

WYRE FOREST DISTRICT COUNCIL

CABINET

THURSDAY 21ST FEBRUARY 2008

Traffic Management Act 2004 Part VI

COMMUNITY STRATEGY THEME:	A Better Environment
CORPORATE PLAN THEME:	Enabling Community Wellbeing
CORPORATE PLAN KEY PRIORITY:	Transport
CABINET MEMBER:	Councillor Marcus Hart
HEAD OF SERVICE:	Andrew Dickens, Head of Property & Operational Services
CONTACT OFFICER:	Andrew Dickens – 01562 732900
APPENDICES:	None
AN OPEN ITEM	

1.0 PURPOSE OF REPORT

- 1.1 To adopt a Scheme of Delegation in relation to the management and enforcement of traffic regulations under the Traffic Management Act 2004 Part VI.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that the Cabinet recommend to Council:-

- (i) That the Head of Legal & Democratic Services be authorised to amend and advertise the Wyre Forest District Council (off-Street Parking Places) (Consolidation) Order 2007 to comply with the Traffic Management Act 2004.
 - (ii) That the Head of Property & Operational Services be given delegated authority to continue to manage and implement the Scheme of Delegation relating to the Decriminalisation of Parking Enforcement as approved by the Council and now amended by the requirements of the Traffic Management Act 2004.
 - (iii) That the Head of Human Resources makes necessary amendments to contracts of employment to reflect the change of title from Parking Attendant to Civil Enforcement Officer.
 - (iv) That the Cancellation and Informal Challenge Policy approved by the Council on 19th September 2007, relating to circumstances where a first stage appeal would be allowed under certain mitigating circumstances, be applied to the new legislation.
- 2.2 The Head of Property & Operational Services, in consultation with the Head of Legal & Democratic Services and the Cabinet Member for Property & Operational Services, be given delegated powers to amend and update the Scheme of Delegation and the Cancellation and Informal Challenge Policy where operational circumstances prove that the Scheme or Policy do not cover matters provided for under the Traffic Management Act 2004.

3.0 BACKGROUND

- 3.1 The responsibility for the enforcement of on-street parking restrictions passed from the Police to Wyre Forest District Council on 8th October 2007 and is currently administered under Part II of the Road Traffic Act 1991.

- 3.2 Part VI of the Traffic Management Act 2004 and the regulations made by the Secretary of State under Statutory Instrument replaces Part II of the Road Traffic Act 1991 with effect from 31st March 2008.
- 3.3 The new legislation allows for enforcement of the current Traffic Regulation Orders relating to on-street and off-street parking however, there are some important changes in terminology including:-
- Decriminalisation of Parking Enforcement becomes Civil Parking Enforcement
 - Parking Attendants become Civil Enforcement Officers
 - Special parking areas and permitted parking areas become civil enforcement areas
 - The National Parking Adjudication Service becomes the Traffic Penalties Tribunal
- 3.4 It is intended that the current Scheme of Delegation which allows the Head of Property & Operational Services to manage and implement all orders made under the Road Traffic Act 1991, be amended with the terminology set out in the Traffic Management Act 2004 and be implemented in the same manner.
- 3.5 The Act also introduces differential parking penalties depending on the seriousness of the contravention. At present there is only one level of penalty charge used in Wyre Forest and this is £60 with a 50% rebate for early settlement. The new legislation allows local authorities to consider adopting one of two different charging bands as set out below:-

Band D	Higher Level Penalty Charge	Lower Level Penalty Charge	Higher Level Discount for Early Payment	Lower Level Discount for Early Payment	Higher Level after Service of Charge Certificate	Lower Level after Service of Charge Certificate
1	£60	£40	£30	£20	£90	£60
2	£70	£50	£35	£25	£105	£75

In order to maintain consistency with the joint administration service with Wychavon District Council it is proposed that Band 2 be adopted by the Council.

Higher level contraventions include such items as:-

- Parking in a restricted street during prescribed hours
- Parking or loading/unloading in a restricted street where waiting and loading and unloading restrictions are in force
- Parking adjacent to a dropped footway
- Parking in a taxi rank
- Parking wholly or partly on a cycle track
- Stopping on a pedestrian crossing or in a crossing area marked by zig zags
- Parking in a disabled bay without clearly displaying a valid disabled persons badge
- Parking in an off-street car park and causing an obstruction

The lower level charge band is for contraventions such as:-

- Failing to display a valid pay and display ticket in an off-street car park
- Overstaying in a timed on-street parking bay

- 3.6 The regulations set out by the Secretary of State provide a lengthy list of contraventions and the level of charge which they attract within the band approved by each local authority.

- 3.7 Additional contraventions have been introduced and the following will be enforced by the Civil Enforcement Officers:-
- Parking on zig zags
 - Parking in bus or cycle lanes
 - Parking in front of dropped footway (but not obstructions which continue to be dealt with by the Police)
- 3.8 Also a number of moving traffic contraventions can be enforced where drivers fail to comply with no entry signs, prohibited turns, yellow boxes, pedestrian zones etc. However, at the present time it is not intended that the Council's Civil Enforcement Officers will enforce moving traffic offences.
- 3.9 A review will be undertaken in January 2009 to assess whether any of the new powers that are available to the local authority can be best introduced and administered for the purposes of improving traffic flow within the District.
- 3.10 It will be necessary to change the uniforms of the Parking Attendants in order to indicate their new role as Civil Enforcement Officers and clearly identifying them as being engaged on parking enforcement.
- 3.11 The legislation only allows for the use of approved recording and Penalty Charge Notices and the current issuing machinery and the handheld Penalty Charge Notice recorders, printers and cameras are fully compliant with the new legislation.
- 3.12 One important change that will come into force on 31st March 2008 is that no longer is it a requirement to affix the Penalty Charge Notice to the offending vehicle as provision is made for postal serving of notices however, the evidence of a contravention must be gathered in the same way be entering in the Civil Enforcement Officers' notebook and photographic record.
- 3.13 It will be necessary to amend the current Consolidation Order relating to off-street parking in order to comply with the new legislation. Advertisements advising drivers of the changes will be placed in local journals.
- 3.14 The County Council, as Highways Authority, will also be required to amend the Special Parking Areas Order relating to on-street parking which again will require advertisement prior to its introduction on 31st March 2008.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications arising from this report, as a percentage of write-off has been factored into the original financial projections relating to the introduction of the Civil Parking Enforcement within the District.

5.0 LEGAL AND POLICY IMPLICATIONS

- 5.1 The Council are required to amend their working practices as it will no longer be lawful to enforce parking restrictions under Part II of the Traffic Management Act 1991 after the 31st March 2008 when the new Act and Regulations relating thereto are introduced.

6.0 RISK MANAGEMENT

- 6.1 The only risk that relates to this Council is the failure to adopt and satisfactorily implement Part VI of the Traffic Management Act 2004 and the Regulations made by the Secretary

of State under Statutory Instrument. The recommendations within this report allow for satisfactory implementation of the new legislation.

CONSULTEES

Wychavon District Council
Head of Legal & Democratic Services
Head of Financial Services
Head of Human Resources
Councillor M Hart, Cabinet Member for Property & Operational Services

BACKGROUND PAPERS

Wyre Forest District Council's Off-Street Parking Places Consolidation Order 2007

Cabinet Report – 28th July 2005

Cabinet Report – 22nd December 2005

Cabinet Report – 28th September 2006

Cabinet Report – 21st December 2006

Council Report – 28th February 2007

Council Report – 18th July 2007

Council Report – 19th September 2007

Traffic Management Act 2004 –

- a) The Civil Enforcement of Parking Contraventions (England) Representation and Appeals Regulations 2007
- b) The Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- c) The Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007
- d) The Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007
- e) The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007
- f) The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007