They will have no powers of directing traffic. Devon County Council will remain the Highway Authority and as such it may wish to introduce new parking restrictions such as yellow lines etc. The Districts' role will be to provide the enforcement arm using CEOs.
12. South Hams, Teignbridge and West Devon Councils have been in joint discussions with the County Council in order to negotiate financial models and establish a common approach to recruitment, training, IT systems and processes to be adopted. There is the prospect that once the three districts have had successful experience of operating CPE on behalf the County Council, there may be opportunities to gain efficiency savings by considering a shared parking administration and related back office function.
13. South Hams District Council Street Scene office will provide a 7 day week service and deploy CEOs in vehicles to patrol areas and towns where road parking restrictions apply. Complaints from the public received by the Customer Services Team will be forwarded to the office and passed to patrols.

Implementation of Civil Parking Enforcement

14. Since Members gave their 'in principle' agreement to proceed with this project, officers from all three districts have been working with County Council officers to ensure that CPE will be implemented successfully. In order to achieve this it is imperative that all financial, legal and operational risks have been considered and resolved. It is fair to say that the level of risk varies

slightly within each district but essentially the following District requests have been fully agreed to the County Council and where necessary fully underwritten:-

- The County Council will ensure all existing Traffic Orders are up to date and correct at day one, and will pay for required changes.
- That the District Council(s) will not be exposed financially and the County Council will meet all capital and revenue costs required to set up and operate the scheme. Included in this, the County will fund transport and accommodation costs for the new CEO's. They will however require detailed justification of any requests made for additional resources.
- The necessary Penalty Charge Notice (PCN) infrastructure will be set-up to be fully functioning for the start of the scheme such that the PCN information can be input and retrieved. There is a need for a common database for processing and administration of Fixed Penalty Notices (FPNs) and therefore significant changes to existing back office processes.
- All appeals will have to involve the National Parking Adjudication Service (NPAS). It is anticipated that all inspectors will be equipped with handheld ticket issue systems and cameras.
- The County Council will provide up-front funding for scheme set-up costs including office space, workstations and management/administration charges.
- The County Council's financial model assumes a significant increase in PCNs above the current number of PCNs issued by the Devon and Cornwall Police. Devon County Council will bear the risk of the scheme not producing the income predicted by their financial model. Given the detrimental risk to the public, the districts have confirmed that they will not be able to operate an on-street parking scheme solely based on income generation alone if this income proves insufficient to cover the operational cost.
- The District Councils will require additional back office administration support to process the administration of the CPE scheme. This additional support is not currently fully allowed for in the DCC financial model but DCC will fund the cost of this additional support as is reasonably requested and justified in the future.
- Districts will take over the employment of any existing Traffic Wardens under TUPE as an additional resource and the County Council will fund them as part of the new complement of CEO's. The County will facilitate inter-authority discussion(s) involving representatives from Devon County Council, all proposed District Partners and Devon and Cornwall Police in order to ensure efficient and consistent management of the transfer of existing Traffic Wardens from the Police to the relevant District Partners and that the statutory TUPE information is supplied to the districts.

- The County Council and the Police will work with the District Partners to ensure that a fit for purpose workforce is transferred to each District Partner and that all long term sickness and staff management issues are dealt with by the Police prior to staff transfer.
- The County Council will not require the District Councils to credit the scheme costs with any income generated from our off street car park income to the new CPE on-street scheme.
- The introduction of the standard penalty charge level throughout the whole of the County Council area will require some or all District Councils to reduce the penalty charge currently operated in their off-street car parks. The effect of this reduced charge will be a reduced income to the District Councils (approximately £40,000 in South Hams, £11,000 in Teignbridge and an unspecified lower amount in West Devon). The County Council will consider reimbursement to each District Council on the 'lost' or reduced penalty charge income.
- The districts cannot realistically fully complete a fully integrated service with all changes by May 2008 to offer a fully joined-up operation. However the delivery of a front line service between the 3 districts to meet the County Council requirements will only be possible by the start date of 5th May 2008 with full County Council support at all levels.

Staffing

15. The County Council has calculated that South Hams will require 5 CEOs for ON street enforcement activities. These staff will supplement our existing 9 Street Scene Officers who undertake a multi-tasking role in respect of OFF street parking, waste and litter enforcement and dog warden duties. Of the 5 new CEO's, 4 staff will transfer from the Police under the TUPE Regulations leaving the District to recruit one additional member of staff to fill all five CEO positions.
16. The staff that are likely to transfer from the Police are believed to be those staff who have fulfilled Traffic Warden duties in the South Hams previously. At the time of writing this report we are yet to receive the full details of the staff being transferred to the Council. However we are aware that 3 of the 4 identified for transfer from the Police have ongoing long term sickness issues. Under TUPE such costs would fall on this Council. Clearly, this unacceptable situation will require an early resolution for which we have the support of the County Council.
17. Each of the districts also has its own version of a multi-tasking approach to enforcement and there has been some discussion about whether the CPE legislation allows the new CEO's to multi-task in the same way the Council's current Street Scene Officers operate. The latest view is that there may be some freedom to do this and so the intention is for districts to undertake multi-tasking where it complements their own work in practice. Clearly the first year of operation using CPE powers will provide valuable experience to assess the potential for greater multi-tasking in order to maximise efficiency of service delivery for the South Hams community, and to reduce cost for the County Council as funding partner.
18. In relation to back office administration, the County Council's financial model allows for an additional 1.4 Full Time Equivalent staff to complement the

existing 2 FTE's in Street Scene who process off-street Pay and Display car park tickets and manage a local appeals process. With the additional back office technical staff for CPE, this team will also process on-street Penalty Charge Notices, manage representation to and feedback from the National Parking Adjudication Service (NPAS), maintain systems interfaces and databases and manage two separate ring-fenced accounts: the County Council's ring-fenced on-street budget and the District's own off-street account.

19. Assuming Members approve the operation of CPE, a small restructure of the Street Scene Team will take place to take account of the additional management responsibility for CPE. The Customer Services Team in South Hams has also estimated the additional resources needed to deal with increased PCN workload and enquiries and this has been included in the financial model.

IT Systems

20. Whilst it is appreciated that the County Council is currently in discussion with the software supplier SPUR to investigate the establishment of 'a central hub based IT system' to enable any district to process the new Penalty Charge Notices and other parking related administration for CPE, South Hams and West Devon already operate the SPUR software system as standalone systems.
21. In South Hams the SPUR system enables electronic issuing and processing tickets from handheld devices in the field into the back office with a pre-requisite link to the DVLA for vehicle checking.
22. Having assessed all of the options for IT systems and the risk related to linking into individual existing cash handling and finance systems in each district, all three districts in the South Devon and Dartmoor cluster area are of the opinion that the South Hams IT Server should be used to deliver an integrated SPUR software system for back office processing in South Hams, Teignbridge and West Devon. In essence, frontline staff based in each district will migrate to electronic handheld ticketing devices and cameras and the back office staff based in each district will access the central SPUR software system hosted by South Hams.
23. ICT Officers from each authority are currently advising on all the practicalities of this and other possible solutions in liaison with both the County Council and the software supplier of SPUR.

Signage and Ticketing

24. The Council's off street car parks will require work to bring the wording on existing car parks signage and tickets in line with the new legislation. The Council's ability to set Pay and Display charges will remain unchanged although we are encouraged to consult more closely with Devon County Council to ensure balance with ON street parking charges.
25. Appeals against Penalty Charge Notices (PCN) will be more formal and under CPE they will be dealt with by the National Adjudication Service whose service is prescriptive and chargeable.

26. The County Council will set patrolling requirements relating to times and locations for the 5 new CEOs and the District Councils will deliver the service in line with those requirements. Given that the County Council's priority is keeping traffic moving, there will also occasionally be a demand for CEO's to support neighbouring partnership districts in the event of exceptional events such as the Goose Fair at Tavistock or the Dartmouth Regatta.

Agency Agreement

27. Delegation of the County Council's new powers for CPE, service standards and expected performance levels together with a commitment to resourcing are set out in a legal Agency Agreement, currently in draft, between the County Council and each of the eight Districts. This Agency Agreement will detail all legal, financial and working arrangements between the partners for CPE.

28. The draft Agency Agreement proposes that the County Council will depend upon each District to provide the service and manage the staff, CPE related processes and the interface with the public. Conversely, through the Agency Agreement, the Districts will rely upon the County Council to provide the funding (capital and on-going revenue) and fund any shortfall during the operation of CPE.

29. Devon County Council has undertaken to ensure all existing Traffic Orders are up to date and correct prior to 5th May 2008 and a Consolidation Order will need to be made to bring off-street car park enforcement procedures in line with the Traffic Management Act and the new table of penalties that will apply.

30. The County Council will also establish a Parking Board with nominated officer representatives from each district on it. The role of the Parking Board will be to oversee county-wide parking policy and the operation of CPE.

Financial Implications

31. Technical consultants, RTA, acting on behalf of the County Council, have created ON street financial models for each of the Districts. There has been considerable debate regarding the models and, in particular, South Hams' expenditure requirements for the effective operation of CPE.

32. The table below shows South Hams' proposed financial model which is currently accepted by the County

	Set-up	Year 1	Year 2	Year 3	Year 4	Year 5
	£	£	£	£	£	£
ON Street income (estimated)		111,005	137,095	137,095	137,095	137,095
DCC Contribution to CEOs		50,000	50,000	50,000	50,000	50,000
Total Income		161,005	187,095	187,095	187,095	187,095
Expenses:						
Staffing (inc.		170,151	170,151	170,151	170,151	170,151

o/heads)						
Equipment		9,793	9,793	9,793	9,793	9,793
Transport (2 vans)		12,075	12,075	12,075	12,075	12,075
Ticket Processing		24,293	24,293	24,293	24,293	24,293
Other		9,098	9,098	9,098	9,098	9,098
Total Expenses	135,694	226,040	226,040	226,040	226,040	226,040
Surplus / (Deficit) per Model	(135,694)	(65,035)	(38,945)	(38,945)	(38,945)	(38,945)
Reduction in OFF Street income		40,000	40,000	40,000	40,000	40,000
SHDC Surplus / (Deficit)	(135,694)	(105,035)	(78,945)	(78,945)	(78,945)	(78,945)

33. Officers have argued very strongly that any agreement with the County to provide ON street enforcement must include an undertaking by the County Council to fully underwrite all costs associated with the service.

34. The County has now undertaken to fund the legitimate set-up costs and revenue costs of operating CPE. However, it is vital that the Agency Agreement provides for the reimbursement of actual costs incurred, rather than those estimated and identified in the financial model.

35. The income levels contained within the model have been estimated by RTA Associates, based on their experience of CPE within other areas of the country. There is therefore a risk that these income levels may not be achieved in practice. Similarly, once the service goes live, actual costs may differ from those estimated. It is intended that, through the provisions of the Agency Agreement, these risks sit with DCC.

36. In addition, under the new scheme, penalties for failing to pay and display will be on a new, national, government laid down scheme. This will mean that our current OFF street penalty will fall from £75 per ticket to £50. Financially, it has been estimated that this will reduce our OFF street income by around £40,000 per year (shown in the table above). DCC have indicated they will look at this issue where the shortfall is not offset by any increase in OFF street Pay and Display income arising from ON street enforcement. This represents a further area of uncertainty and risk, as it will be virtually impossible to establish what, if any, additional OFF street income has resulted from CPE. SHDC has budgetary provision for the level of income received from OFF street parking, and expects this to be protected through the Agency Agreement.

37. Given the uncertainties with accurately predicting income and expenditure levels for this new service, together with the estimated impact on our current OFF street income streams, it is vital that agreement is reached with DCC whereby all actual costs are underwritten, including any OFF street income lost as a consequence of CPE. The intention is to reach agreement that, on an annual basis, any deficit will be funded by DCC. Conversely, any surplus from ON street enforcement will be paid to DCC.

38. It should also be noted that the financial model does not include provision for the future replacement of vehicles. The DCC position is that this would be subject to a future bid. Clearly, this will have a further financial impact if DCC do not agree to provide funding.
39. Districts have also sought assurances from the County Council that it or the Police will cover the full costs incurred from any TUPE transfers of Traffic Wardens from the Police. The impact of taking on staff who are on long-term sick leave is being examined very carefully and requires further and more detailed disclosure of information about the individuals under TUPE, which hasn't yet been furnished.
40. For the purposes of financial control and transparency there will be a requirement to maintain separate financial accounts for the management of both ON and OFF street parking. Financial reports and regular auditing are required quarterly by DCC.
41. In order to achieve the 5th May date some activity will need to take place before full Council approval in order to enable IT procurement and some recruiting to take place. There is an 8 week lead in for IT and the recruitment process requires advertisement and selection, taking a similar time. This will form part of the set-up costs, which are expected to be funded by DCC.
42. It is also essential to ensure that any additional initiative\proposal does not impede the current level of service delivered by district councils. We need to maintain control of car park enforcement and our street scene multi-tasking activities.
43. Both financial and operational benefits may be derived by multi-tasking District and County on-street and off-street functions. There are issues re multi tasking which have yet to be legally firmly resolved.

Legal Implications

44. A draft Agency Agreement has been prepared by Devon County Council and is undergoing scrutiny by the Districts' legal sections. Adjustments have already been sought, mainly in the financial areas.
45. Assuming that the DfT accepts the County's proposal, there will either be a single Agency Agreement with each District Council, or some sort of joint arrangement between the County and the three districts in the 'South Devon and Dartmoor' area. The latter will only be possible so long as all three districts have the same requirements, not only in principle (where there is largely consensus, at officer level at least) but also in matters of detail. It is as important that there is an agreement between the three districts as it is that each has agreement with the County. The agreements will also contemplate and provide for any impending re-organisation of local government areas in Devon.
46. In view of the urgency of implementation, we may have to have a framework type agreement securing the most essential matters – transfer of staff and assets, finance, and operational issues – which will be subject to amendment in future years in the light of experience and more detailed negotiation. This

is not the most satisfactory way of proceeding, but is capable of being effective and is the best that can be secured in the time available.

Strategic Risk Assessment

Opportunity	
To maintain local on-street parking enforcement activity and support the improvement of traffic movement in the South Hams.	
Issue/Risk	Mitigation/Effect
Members choose not to operate CPE due to the level of risk.	The County Council has confirmed that it will under-write all reasonable costs arising from the set-up and implementation of Civil Parking Enforcement.
Members choose not to operate CPE due to the level of risk.	The District will be able to enforce OFF street under current legislation, although there will be no enforcement available ON street because Police will have withdrawn from enforcement.
Members choose not to operate CPE due to the level of risk. Without delegation of arrangements to the District there will still be a requirement for civilianisation of on-street parking enforcement which would need to be progressed in isolation by the County Council.	The introduction of contracted-out services (DCC's likely solution without District involvement) could impact on any harmony between on and off street parking services and future parking strategies across the area. The current proposals for an agency arrangement are the best chance of harmonious working.
<p>County and Districts do not have all systems, procedures &/or trained staff in place for the commencement date of May 2008.</p> <p>Districts will not be able to take action under old or new legislation for ON or OFF street parking.</p> <p>Car parks would be without enforcement and income would be lost.</p>	Officers are working very hard to ensure that all agreements and operational procedures are in place as a matter of priority. Joining up three districts for CPE is more complex, though more efficient than each going alone and should result in better outcomes overall
The Council may be open to criticism if CPE goes ahead in Devon and it is not in a position to provide an effective service from the commencement date of May 2008.	This is an opportunity to proceed with a two-tier partnership offering uniformity of parking services (in terms of cost, perception and enforcement) across the South Devon and Dartmoor area for all citizens.

Conclusion

This is a positive opportunity to work on a two-tiered partnership approach for a standardised parking service through shared services. It offers an opportunity to ensure that district councils will have a future role in helping to manage parking services within local communities throughout the South Devon and Dartmoor area. It is also an opportunity to act as a model for other Districts and other areas, in accordance with current Government requirements for local administration and service delivery.

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Executive
6 March 2008

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Background Documents:

Devon County Council's Application to the Department for Transport for a Civil Enforcement Area, and a Special Enforcement Area, December 2007.

Devon County Council's Agency Agreement Relating to Civil Parking Enforcement, Version II dated February 2008 (please note that since this document contains exempt information it is not open to public viewing).