

Taunton Deane Borough Council

Executive – 13 October 2010

Civil Parking Enforcement – Proposed Countywide Service

Report of the Parking and Civil Contingencies Manager

(This matter is the responsibility of Executive Councillor Mark Edwards)

1. Executive Summary

This report updates Members as to the current proposals for introducing Civil Parking Enforcement across Somerset. It details the potential effects for the Borough Council in parking enforcement and financial scenarios and **recommends** that the proposals be supported.

2. Background

- 2.1 Taunton Deane Borough Council and Somerset County Council jointly introduced Decriminalised Parking Enforcement (DPE) in February 2001 as part of a package of transport related measures designed to tackle congestion in Taunton town centre. This moved enforcement responsibilities and activities from the Police to Local Authority control, and the income stream from Penalty Charge Notices (PCN) from the Treasury to Local Authorities. The income is used to fund enforcement, so there is a direct proportionality between the need for enforcement and the ability to fund it. The Borough Council is the enforcement authority in its off-street car parks and acts under a delegation agreement from the County Council on public highways. This approach provides one enforcement team in the on-street and off-street arenas, with common enforcement and administrative procedures, reaps the benefits of an holistic approach to enforcement and is highly visible to the public.
- 2.2 DPE facilitated the introduction of traffic regulations that directly supported transport and other community objectives, but required more active enforcement than the Police were able to provide. In Taunton these included peak hour loading restrictions (the East Reach Clearway), on-street pay parking and Residents' Parking Schemes. This report is not about these measures in themselves, but is about the way they and all other parking regulations are enforced.

- 2.3 Discussions around the introduction of DPE in the other Somerset districts began some years ago. For a number of reasons these did not prove fruitful. The Traffic Management Act 2004 rebranded the service as Civil Parking Enforcement (CPE) and placed a duty on the County Council to consider CPE as a tool for effective traffic management across its whole geographic area. Reinvigorated discussions took place between the County Council and all five districts with a view to a county-wide Civil Parking Enforcement Partnership. Formal project documentation and governance arrangements were considered by the Overview & Scrutiny Board in November 2008 and approved by the Executive the following month. A progress report was taken to the Corporate Scrutiny Committee in August 2009. Much work has gone into developing the proposals for a joint service including detailed financial models and predictions of the financial implications for each authority. District Council officers have expressed concern about the degree of financial risk that might be involved, and the investment needed to set up a joint service. As a result it has not been possible to bring forward recommendations for the formation of a joint civil enforcement service that all the partner authorities could agree.
- 2.4 At the Joint Portfolio Holder Steering Group (JPHSG) in August 2010, it was agreed that the partnership proposal for the delivery of CPE should not be pursued further and that the County Council should present a proposal for an enforcement service that the District and Borough Councils could buy in to.
- 2.5 It was also agreed that the Portfolio Holders should report back to their councils that the Joint Portfolio Holder Group is no longer an appropriate governance mechanism for a project led by the County Council, and recommend that its role be developed to cover a broader joint traffic management agenda.
- 2.6 The proposals under consideration do not affect the Borough Council's ability to decide the level of off-street parking tariffs nor the receipt of any part of that income. Neither do they affect the Council's ownership of its assets nor its responsibilities to maintain those assets.

3. Proposals for Service Delivery

- 3.1 The County Council was granted CPE powers in Taunton Deane in 2001. In order to extend those powers to the other districts in Somerset the County Council must apply to the Department for Transport for a further Act of Parliament. Before that application can be made the County Council needs the support of the relevant District Council for each additional area.
- 3.2 Once CPE powers are granted, the changes to the law cannot easily be undone. The changes mean that Traffic Regulation Orders within the Civil Enforcement Area must be enforced under the new legislation, including those orders relating to council car parks. In this respect Taunton Deane is in a different position to the other districts as we have already moved to the new legislation.

- 3.3 The parking penalties that apply under CPE are set nationally and are currently less than those locally fixed excess charges that apply in the car parks with traffic orders under the old legislation. If nothing else changes, this would mean a reduction in the surplus created by the parking service for those councils. This is of concern to the other districts, but does not apply to Taunton Deane.
- 3.4 To encourage the District Councils to support the CPE application, the County Council recognises that it must provide an attractive offer for the provision of an enforcement service by reducing costs. Also the County Council must introduce an enforcement regime that will displace cars previously parking in contravention of regulations on-street, into car parks, with a consequential increase in car park usage and revenue.
- 3.5 These increases were experienced in Taunton Deane when CPE was introduced in 2001. The Department for Transport has confirmed that this effect is expected and has been reported elsewhere in the country on the introduction of CPE. The County Council's on-street enforcement service is being designed to provide a significant increase in the level of on-street enforcement, similar to that provided in Taunton Deane.

Somerset Parking Enforcement Service

- 3.6 The proposal developed by the County Council offers District and Borough Councils the opportunity to buy in enforcement at a pre-determined hourly rate and to buy in penalty notice processing service at a pre-determined rate per notice. This allows the councils to manage expenditure with confidence and removes much of the perceived risk outlined above. The relative size of the County Council's on-street enforcement requirements compared to the enforcement requirements for car parks allows very attractive rates to be offered.
- 3.7 In order to determine the rates that have been offered to the District and Borough Councils, the County Council has carried out a market scoping exercise to seek best practice within existing civil enforcement services. This exercise has shown that the parking enforcement operations offering best value are organised on a contractual basis, clearly setting out responsibilities and actively managing performance. The CPE market is well established and advances in technology have made both enforcement and administration more efficient. The County Council proposes to take advantage of those efficiencies by procuring a countywide enforcement and penalty notice processing service selected through a competitive process that considers both price and quality.
- 3.8 The main headings for service provision agreements between the County Council and individual district councils would be
- The service would start on the introduction of countywide CPE, with initial contracts being for a 5-year period. Extensions to the contract, depending

on the service provider's performance, may be available up to 10 years.

- The County Council would meet the up-front costs for the new enforcement and penalty notice processing service, except as noted below.
- The rate for enforcement would only be charged when a Civil Enforcement Officer (CEO) is deployed in a council car park, with a minimum deployment period of 30 minutes per period. The rate is inclusive of equipment, travelling, accommodation and management costs.
- District Councils would declare the number of enforcement hours required per week, including seasonal variations, when the offer is accepted. This base level of service would be subject to review on an annual basis.
- The enforcement visit times would be random; within agreed profiles for the day of the week or part of the day that enforcement takes place for each car park.
- Variations to the agreed profiles during the year, for example for events or to take account of new car parks or car park closures, would be accommodated through agreement with the County Council and the County Council's service provider.
- If a District Council chose at an annual review to vary the level of annual enforcement deployed hours by more than 20%, 12 months notice would be required.
- A reactive response service would be available to deal with urgent issues that might arise. This service would be available on request by each authority at the standard rate, starting from when the CEO is diverted from normal duties and finishing when returning to normal duties
- The offered rates would be applicable for the first 12 months. They would then be subject to an annual adjustment based on an agreed appropriate mix of national indices, reflecting the proportion of labour, transport and support services within the contract. This arrangement would be subject to review after 3 years.
- The rate for PCN processing includes the cost of dealing with enquiries about PCNs, and representations that are accepted within the enforcement policy rules, but assumes that each authority will make the final decision on its own contested representations and appeals, based on evidence supplied by the County Council.
- TUPE transfers would be agreed based on the services to be transferred at the outset. In accordance with the usual protocol for TUPE District Councils would be expected to meet the cost of residual liabilities being

passed to the new service provider.

- Communication between each Council's parking client, the County Council's parking client and the service provider would take place within a protocol agreed in advance. The intention would be to minimise unnecessary message handling whilst ensuring that directions that might have a significant impact on another council's enforcement needs pass through an appropriate process, with timely information to all concerned.
- All income from PCNs would go to the relevant enforcement authority. (TDBC is the enforcement authority for its car parks irrespective of who the service provider might be)
- Accommodation, if provided by a District Council, would be subject to a separate contract direct with the service provider.
- Each authority would provide and maintain its own parking infrastructure. This would include traffic regulation orders and signs.
- Other services – issuing season tickets, cash collection and banking, machine maintenance, infrastructure maintenance, if required, would be supplied as extensions to the County Council's on-street arrangements at cost.

3.8 Details of the rates contained within the offer are included in Confidential Appendix A.

The County Council's plans for parking regulation and enforcement

3.9 The expansion of CPE and the introduction of a central parking management team for on-street parking places will allow the County Council to develop strategies to reduce congestion and to introduce parking regulations that help deliver the broader objectives of the Local Transport Plan.

3.10 Primarily in districts other than Taunton Deane, this is likely to involve new restrictions to improve road safety and to reduce inconsiderate parking that causes congestion. It is also likely to involve changes to resident parking schemes and the consideration of limited waiting or on-street pay parking in areas where parking is at a premium.

3.11 CPE powers also allow the County Council to enforce bus lane contraventions. This is likely to be extended soon to other moving traffic offences such as yellow box junctions and one-way streets. The Traffic Manager plans to use these powers to promote considerate driving and to help maintain the free flow of traffic. The County Council would also have a duty to use any surplus generated by penalty charges and on-street pay parking charges for investment in transport related schemes.

Implications for Existing Employees in the Parking Service

- 3.12 The District and Borough Councils employ the teams currently providing local authority parking enforcement in Somerset. In a scheme led by the County Council these teams would transfer under Transfer of Undertakings (Protection of Employment) (TUPE) regulations, either to the County Council, or for elements of the work that are contracted out, to the service provider, if parking enforcement or penalty processing is their primary role.
- 3.13 The Avon and Somerset Police no longer have employees whose main role is parking enforcement in Somerset, so it is not anticipated that any employees will transfer from the Police.
- 3.14 Each local authority would retain a parking management role, to advise their council on parking policy and pricing, to manage the parking infrastructure and to act as client for their element of the enforcement service.
- 3.15 The proposed service expands enforcement and notice processing requirements by approximately 50%, so a number of new jobs will be created.

What would this mean in practice?

- 3.16 In practical terms the proposal means little would outward-facing change. High profile enforcement activity would continue as now but with employees wearing a different uniform. The intention is to achieve a seamless transition to the new service provider. There should be no discernable difference to the public in Taunton Deane. There will be more impact in other towns where the visible enforcement presence will substantially increase, as it did here in 2001.

4. Finance Comments

- 4.1 The County Council's proposal of a buy-in service for enforcement and notice processing offers opportunities for cost savings through economies of scale. Although it ties the Borough Council into a contract for several years it also offers a greater flexibility for service delivery in future years than could probably be delivered through the existing in-house operation. Detailed comments are included in Confidential Appendix A.

5. Legal Comments

- 5.1 The Borough Council enforces on the public highway under a delegation agreement from the County Council. The agreement stipulates two years' written notice of termination. In March 2008 the County Council gave written notice that enforcement arrangements would need to change if a countywide parking partnership was to be achieved, and this might require a new agreement. The County Council was anxious not to give formal notice of termination as it was in both their and the Borough Council's interests for the

- enforcement service to continue and to achieve a seamless transition into whatever final form was agreed. By taking a full part in the project discussions and activities the Borough Council has shown that it has accepted the need for a change to the formal working arrangements and that this would need to be achieved by negotiation rather than the stipulated termination provisions.
- 5.2 The County Council's offer of 'buy in' terms will require formal acceptance and legal agreement once all the details have been determined. The current delegation arrangements can be terminated by mutual agreement and replaced with the Borough Council giving the County Council authority to enforce on its behalf in off-street car parks. In effect this would be the reverse of the present situation.
- 5.3 The Borough Council jointly promoted with the County Council CPE's introduction into its area. Support for the aims and objectives of both CPE itself and the County Council's proposal to extend it across the other districts would seem therefore almost guaranteed. If Borough Council Members no longer wished to support CPE it would not be possible to revert to the pre-2001 situation and control car parks under the Road Traffic Act. The only avenue open would be to declare council car parks 'private property' and provide a security management, enforcement and recovery operation as a completely separate service.

6. HR Implications

- 6.1 UNISON and Borough Council employees have been kept informed of the progress to date of the proposed countywide service via a series of common briefing notes. These have been issued within all the other districts as well. The topic has featured regularly on Parking Services' team meeting agendas.
- 6.2 Subject to a decision to proceed and confirmation that TUPE may apply, consultation will begin both collectively and individually with affected staff and unions in accordance with the Regulations. This consultation will require a detailed project plan and support from Southwest One HR.
- 6.3 Depending on the identity and pension arrangements of any new service provider there may be a requirement for the Borough Council to provide a bond or other financial commitment to guarantee pension provision for existing employees. A detailed briefing note and assessment from Southwest One Pensions service will be required.

7. Links to Corporate Aims

- 7.1 The Parking Service and enforcement operation do not contribute specifically to the Corporate Aims. As a regulatory service it delivers statutory obligations in the background. As an income generating activity it contributes to funding for all Corporate Aims and other Council services. The current proposals will not change that. Positive traffic and congestion management do of course contribute to reducing vehicle emissions and so reducing the overall carbon

footprint.

8. Environmental and Community Safety Implications

- 8.1 The nature and extent of the enforcement service in Taunton Deane do not change under the county council's proposals. Therefore there are no environmental or community safety implications.

9. Equalities Impact

- 9.1 The proposals for service delivery will not change the regulatory service being delivered to the public. Employees are protected by virtue of TUPE. It is considered that an Equalities Impact Assessment is not required in these circumstances.

10. Risk Management

- 10.1 The County Council as the project lead has prepared a risk analysis surrounding the project itself. There is no specific risk to Taunton Deane. If the project was not delivered the Borough Council would continue to operate the service as it does now.

11. Partnership Implications (if any)

- 11.1 These proposals have no effect on any other partnership between Taunton Deane and the County Council or with any partnership or joint working activities with other districts. They do however underline the joint approach to traffic management and congestion issues the County and Borough Councils have taken over the preceding decade.

12. Scrutiny Arrangements

- 12.1 This report is being considered by the Community Scrutiny Committee on 12 October. Their comments will be reported verbally to the Executive.

13. Recommendations

- 13.1 It is recommended that:-

- The Borough Council supports Somerset County Council's application for the extension of civil parking enforcement powers in Somerset,
- The Borough Council accepts the County Council's offer to provide a service for parking enforcement and penalty notice processing for car parks, as set out in Confidential Appendix A, from the date of the introduction of the expanded CPE service.

- The Borough Council notes that the Joint Portfolio Holder Steering Group is no longer the appropriate governance mechanism for the civil parking enforcement project and supports the development of a joint traffic management forum.

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