

COMMITTEE: EXECUTIVE

Ref No: E/09/12

DATE: 14 JULY 2009

**SUBJECT: CIVIL (DECRIMINALISED) PARKING ENFORCEMENT
- REVIEW**

PORTFOLIO HOLDERS: COUNCILLOR WEST/COUNCILLOR GOOCH

DIRECTORS: RUSSELL WILLIAMS AND LAURENCE COLLINS

Short description of report content and the decision requested:

This report is intended to provide Executive with a further review of the Civil (Decriminalised) Parking Enforcement powers undertaken by the Council under an Agency agreement with Suffolk County Council.

The report identifies a range of issues that have arisen in respect of these powers and the measures that have been introduced to deal with them.

A number of recommendations are made to improve the current scheme.

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The following policies form a context to this report:

(all relevant policies must also be referred to in the body of the report)

Transforming Ipswich

This report is not a key decision included in the Forward Plan

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(papers relied on to write the report but which are not published and do not contain exempt information –

1.

OTHER HELPFUL PAPERS

(papers which the report author considers might be helpful – this might include published material)

1. The Road Traffic Act 1991
2. The Traffic Management Act 2004
3. Operational Guidance to Local Authorities: Parking Policy and Enforcement

1. Introduction

- 1.1 At its meeting on 13 March 2007, Executive received a detailed report (reference E/06/129) that reviewed the first fifteen months operation of Decriminalised Parking Enforcement (DPE) powers in Ipswich under 'The Decriminalised Enforcement of Parking – Agency Agreement' with Suffolk County Council.
- 1.2 DPE involves creating a Special Parking Area (SPA) (in this case the Borough of Ipswich) in which non-endorsable parking offences are decriminalised and responsibility for enforcement passes from the police to the local authority.
- 1.3 Under such a scheme, parking attendants will enforce all parking regulations and will issue Penalty Charge Notices (PCN's) to illegally parked vehicles. The income from penalty charge notices is retained by the local authority and is able to finance the enforcement operation.
- 1.4 On 31 March 2008, new Civil Parking Enforcement regulations introduced under the Traffic Management Act 2004 automatically replaced all previous DPE arrangements. Parking Attendants became Civil Enforcement Officers (CEO's) and amongst a whole raft of other detailed changes, the concept of two-tier penalty charge levels based on the seriousness of the parking offence was introduced.
- 1.5 This report is intended to provide a review of the CPE arrangements in Ipswich covering the period of three and a half years up until 31 March 2009.

2. Background

- 2.1 The new (decriminalised) parking enforcement powers were introduced into Ipswich with effect from 1 October 2005.
- 2.2 At that time, it was an absolute requirement that any authority making an application to become a SPA had a detailed business case in order to be able to assess the likely financial viability of taking up the powers. There had to be a clear indication that the costs of taking up these powers would be met from penalty charge income rather than by the local council taxpayer.
- 2.3 A firm of consultants, RTA Associates, were commissioned to undertake a feasibility study on behalf of the County and Borough Councils. A detailed financial model, based on a standard set of assumptions, was produced which indicated that income received from PCN's would be sufficient to pay back the set-up costs and ongoing revenue costs of taking up these enforcement powers in just over three years.
- 2.4 The detailed report presented to Executive in March 2007, provided an upbeat and generally positive analysis of the adoption of these new powers based on the first fifteen months operational experience. The report did, however, make reference to a higher than expected cost of introducing these new powers coupled with a lower than predicted number of PCN's that had been issued.

- 2.5 The lower than expected number of PCN's was partly compensated for by a higher than expected financial collection rate. Based on the information available at the time, it was predicted that the resulting financial break-even on the decriminalisation project would be delayed until around the end of the fourth operational year in late 2009.

3. Current Position

- 3.1 In accordance with the terms of the 'Decriminalisation of Parking Enforcement – Agency Agreement', a copy of the closed accounts for the 2007/8 financial year were independently audited by Price Waterhouse Coopers LLP and a copy forwarded to Suffolk County Council in October 2008.
- 3.2 Under the terms of the Agency Agreement, any operational losses incurred at the end of the contract (31 March 2016) would need to be met by the Borough Council. The Council operates the SPA as agents for SCC. Any future surplus will accrue to SCC and, under the agreement, IBC will be consulted on how this money is spent in the Ipswich area.
- 3.3 It was evident from the 2007/8 audited accounts that improvements would be needed for the account to break even.
- 3.4 In view of the financial implications indicated by the level of operational performance achieved in the 2007/8 financial year, consideration has been given to identifying the underlying reasons.
- 3.5 Two main factors have emerged, these can be summarised as (i) the costs of setting up and operating DPE (CPE) powers are higher than was predicted in the model, and (ii) the level of overall income being generated is lower than predicted in the model.
- 3.6 The model predicted that a total of 17,000 PCN's would be issued each year based on the detailed breakdown of the lengths of various parking restrictions on a street-by-street basis that existed across the Borough of Ipswich. An estimate was also made with regards to annual income that might reasonably be expected from Bailiffs (working on the Council's behalf in respect of County Court judgments).
- 3.7 In 2007/8 approximately 11,000 PCN's were issued on street. Income from Bailiffs was also lower than the model predicted.
- 3.8 The lower number of PCN's issued is partly offset by the higher than predicted financial collection rate, first noted in the March 2007 report. This is a strong performance indicator that continues to demonstrate that CEO's are still issuing a high proportion of 'good' PCN's and is evidence that CEO's are not simply issuing PCN's in dubious circumstances to meet excessive performance targets.

- 3.9 All of the new CPE requirements that had to be introduced with effect from 31 March 2008 were fully met and a smooth transition into the new arrangements were successfully delivered. CPE introduced the concept of statutory two-tier penalty charge levels based on the seriousness of the parking contravention. Ipswich, along with virtually every other CPE authority, has adopted the £70 (higher) and £50 (lower) charge levels (with a 50% reduction for prompt payment).
- 3.10 It was estimated prior to introducing CPE that under the new statutory two-tier PCN system, approximately 60% would be issued at the higher level and 40% at the lower level. The financial impact of the move to a statutory two-tier system was estimated to result in a net annual loss of £13,000 being incurred on the account each year with effect from 1 April 2008.

4. Service Improvements

- 4.1 A number of measures have been put in place to address the main areas of concern that have been identified.
- 4.2 The main focus of attention has concentrated on operational procedure and reviewing the activities/duties undertaken by the CEO's. A total of 15,274 PCN's were issued in 2008/9.
- 4.3 The matter of monitoring PCN issue levels is now a very emotive and sensitive issue. There has been much adverse national publicity regarding this subject with claims that CEO's are employed on performance related pay and will therefore regularly issue inappropriate or unjustified PCN's.
- 4.4 It is clear from the investigations that have been carried out that any such allegations cannot be sustained in Ipswich. In reality, one of the contributory reasons for the lower than predicted number of PCN's being issued, is because CEO's are still providing lots of advice and moving motorists on, rather than automatically issuing a PCN. A balance is needed between providing advice and improving the level of compliance. New guidance has been issued to relevant staff to achieve this.
- 4.5 New proactive measures have been put in place to try and improve the performance of the Bailiffs (now referred to as 'Enforcement Agents' under CPE). These include closer and regular performance monitoring, the appointment of additional Bailiff companies to act on the Council's behalf (at no extra cost to the Council) with cases failed by one firm referred to another and with the overall success rates of each company made available to the other firms to incentivise better performance.
- 4.6 The financial accounts for 2008/9 have recently been finalised. These incorporate revised operational and performance management measures that were introduced during the last five months of that financial year. The accounts show a very significant improvement in financial performance, moving from an annual loss of £73,500 in 2007/8 to an annual surplus of £29,000 in 2008/9 (a net performance improvement of £102,500). This still leaves a cumulative deficit of over £275,000 at the end of 2008/9.

Traffic Management Options

- 4.7 Consideration has been given to a small number of new options that will help support agreed transport objectives within the town and have the capability of generating some additional finance that would accrue to the CPE account. Subject to approval, these measures (set out below) would assist the Council's policies in tackling traffic congestion and maintaining road safety in the town.
- 4.8 There are around 65 on-street pay and display spaces provided in certain streets located in the heart of the town centre. These spaces provide very short-term parking for up to one hour and are priced at a premium over the cost of short-stay parking in off-street car parks operated by the Council. They are specifically intended to provide permitted short-term parking on street for motorists either with insufficient time to park in an off-street car park or preferring the convenience of these spaces. The spaces offer a direct alternative to motorists taking the risk of parking on yellow lines for short-term visits.
- 4.9 It is proposed that pay and display parking be introduced in respect of the existing 2-hour limited waiting spaces that are provided in Smart Street and Shire Hall Yard (off Foundation Street).
- 4.10 Detailed scheme design indicates that between 12-14 pay and display spaces could be provided at this location with a need for just one pay and display machine. It is estimated that this new scheme could be introduced at a total cost of £4,500.
- 4.11 It is suggested that a three band parking tariff be introduced as follows:-

0-30mins	80p
1 hr	£1.50
2 hrs	£2.80

It is estimated that gross income of around £15,000 per annum might reasonably be expected from these new spaces.

- 4.14 Subject to Executive now approving this proposed minor scheme the necessary public consultations associated with amending the relevant TRO's to replace limited waiting with pay and display parking would be commenced. Allowing time for consideration of any objections that may be received, it is estimated that the scheme could be introduced by 1 November 2009.
- 4.15 Committee will be aware of the comprehensive disabled parking facilities that are currently provided in the town centre. These include over 50 designated on-street 'Disabled' parking bays in those streets closest to the shops; free designated disabled bays in all of the Council's off-street car parks and a Shopmobility Centre provided by the Council that offers 14 disabled bays with up to 2 hours free parking in the Buttermarket shopping centre. Further to this, Blue Badge holders are able to park for up to 3 hours on yellow lines provided they do not cause an obstruction.

- 4.16 Income from the normal on-street P&D spaces referred to in para 4.10 is also now failing to meet expectations. During a one-day survey of these spaces, it was noted that 60% of the bays were being used, free of charge, by Blue Badge holders. In certain streets an even higher level of usage of the P&D bays occurs, e.g. Princes Street at lunchtime.
- 4.17 Anecdotal reports from the Council's CEO's are suggesting that Blue Badge holders are using the regular P&D spaces for long periods of time (possibly longer than the 3 hours allowed on yellow lines) whereas other motorists, for whom the bays are really designed, and who have to pay to use them are limited to 1 hour's maximum parking duration.
- 4.18 It is proposed to limit maximum future use of these bays for Blue Badge holders to 1 hour (still free of charge). This suggestion is made on the basis that there are a significant number of alternative longer term parking options available for Blue Badge holders in the town centre.
- 4.19 Subject to approval, it is envisaged that this policy would 'free up' more of these very short-term parking spaces for use by fee-paying motorists. This additional turnover in parking could help support local businesses and would increase income received.
- 4.20 Discussions have taken place with relevant staff at the DfT regarding this proposal. It has been confirmed that the principle of establishing the same maximum parking duration for regular motorists (who must pay) and those displaying a Blue Badge (who can park free) is perfectly acceptable. The only matter of detail that would need to be resolved, is for the Council to design and submit for approval, a new traffic sign to be affixed next to relevant spaces that will indicate to Blue Badge holders that they are subject to the same maximum parking duration as everyone else.
- 4.21 Subject to approval of a new sign by the DfT (which could take up to three months) it would be necessary for the Council to amend the relevant Traffic Regulation Orders to incorporate this new restriction. It is envisaged that implementation of this new measure would result in a modest increased financial yield from on-street P&D spaces of around £10,000 per annum. Subject to Executive now approving this proposal, it is anticipated that it could be implemented with effect from 1 November 2009.
- 4.22 A number of other new enforcement powers were given to authorities under CPE. These include the power to issue a PCN in respect of motorists who (i) park on zig-zag lines at pedestrian crossings (ii) park alongside dropped footways, and (iii) double park.
- 4.23 It has been unclear whether dropped footways and double-parking contraventions could be legally enforced unless separate signs and lines were provided at every location.

- 4.24 The Department for Transport said they did not believe there was a need for such lines and signs to be provided, however, all CPE authorities were recommended not to enforce these two particular contraventions pending further clarification. This advice has been followed in Ipswich.
- 4.25 The DfT undertook a wide ranging consultation exercise including local authorities, the Police, motoring organisations, disabled groups, businesses etc in the latter part of last year regarding options for resolving this matter.
- 4.26 The DfT has now published the results of the consultation exercise including the government's response and intended actions on the issues raised.
- 4.27 In summary, there was support from all sectors of the consultation for new regulations to make clear that local authorities (with CPE powers) can enforce prohibitions of double parking and parking at dropped crossings without the need for placement and maintenance of signs. On the basis of this strong support, the regulations were scheduled to come into force on 1 June 2009 (subject to approval by Parliament).
- 4.28 The DfT has confirmed its view that the amendment regulations are a good and positive step for CPE authorities and have the capability of making a very positive impact on those who are affected by such inconsiderate parking, for example wheelchair users, parents pushing prams and those with other mobility impairments.
- 4.29 Importantly, it will have the additional benefit of achieving consistency of approach amongst CPE authorities, which was one of the main objectives of the TMA.
- 4.30 It is intended that subject to approval by SCC, enforcement of all three of these new powers could be implemented across Ipswich with effect from 1 November 2009. It is estimated that an additional financial yield of around £5,000 per annum would be achieved.

5. Annual Report and Stakeholder Feedback

- 5.1. One of the main underlying features of CPE is a desire for greater transparency, openness and accountability in the way in which parking restrictions are enforced. The DfT's view is that the transparency given by regular and consistent reporting should help the public understand and accept CPE. It also provides a framework for performance comparisons between councils.
- 5.2. All CPE authorities are now obliged to produce and publish an Annual Report within 6 months of the end of each financial year (i.e. 1 October). There are three main components that need to be covered:-

Financial: total income and expenditure; breakdown of income by source; total surplus or deficit on the account; action taken with respect to any surplus or deficit; and details of how any surplus will be spent, including benefits that can be expected.

Statistical: number of higher and lower level PCN's issued; number of PCN's paid; number of PCN's paid at discounted rate; number of PCN's against which an informal or formal representation was made; number of PCN's cancelled as a result of an informal or formal representation; and number of PCN's written off for other reasons (e.g. CEO error or driver untraceable etc).

Performance against targets: authorities should report performance against any parking or CPE targets. It is further being suggested that authorities should give consideration to the assessing the overall success of CPE in its contribution to managing the traffic network to ensure the expeditious movement of traffic (including pedestrians and cyclists) as required under the TMA Network Management Duty.

- 5.3. Apart from the detailed statistical data, much of the required content of an annual report is already covered in various parts of this report. Information relating to the financial and statistical components will need to be provided by the Borough, however, agreement has been reached in principle that the County Council will assist with the more strategic designated Network Management Duties they retain under the Traffic Management Act 2004.
- 5.4. In the March 2007 report, a brief review of performance against the six predicted benefits of acquiring DPE powers was provided. In summary, very satisfactory performance was achieved against the following three benefits (a) a coordinated parking service would be created covering on and off street parking; (b) the design of future parking schemes could be undertaken in the knowledge that parking controls would be enforced as the Council decided; (c) parking enforcement would become more locally accountable and adaptable.
- 5.5. Performance on two of the remaining three predicted benefits was noted as being much more difficult to accurately measure. These benefits are (d) overall environmental conditions would improve, including safer traffic conditions and better traffic management; and (e) considerably improved compliance would be seen and off-street car parks would be better utilised. In each respect, there was and still is a general perception that improvements have been achieved but it is very difficult to separate out CPE from the many other factors that will inevitably have an affect on these particular targets.
- 5.6. The remaining predicted benefit is as follows (f) other than the initial funding period, the service would be self-financing and from year three is forecast to produce an annual surplus, which could be reinvested in transport related spending for Ipswich. Performance against this target was forecast in March 2007 to be delayed by a number of months. Based on the current performance and other information contained in this report it is now forecast that break-even will not occur until 2013/14.
- 5.7. Consultations have been undertaken with a number of local stakeholders with a view to receiving external feedback on the success or otherwise of CPE in Ipswich. The following information has been received:-

Suffolk Constabulary

A number of positive comments have been made by local police officers. The general view appears to be one of positive support and overall success with the way in which parking restrictions are being enforced by Council CEO's. Specific improvements have been noted in the manner with which parking difficulties associated with home Ipswich Town Football Club matches have been addressed. In addition, positive comments have been made with regard to the excellent support and prompt reaction shown by CEO's to police officer requests for PCN's to be issued when the need arises. The town centre Inspector has also commented that he believes there has been a general improvement in traffic flows around the town centre. The only area of concern that has been raised relates to the problem of unauthorised vehicles that continue to breach certain restricted access streets.

Ipswich Buses Ltd

In keeping with the comments made in the March 2007 report, Ipswich Buses Ltd has not reported any ongoing discernable impacts or benefits associated with the new parking enforcement powers.

First Eastern Counties Omnibus Ltd

Following brief consultation with their drivers, First Eastern has commented positively of a general perception of traffic conditions having improved slightly since the Council adopted the new parking enforcement powers. There is a view that fewer cars are now parking at protected bus stops and of traffic flows along the main radial routes being improved through fewer vehicles breaching parking restrictions. The single biggest problem identified by First Eastern is the continuous breach of the restricted access into Dogs Head Street and into the Old Cattlemarket Bus Station by unauthorised vehicles. Problems also continue with cars queuing to get into the Buttermarket shopping centre at busy times of the week/year.

6. Risk Management

Risk	Impact of risk, if it occurred* (Scale of 1-4) 1 – Catastrophic 4 - Negligible	Probability of risk occurring* (Scale A-F) A- Very likely F - almost impossible	What is the council doing (or what has it done) to avoid the risk or reduce its effect?
Recent performance of CPE powers indicates that the Council may never break even financially and is at risk of incurring a substantial operating deficit.	2	D	A number of improved performance measures that have already been implemented. A number of options are put forward that have the potential to improve the financial viability of the CPE account towards break-even.

*taking account of the proposed mitigation measures.

7. Environmental Impact Assessment

- 7.1 Well-managed and effective CPE powers have the potential to make a direct and positive impact in terms of road safety, improved traffic management and more appropriate use of permitted parking facilities.
- 7.2 Taken together, these benefits will contribute to improved traffic circulation in the town centre with resulting lower emissions contributing to local air quality improvements.

8. Equalities and Diversity Implications

- 8.1 The Disability Discrimination Acts (DDA) 1995 and 2005 respectively are relevant insofar as the Council, as a service provider, is required to take reasonable steps to ensure that disabled people do not find it impossible or unreasonably difficult to enjoy services on the same basis as non-disabled people. In addition, the DDA 2005 imposes a duty on local authorities when exercising their functions to have due regard to the need to eliminate harassment and unlawful discrimination against disabled people. In order to meet this duty, the Council must have consideration to practices, policies and procedures relating to its public functions including parking enforcement.
- 8.2 The proposal to introduce a maximum 1 hour parking duration on Blue Badge holders' ability to park free of charge in on-street pay and display spaces is designed to ensure that Blue Badge holders are subject to exactly the same restrictions that apply to those that pay for such parking. Furthermore, in view of the extensive range of disabled parking facilities that are already available in the town centre, it is considered that the proposed remedial measure to limit the use of on-street pay and display bays for Blue Badge holders to 1 hour,

free of charge, is a reasonable and proportionate response to the current situation and disabled people will not be adversely affected.

Financial Considerations

- 9.1 The financial table below shows the current position with the CPE account at the end of 2008/9 and forecasts a predicted break-even point in 2013/14.
- 9.2 The predicted figures are based on a PCN issue of 18,000 per year. Inflation has been assumed at 2% for the duration of the period of the table.

	2005/06	2006/7	2007/8	2008/9	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
	(6 Months)	Actual outturn	Actual outturn	Actual outturn	Estimated outturn						
	£	£	£	£	£	£	£	£	£	£	£
Operating Expenditure (including Start-up costs 2005/6)	337,323	515,751	514,036	447,987	509,582	489,218	498,983	508,944	519,103	529,466	540,036
Operating Income	192,543 ⁰	426,218 ⁰	440,550 ⁰	476,940 ⁰	547,890 ⁰	569,118 ⁰	572,920 ⁰	576,799 ⁰	580,755 ⁰	584,790 ⁰	588,905 ⁰
Operating Deficit/Surplus(Or)	144,780	89,533	73,486	28,953 ⁰	38,308 ⁰	79,900 ⁰	73,937 ⁰	67,855 ⁰	61,652 ⁰	55,324 ⁰	48,870 ⁰
Cumulative Operating Deficit/Surplus(Or)	144,780	234,313	307,799	278,846	240,538	160,638	86,702	18,847	42,805 ⁰	98,129 ⁰	146,999 ⁰

10. Conclusions

- 10.1 It is now clear with three and a half years experience of operating (Decriminalised) Civil Parking Enforcement powers in Ipswich that the financial expectations and predictions set out in the original detailed model were ambitious.
- 10.2 National trends are showing in the order of a 7-10% shortfall on income generation through CPE for most authorities.
- 10.3 A number of measures have already been implemented and further developments by way of some additional pay and display parking and traffic management options are recommended. These are consistent with transport objectives for Ipswich and taken together, are forecast to bring the CPE account back to break-even in approximately four years.

11. Recommendations:-

- 11.1 That the current operational performance of the Civil Parking Enforcement powers that the Council undertakes under an Agency Agreement with Suffolk County Council including the remedial measures that have been introduced to improve overall financial performance be noted;**

Reason: To ensure that the Executive is kept fully informed with regard to the ongoing performance of these important powers

- 11.2 That the proposed introduction of pay and display parking in Smart Street and Shire Hall Yard as detailed in paragraphs 4.11 to 4.14 be approved;**

Reason: To provide further permitted paid for parking in the town centre and to generate additional income that will accrue to the CPE account.

- 11.3 That the proposed policy limiting Blue Badge holders to the same 1 hour maximum parking duration (free of charge) in the use of the on-street pay and display spaces as detailed in paragraphs 4.18 to 4.21 be approved;**

Reason: To introduce a consistent policy in respect of the use of these spaces for all motorists and to 'free up' more spaces for use by motorists needing to conduct short-term visits to the town centre.

- 11.4 That subject to approval by Suffolk County Council, sensible and proportionate enforcement of the new dropped crossings and double parking regulations detailed in paragraphs 4.22 to 4.30 are approved;**

Reason: To make a positive impact on those who are affected by such inconsiderate parking, for example wheelchair users, parents pushing prams and those with other mobility impairments.