

REPORT OF THE DEPUTY DIRECTOR (PLANNING AND COMMUNITY STRATEGY)
TO THE EXECUTIVE
4 APRIL 2008

Decriminalised Parking Enforcement
(to be known as Civil Parking Enforcement from the 1 April 2008)

1.0 Introduction and Report Summary

- 1.1 Oxfordshire County Council (OCC) in 2005, resolved to introduce Decriminalised Parking Enforcement (DPE) throughout Oxfordshire and accordingly, in early 2006 started negotiations with the four rural District Councils with a view to establishing a single enforcement authority in each district area, with District Council's undertaking enforcement under an agency agreement with OCC.
- 1.2 The Executive received a report no 246/05 in March 2006 setting out the principles of DPE and authorised officers to commence negotiations with OCC. The purpose of this report is to update Members on the progress of the project.
- 1.3 The Contact Officer for this report is Gordon Willcox, Section Head (Transportation) telephone 01235 540390.

2.0 Recommendations

That the Executive:

- 2.1 *note the progress of this project;*
- 2.2 *reaffirm its commitment to the principle of Civil Parking Enforcement and its willingness to undertake on-street enforcement in the Vale on behalf of OCC together with off-street enforcement subject to reaching agreement with OCC on all operational, administrative and financial matters, given that any financial arrangements must accord with the Council's medium term financial plan.*

3.0 Relationship with the Council's Vision, Strategies and Policies

- 3.1 This report supports the Council's Vision Strands A,D, E and G.
- 3.2 This report does not contradict any existing Strategies or Policies.

4.0 Background

- 4.1 The Department for Transport (DfT) have a stated objective that DPE should bring together the control and enforcement of both on-street and off-street parking in the interest of public understanding. Historically, parking enforcement has been controlled by two tiers of local government with County Councils responsible for Traffic Regulation Orders, and the police or traffic wardens responsible for enforcement; and District Councils responsible for the management and enforcement of off-street parking. The two tier situation often leads to confusion for the public. In the Vale this issue is further complicated by the presence of an agency agreement between OCC

and Abingdon Town Council for the warden enforcement of on-street pay and display, and residents' parking schemes in Abingdon, which results in there currently being three organisations responsible for parking enforcement in the town. OCC currently operates DPE in Oxford city however, this scheme does not include the off-street car parks, which remain the responsibility of Oxford City Council. The boundary of the Oxford city DPE scheme also extend to cover the streets in North Hinksey.

- 4.2 Members will be aware of the pressures on police resources. Parking enforcement has been removed from the "core activities" prescribed by the Home Office for the police force with attendant reductions in resource allocation. The County Council have been advised by the Thames Valley Police Authority that the pressures on police budgets and other priorities have increased the likelihood of Thames Valley Police diverting resources even further from enforcement.
- 4.3 The DfT has addressed this situation through decriminalised parking legislation whereby all on-street parking enforcement can be transferred from the Police to Local Highway Authorities. It is the DfT's clear objective that both on-street and off-street parking should be treated in the same way, and seen to be under the umbrella of a single management/enforcement regime, in the interest of better public understanding.
- 4.4 Under current arrangements, for the OCC (outside Oxford city) and the four District Councils non compliance with either on-street Traffic Orders or off-street Parking Orders, enforcement is a criminal sanction. When an offence is committed and the driver fails to pay the normal fine, the prosecuting authority has to prove its case to the Magistrates beyond reasonable doubt. Where Magistrates uphold a prosecution, the parking fine no longer comes to the appropriate Council, but is accrued to the Exchequer.
- 4.5 In future, a single authority will have responsibility for enforcing parking controls. A Civil Enforcement Officer will place a penalty charge notice (PCN) on a vehicle that contravenes parking restrictions (both on and off-street). A PCN has the effect of giving notice that a sum of money is owed. A PCN can, in appropriate cases authorise the clamping and towing away of vehicles.
- 4.6 The penalty charges are debts, due to the local authority and enforceable through a streamlined version of the normal debt recovery processes in the civil courts. The process for English authorities is centralised and involves the electronic transfer of data to the Northampton County Court. Motorists wishing to contest liability for a penalty charge may make representations to the local authority and, if these are rejected, they may have grounds to appeal to independent adjudicators, whose decision is final (i.e. there is no right of further appeal through the courts). The standard of proof that applies in such cases is the lower civil standard - the case has to be proved on the balance of probabilities.
- 4.7 If no representations are made, or if the outcome of an appeal is that the notice still applies, the authority to whom the debt is owed can recover the debt through the county court. The local traffic authority retains the proceeds from the penalty charges, which are used to finance the enforcement and adjudication systems.
- 4.8 The DfT believe that there are significant advantages for local authorities having traffic and parking enforcement under their control, specifically:
 - Local authorities will be able to ensure that their parking policies are implemented effectively, with consequent benefits through improved traffic flow,

better management of overall traffic levels, fewer accidents, a fairer distribution of available parking places and a more pleasant environment.

- The integration of enforcement and parking policy responsibilities should enable better monitoring of the effectiveness and value of parking controls, so that parking provision becomes more responsive to public needs.
- Local authorities will be able to use the revenue they receive from penalty charges to fund their enforcement activities. Any surpluses can be used to improve parking facilities or fund other related transport/environmental schemes.

4.9 In March 2006 the Executive confirmed its support for DPE and requested the then Assistant Director (Planning) to commence detailed discussions with OCC. Members from the other District Councils gave similar support for this project and from the amalgamation of resolutions, district officers were able to establish a number of common principles and objectives to guide their joint negotiations with OCC.

- The support, in-principle, for DPE subject to agreement with OCC on all financial, operational and administrative details.
- The willingness by Districts to assume the responsibility to manage on-street enforcement, subject to it being at no cost to the District.
- That the income from the Districts' off-street parking account be ring-fenced and excluded from any negotiations.
- The willingness to explore opportunities for joint working particularly in the areas of administration.
- The agreement with OCC on how any surpluses will be used.

5.0 **Progress March 2006 – April 2007**

5.1 OCC initially set themselves a project timetable of 2 years, working towards the implementation of DPE in April 2008. The project was managed by an OCC Project Team which included District officers. The four Districts jointly appointed specialist parking consultants RTA Associates to advise them on the project, and accordingly work started on a number of elements:

- A review of all existing Traffic Regulation Orders (TRO's) by survey.
- Computerised mapping of all TRO's.
- Agreeing the appropriate IT system.
- Preparing a draft Agency Agreement.
- Joint parking policies.
- Joint enforcement policies.
- Joint working opportunities.
- Building and agreeing a financial model.

5.2 How DPE is able to be financially managed, both district by district and as a single county entity was clearly one of the most important issues to be resolved. OCC required that from year two, taken across the four Districts, DPE would be at least cost neutral. This objective concurs with the broad financial requirements set by the DfT in considering applications from Highway Authorities for DPE powers. OCC are committed to fund all set up costs and underwrite any operational deficits incurred in year one. It is worth noting that, from the outset, RTA Associates were of the view that it would be difficult to achieve a cost neutral position in Oxfordshire for a scheme which encompasses only the four rural districts and excluded Oxford City.

5.3 Various financial models for each of the four Districts were built and then progressively modified to test various scenarios which might reduce costs without compromising the effectiveness of the enforcement. By April 2007 the District Council's were able to provide OCC with their optimum financial model, a summary of which is shown below.

April 2007 Model Summary

	Capital start up costs	Revenue start up expenses	Year 1 revenue deficit	Year 2 & on-going revenue deficit
Vale	£18,469	£45,406	£97,666	£11,484
Total of the 4 Districts	£126,154	£227,073	£555,923	£205,574

5.4 The year 2 (and on-going) figures reflect “marginal costs”, i.e. the additional cost of providing the service (not the total cost of the service) and reflect on-street and off-street enforcement as a single operation. The main elements which are contributing to the year 2 revenue costs are:

- Cost of on-street enforcement.
- Income from on-street enforcement.
- Economies to off-street administration through joint working.
- Loss of off-street income due to reduction in penalty charge level.

5.5 For the Vale, DPE would impose a level of penalty fines at £60/£40 which is a reduction from the current Vale off-street charge at £80/£50. This change results in a reduction of £27K in income, which tips the year 2 figure for the Vale, into an £11K deficit.

5.6 In respect to the other Districts, the Vale's year 2 figure compares well, with one District showing a deficit of £5K and the other two Districts showing deficits over £90K

6.0 **Progress April 2007 – to date**

6.1 The development of the County/District DPE project had initially been progressed at operational level. Because of the emerging negative outputs from the financial model, OCC took the view that a more strategic overview of the project was necessary in order to consider what options might be available to enable the project to be taken forward.

First meeting of Strategic Directors

6.2 Strategic Directors met with OCC in May 2007. Whilst reaffirming their commitment to the project, each Director made it clear that Districts would not be prepared to expose themselves to financial risk. It was agreed that:

- “Heads of Terms” should be developed to establish the common ground.
- A further review of the financial model would take place, in particular to look again at staffing levels.
- RTA Associates would be appointed to work on behalf of both OCC and Districts.

- RTA would investigate opportunities to raise additional on-street income, eg more on-street pay and display parking.
- The start date for the project would be delayed until April 2009.

Heads of Terms

6.3 Based on a series of meetings with Districts, RTA have produced draft Heads of Terms which OCC and Strategic directors will need to consider, in order to develop a basis from which this project can be moved on. The principal terms proposed are:

- OCC/DC would agree an annual budget for on-street enforcement.
- OCC fund agreed deficits in the annual budget.
- OCC to underwrite all deficits for first year of operation.
- DC fund non-agreed deficits in the annual budget.
- Surpluses in on-street initially go to off-set on-street deficits elsewhere.
- Other surpluses ring fenced by OCC, and spent as agreed by a Partnership Board
- That there should be a joint processing of penalty notices for the four authorities by one of the District Councils.
- Each DC to handle its own representations and appeals.
- Each DC to have on-line connection to the central processing database.
- Each DC to manage own parking permits.
- OCC to retain responsibility for TRO's, signs and lines.

Review of the Financial Model

6.4 In an attempt to reduce cost, further refinements have been built into the latest model. The principal change relates to the number of deployed patrolling staff (and therefore administrative staff, as a result of fewer parking tickets). The previous model provided for an additional 6.5 fte patrollers, on-street, across the Vale. The latest model reduces this number to 4.0 fte patrollers which officers believe is the lowest number of patrollers needed to make the scheme still worth while. At this level, the following is an example of the on-street patrolling which could be achieved in the Vale, over a typical 7 day operational week.

Location	Patrolling days
Abingdon	9.5
Wantage	7.0
Faringdon	1.5
Botley	1.5
Villages	0.5
Total	20.0 (4fte)

6.5 In July 2007 the financial model took on a further burden when the Government announced its guidance notes for the new Traffic Management Act (TMA). From the 1 April 2008, DPE under the Road Traffic Act 1994 will be superseded by the Traffic Management Act 2004 (TMA). The enforcement of traffic regulations and parking under the TMA will be called "Civil Parking Enforcement" (CPE).

6.6 The TMA brings forward a number of changes to the scheme and also creates some new contraventions. However, there are two changes which will be fundamental to the on-going negotiations with OCC:

- Firstly, the DfT no longer requires Highway Authorities to show that CPE will be self financing (as was the case with DPE) and secondly,

- the legislation allows a highway authority to choose between 2 tiers of charges where, within each tier there will be a “higher” and “lower” grade of contravention.

- 6.7 Assuming that OCC opt to operate the upper level of charges, which is most likely, the penalty for higher contraventions (such as parking on double yellow lines) would attract a £70/£35 penalty, whilst lower contraventions (as will occur in off-street car parks) would attract a £50/£25 penalty. As a result, moving from an existing level of £80/£50 to a new level of £50/£25 will impose a loss to the Vale of off-street income in the region of £60K. Note where a penalty is shown with a / (eg £80/£50) this means the full and the discounted penalty level for prompt payment.
- 6.8 The latest model therefore reflects both the reduced staffing level and the new TMA penalty levels and a summary of the latest model is shown below.

January 2008 Model Summary

	Capital start up costs	Revenue start up expenses	Year 1 deficit	Year 2 & on-going revenue deficit
Vale	£32,202	£45,630	£84,169	£75,428
Total of the 4 Districts	£142,900	£192,821	£338,964	£274,764

- 6.9 Members will note that most of the Vale’s year 2 deficit is attributable to the £60K loss of income due to the enforced change in the level of penalty charge. Without the change, the Vale’s deficit would have been £15K
- 6.10 The overall deficit has now increased by some £70K from the April 2007 model with the Vale’s year 2 deficit of £75K comparing with deficits of £32K, £69K and £98K in the other three Districts

Second meeting of Strategic Directors

- 6.11 Strategic Directors next met with OCC in January 2008 to discuss the framework of the Heads of Terms agreement and to receive the outcomes of the new modelling work. Whilst progress had been made with reducing staffing levels, the impact of the TMA penalty levels has resulted in increasing the overall year 2 deficit from £205K to £274K.
- 6.12 Strategic Directors reminded OCC that income from off-street parking plays an important part in their authorities medium-term financial planning and that districts would not be prepared to bear any losses in this income stream and would be looking to OCC to underwrite any reduction resulting from the enforced TMA penalty levels.
- 6.13 Strategic Directors questioned whether, given the fundamental changes in the structure of the project, OCC could take CPE forward without Districts and their off-street parking operations. RTA advised that, whilst there is no legislation compelling Districts Council’s, the DfT have indicated strongly their desire to have unified county-wide parking arrangements, and there is currently no precedent where district operations have been excluded (given that the arrangements in Oxford city predate DPE legislation).

6.14 The following course of action was agreed:

- RTA to further review the financial models working with both district officers and District/OCC accountants.
- RTA/OCC to prepare a financial model for a single county-wide parking authority which would centralise all enforcement and administration.
- District Leaders/Portfolio holders to be invited to a presentation to ensure “one-level-understanding” of the latest position.
- OCC will need to prepare an offer for districts to consider, which would form the basis of moving this project forward.

RODGER HOOD
Assistant Director (Planning)

TIM SADLER
Strategic Director

Background Papers:

- Report no.246/05, Decriminalised Parking, to the Executive 3 March 2006
- Traffic Management Act 2004