

Cabinet – 27 September 2006

Decriminalised Parking Enforcement

Portfolio:	Councillor Rachel Walker - Environment and Street Pride
Service:	Built Environment
Wards:	All
Key decisions:	Yes
Forward plan:	Yes

Summary of report

Cabinet agreed on 22 December 2004 to adopt Decriminalised Parking Enforcement (DPE) and directed officers to produce a report highlighting the key issues for its implementation. Cabinet further agreed on 14 June 2006 to refer detailed proposals for consideration to the Neighbourhoods Scrutiny and Performance Panel.

At its meeting on 6 September, Cabinet noted the recommendation of the Scrutiny and Performance Panel that:-

- (1) The implementation of DPE proceeds and is monitored by scrutiny on a regular basis.
- (2) The application to the secretary of state for DPE powers is received by scrutiny prior to seeking cabinet approval.
- (3) The implementation of DPE proceeds in the following way:
 - DPE is implemented with the management of service, notice process and appeals service undertaken in house with the enforcement service contracted out.
 - Further work is undertaken to ensure as far as possible that consistency of implementation and economies of scale can be realised through the shared utilisation of the Sandwell enforcement contract, where possible.
 - The multifunctional enforcement/ambassadorial role is encompassed and developed within the DPE enforcement remit as legislation permits.
 - The introduction of limited on street charging is initially implemented within Walsall town centre, with charges comparable to neighbouring authorities operating on street charging. This will be to ensure the network management duty requirements imposed by the traffic management act 2004 are achieved. Further evaluation of the need to widen on street charges to the district centres to be undertaken and the findings reported to scrutiny and cabinet after year one of DPE operation.

This report recommends that Cabinet proceeds with the implementation of Decriminalised Parking Enforcement.

Recommendation

- (1) That Cabinet authorise the Head of Engineering & Transportation, in conjunction with the Portfolio Holder, to take all necessary steps to introduce DPE by April 2008 with the management of service, notice processing and appeals service undertaken in house and the enforcement service contracted out.
- (2) That Cabinet authorises officers to enter into discussions with West Midlands Police Authority to arrange the most appropriate transfer of the parking enforcement function and any staff affected under TUPE.
- (3) That Cabinet delegates to the Head of Engineering & Transportation the authority to use RTA Associates Limited, the Council's consultants on this project, as necessary.
- (4) That Cabinet authorise officers to investigate the extent that consistency of implementation and economies of scale can be realised through the shared utilisation of the Sandwell enforcement contract, in collaboration with other Black Country authorities.
- (5) That Cabinet authorises officers to keep under review the extent that DPE wardens can be used as multi-functional enforcement wardens.
- (6) That Cabinet authorises officers to investigate the merits of limited on street charging for Walsall town and district centres, preparing a further report indicating the implications of its introduction both in financial and traffic management terms.

Resource and Legal Considerations

Decriminalised Parking Enforcement (DPE) allows the transfer of parking enforcement from the Police to local authorities and is permitted under the Road Traffic Act 1991. However, the decision to implement DPE would have financial resource implications for the Council.

One of the key issues to address early in the process is the relative merits of contracting out part or all of a service that can be separated into two general categories, each requiring individual consideration:

Management of service, notice processing and appeals - Best practice indicates the most appropriate way to deliver these key services is through a strong adequately resourced in house team. This approach is recommended in the Council's Decriminalised Parking Enforcement Study Report undertaken by RTA Associates Ltd and further supported through the extensive experience of DPE implementation and operation gained by Sandwell and neighbouring authorities.

Enforcement Service - The parking enforcement market has developed significantly in recent years, leading to a very competitive market place with a wealth of expertise. The formulation and development of best practice continues to be driven in the private sector as it seeks to address the challenges of recruitment, retention, training and

ongoing service improvement in this difficult field of work. High staff turnover is a key issue best managed through a contracted out service. However, in addition to this, the ability to easily adjust staffing resources to the enforcement requirement is critical in ensuring the efficient and effective ongoing operation of DPE.

RTA Associates Ltd recommends the adoption of a contracted out enforcement service for a variety of reasons but the primary reason remains a significant improvement in flexibility to deliver the service. This approach is already operating successfully in Birmingham and Sandwell and is the favoured method of service delivery for Wolverhampton, Dudley and Solihull.

The Council already has extensive experience of contracted out enforcement with in house management and back office systems, gained through for its current off street parking management arrangements. This has operated successfully for many years realising significant efficiency savings at the same time as creating an improved enforcement function with the ability to quickly and efficiently adapt to change.

Financial implications - The Council's Decriminalised Parking Enforcement Study undertaken by RTA Associates contained projected costs for the set up and implementation of DPE. These projected figures have recently been updated to take account of current market prices and the Council's wish to introduce DPE on a phased basis, giving the opportunity to review and refine the role to incorporate a wider enforcement agenda.

Whilst definitive costs would only be available following a competitive tender process, RTA consultants have used the latest market prices available to project set up and operational costs. Importantly they recommend exploring further the option to utilise the current Sandwell enforcement contract to realise further economies of scale at the same time as delivering improved coordination in delivery of DPE services across the Black Country region.

The revised estimated set up cost for total in house provision of the DPE service is in the order of £404k compared with £295k for an in house management, notice processing and appeals service with contracted out enforcement. The Council has already made provision for £156k revenue funding on an annual basis for the future operation of the DPE service. Additionally the capital set up costs of £295k has been secured through the 2006/07 & 2007/08 capital programme.

Estimated operational costs for year one operation of the DPE service are in the order of £0.5m rising to £1m over a four year period. However it is anticipated that operational costs would be offset by significant levels of income from penalty charge notices in addition to existing revenue and capital allocations, with income exceeding expenditure in year three.

The levels of income and expenditure are proportional to the numbers of Penalty Charge Notices (PCN) issued by enforcement staff, with year one operation predicted to see 15,000 PCNs issued, rising to 41,000 in year four of operation. Clearly the number of PCNs can have a significant impact on financial viability. However the predicted levels are based upon nationwide experience of DPE operation and supported locally by the experience of Sandwell where levels have steadily increased.

National experience indicates that when enforcement commences only a small percentage of contraventions that occur will be identified and subsequent PCNs issued. Over a period of time general compliance with traffic regulation orders will improve but still leave a significant percentage of contraventions for identification. Consequently, parking attendants would still only find and deal with a relatively small percentage of vehicles in contravention, hence the sustainability of predicted PCN volumes.

The predicted base line levels of expenditure and income are shown in table 1. To demonstrate the financial impact of fluctuations in activity, tables 2 and 3 reflect a 10% decrease and increase in the baseline number of PCNs issued respectively. Based on this analysis it would appear that the scheme is financially viable and the capital set up costs would be recovered by year four even if the number of PCNs is 10% below the predicted level.

At present there is a payment mechanism for collecting any parking defaults incurred by the public for over-running parking times on our car parks. It is anticipated that this facility will be extended to collect the debts for intra-contravening parking regulations.

**Table 1: In house management, notice processing and appeals service with contracted out enforcement
Base Line PCNs**

Year	Phase	Existing Budgeted Resources £'000	Forecast Total Expenditure £'000	Income £'000	Annual (surplus)/deficit £'000	Cumulative (surplus)/deficit £'000
Prior	Setup	Capital 100	295	0	(36)	(36)
		Revenue 156 + 75 c/f				
1	Setup / Running	Capital 200	563	(277)	(70)	(106)
		Revenue 156				
2	Running	Revenue 156	703	(694)	(147)	(253)
3	Running	Revenue 156	841	(885)	(200)	(453)
4	Running	Revenue 156	994	(1,063)	(225)	(678)
Total		1,155	3,396	(2,919)	(678)	

**Table 2: In house management, notice processing and appeals service with contracted out enforcement
Base Line -10% in PCNs**

Year	Phase	Existing Budgeted Resources £'000	Forecast Total Expenditure £'000	Income £'000	Annual (surplus)/deficit £'000	Cumulative (surplus)/deficit £'000
Prior	Setup	Capital 100	295	0	(36)	(36)
		Revenue 156 + 75 c/f				
1	Setup / Running	Capital 200	563	(243)	(36)	(72)
		Revenue 156				
2	Running	Revenue 156	703	(616)	(69)	(141)
3	Running	Revenue 156	841	(788)	(103)	(244)
4	Running	Revenue 156	994	(949)	(111)	(355)
Total		1,155	3,396	(2,596)	(355)	

**Table 3: In house management, notice processing and appeals service with contracted out enforcement
Base Line +10% increase in PCNs**

Year	Phase	Existing Budgeted Resources £'000	Forecast Total Expenditure £'000	Income £'000	Annual (surplus)/deficit £'000	Cumulative (surplus)/deficit £'000
Prior	Setup	Capital 100	309	0	(22)	(22)
		Revenue 156 + 75 c/f				
1	Setup / Running	Capital 200	591	(310)	(75)	(97)
		Revenue 156				
2	Running	Revenue 156	738	(771)	(189)	(286)
3	Running	Revenue 156	883	(981)	(254)	(540)
4	Running	Revenue 156	1,043	(1,178)	(291)	(831)
Total		1.155	3,564	(3,240)	(831)	

Key implementation issues - DPE must be implemented with regard to the Department for Transport circular 1/95 "Guidance on Decriminalised Parking Enforcement outside London". The guidance has 3 main objectives:

- To inform local authorities about the scope to set up and operate DPE enforcement under the provisions of the Road Traffic Act 1991.
- To advise local authorities on the necessary actions prior to an application to the Secretary of State for the necessary powers to implement DPE.
- To advise local authorities how to set up and operate an effective and efficient DPE regime.

A number of significant actions are necessary in preparation for the implementation of DPE, with the development of an appropriate parking plan and a thorough review of all relevant Traffic Regulation Orders being paramount.

Parking plan - Officers, members and key stake holders have already made significant progress with the development of an appropriate parking strategy. Further consultation of the draft parking strategy will be undertaken to allow a final draft to be presented to Cabinet for adoption at a later date. The adopted parking strategy will be used as the driver for the short, medium and long term management of parking arrangements throughout the borough.

Traffic Regulation Orders - All applications to the Secretary of State for DPE powers need to show evidence that a review of all relevant Traffic Regulation Orders (TRO) has been undertaken. The review must address issues of accuracy, appropriateness and any discrepancy with the order and its accompanying signing and lining. It is recommended, that as part of the review process all TROs should be recorded on a computer based Geographic Information System (GIS).

Officers have developed proposals for the review to be undertaken this financial year, but given the level of work involved the whole process is likely to take in the region of 9 months. Upon completion the consolidated Traffic Regulation Order will be suitable to support an application to the Secretary Of State but additionally will be a valuable asset in the further development of the e government agenda. Electronic interrogation of accurate TRO data with accompanying signing and lining will be possible by a range of parties in addition to creating a significant input into the Council's highway asset management process.

Wider enforcement - The Council intends for DPE enforcement staff to operate in a wider context as multi functional enforcement wardens. This is an area where best practice is still emerging due to the current legislative constraints of DPE enforcement. Currently DPE enforcement staff must undertake a core role of DPE enforcement to allow a full and complete audit of DPE activity against income. This does not prevent DPE enforcement staff operating in a wider eyes and ears capacity for the overall benefit of the community, however it currently limits the ability to create truly multi-functional enforcement staff. Officers will continue to develop the wider enforcement role within the current legislative constraints of DPE implementation, developing and expanding the depth of enforcement as legislation permits.

On street charges - In addition to the method of service delivery and the wider enforcement role, the implications of limited on street charging for Walsall Town and district centres need to be considered. The primary aim of DPE is to improve the management of both on and off street parking provision to assist the economic vitality of the town and district centres, whilst addressing issues of illegal and inappropriate parking that create unnecessary levels of congestion.

Clearly this is a sensitive issue; however the introduction of limited on street charging can have a positive effect. There are sound reasons both in terms of traffic management not to allow free on street parking as an alternative to paid off street parking.

The availability of free on street parking will encourage drivers to seek the free option, often creating increased congestion rather than park off street under a pay and display regime. This is completely at odds with what we are trying to achieve through the introduction of DPE in support of our Traffic Management Act responsibilities.

Given it is much less labour intensive to regulate the use of on street parking spaces through the use of a pay and display regime, and the Council's wish to make best use of DPE enforcement staff, any efficiencies in the delivery of the core DPE role can be used to offset the additional requirements of the wider enforcement role and therefore limit overall costs.

Transfer of Undertakings (Protection of Employment) (TUPE) It has been established that TUPE would apply to the existing traffic wardens employed by West Midlands Police to undertake the enforcement of traffic regulation orders within Walsall. Currently the Police have 8 posts in this category; however some of these may be retained by the Police while others may opt to take early retirement. Detailed negotiations will be undertaken between Walsall Council and West Midlands Police to agree the final numbers subject to TUPE transfer.

Citizen impact

The implementation of DPE will enable the Authority to directly address incidents of inappropriate and illegal parking that creates additional road safety hazards at the same time as increasing congestion and pollution levels. The improved management of the existing network will have a considerable impact upon the well being and satisfaction of all citizens of the Borough.

In addition there is clearly a wider agenda of linkages to street-scene management in broad terms. The use of enforcement wardens as 'ambassadors' of the Borough reporting such issues as litter, dog fouling, fly-tipping, graffiti, vandalism, abandoned vehicles, highway defects and even crime and disorder would clearly find support within the Borough. This approach has been endorsed by the findings of the recent Local Authority parking enforcement study and also the recent environmental enforcement workshop organised by the Council, and clearly supports current best practice recommendations.

Under DPE legislation the primary function of a parking attendant must be the enforcement of traffic regulation orders, however a secondary function assisting with the identification and reporting of a range of enforcement functions is possible. It is considered prudent to investigate the possibilities of such wardens undertaking other

enforcement functions, such as litter, dog fouling, fly tipping, graffiti, vandalism, abandoned vehicles, and highway defects on behalf of the Borough. This approach would not only be good for the appearance and confidence of the Borough, but would demonstrate to the general public that the proposal is delivering tangible benefits for the whole community.

Community safety

The implementation of multi functional enforcement wardens will not only provide conditions that should be safer for pedestrians and drivers alike, but will have a considerable impact upon the perception of the Borough in terms of its appearance and how it deals with issues of community safety. In particular the current problems associated with school gate parking will benefit enormously from the ability to target enforcement staff into areas generating road safety concerns to the local community.

Environmental impact

Illegal parking and concerns regarding litter, food, graffiti and other types of anti social behaviour have been and remain at the forefront of community concern. This initiative would have a significant impact upon the environment of the Borough both in terms of appearance and how it is perceived by the community.

Performance and risk management issues

Walsall is behind other West Midland authorities in its implementation of DPE. Birmingham, Coventry and Sandwell have operated DPE for a number of years, with Wolverhampton, Dudley and Solihull all developing proposals for implementation during 2007/08. When that happens there is a significant risk that the West Midlands Police will withdraw all resources from on-street parking enforcement across the whole of the West Midlands. This would have a serious impact upon the ability to manage congestion created by inappropriate and illegal on street parking.

The Traffic Management Act 2004 places a statutory duty of network management on all local authorities. The aim of the Act is to improve the management of the existing highway network through the reduction of unnecessary congestion. It is expected all local authorities will implement DPE as a major tool to meet this aim, however to ensure this is achieved the Act allows the Secretary of State the powers to force a local authority to apply for DPE powers should it fail to progress its own DPE plans. Intervention by the Secretary of State would mean the local authority is classed as a failing authority and therefore prevent Walsall's achievement of excellence by 2008. To date all London authorities have gained DPE Powers in addition to nearly 50% of the remaining English & Welsh authorities.

As part of the West Midlands LTP programme, the funding for development and implementation of Red Route package 1 schemes was conditional upon local authorities demonstrating a commitment to adopt DPE. Walsall's package 1 funding was in the order of £5m with package 2 allocations likely to be in the region of £10m over the next 3 years. The failure to demonstrate significant development of DPE proposals will prevent Walsall from sourcing package 2 funding and risk a refund request from the Department for Transport of package 1 funding.

The main financial risk to the scheme could be that parking compliance would improve to a point where the scheme would not be self supporting or that wardens would be drawn away too much from their primary functions. However, the first of these concerns would appear unlikely to occur and even if it did the primary statutory function of maintaining the capacity of the highway network would have been achieved, whilst the second would need to be balanced against the environmental improvements that are likely to occur.

Such risk will be minimised through appropriate project management and the progressive increase in enforcement staff giving time to review and refine the role, with any growth in staff being flexible enough to allow for possible changes in income.

In order to minimise risk it is planned that the initiative will be rolled out on a phased basis allowing your officers to assess the demand, but also giving the flexibility to maximise the impact of the scheme.

Equality implications

Improved parking enforcement will significantly improve the management of dedicated general on street waiting restrictions, blue badge parking provision, bus lanes and taxi ranks for the benefit of the whole community.

Consultation

The Department for Transport circular 1/95 "Guidance on Decriminalised Parking Enforcement outside London" clearly requires local authorities to undertake detailed consultation with the Police, neighbouring local authorities and the general public prior to implementing DPE.

Consultation with West Midlands Police must ensure necessary support for the local authorities DPE plans as well as ensuring appropriate arrangements are in place for the transfer of Traffic Wardens under TUPE regulations. West Midlands Police has indicated it will support the principle of DPE within Walsall and across the wider Black Country region, indicating they will cooperate with the handover of powers in an agreed manner as they have in Birmingham and Sandwell. Further detailed consultation will be necessary throughout the implementation process.

Consultation with neighbouring local authorities is well advanced both at the strategic and local level. All West Midlands authorities have given a commitment to implement DPE in support of a range of Local Transport Plan initiatives, with individual implementation progress monitored through CEPOG.

At the local level operational experience, policy and progress is extensively shared to ensure as much as possible the coordinated application of DPE across the West Midlands. In particular across the Black Country Borough's discussions have taken place to examine the potential for a common approach to parking management and enforcement, learning from the wealth of experience gained through Sandwell's operation of DPE.

The Council's parking strategy will be used as the basis of further consultation with the general public, ensuring how and why it intends to implement DPE is clearly understood, whilst giving the opportunity to influence its implementation and future operation.

Consultation has now taken place with the Neighbourhoods Scrutiny and performance Panel whose views are set out in the summary on the first page of this report

Vision 2008

A key priority in the Council's Vision for 2008 is to 'make it easier for people to get around' and by rigorously enforcing parking restrictions, including vehicles illegally parked on footways and verges and in the vicinity of schools, the roads and footways of the borough would be kept clear for the free passage of both vehicles and pedestrians.

Decriminalisation would also help to 'ensure a clean and green borough' by reducing air pollution from exhaust fumes and vehicle noise. It would also result in reducing the congestion caused by illegally parked vehicles and the general eyesore of indiscriminate parking.

The priority to 'strengthen the local economy' would be met by improved enforcement of existing waiting restrictions in town and district centres. This would ensure a faster turnover of parked vehicles and allow increased numbers of visitors and shoppers supporting the regeneration aspirations of the borough.

The Council's traffic management team receives numerous complaints from householders and businesses about illegal parking outside their premises, but at present is powerless to take any action and simply refers complaints to the Police. If DPE is adopted this would enable the Authority to be in a position to 'listen to what people want' and react to their wishes.

Background papers

- (1) West Midlands Local Authorities Decriminalised Parking Enforcement Study – Report by RTA Associates Ltd.
- (2) Walsall Council Decriminalised Parking Enforcement Study – Report by RTA Associates Ltd.
- (3) Local Authority parking Enforcement - Defining Quality – Raising Standards – University of Birmingham

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Signed:

Executive Director - Jamie Morris

Date: 18 September 2006



Signed:

Portfolio holder: Councillor Rachel Walker

Date: 18 September 2006