

ITEM 7 Parking Enforcement Policy and Guidance

Report of the Planning Policy and Transport Portfolio Holder

Recommended:

- 1. That the Parking Enforcement Policy and Guidance in the Annex to this report be approved and adopted and formally submitted to the Highways Authority for their endorsement and support.**
- 2. That the Head of Planning Policy and Transport be authorised to make changes to the Parking Enforcement Policy and Guidance in response to changes in legislation or operational procedures.**

SUMMARY:

- The Council's Parking Enforcement Policy was last reviewed in 2007. This report outlines the proposed changes to the policy to incorporate changes since 2007 and best practise in presenting parking enforcement policies in a clear and transparent way for the public to understand.

1 Introduction

- 1.1 This report is to seek authority for the Parking Enforcement Policy and Guidance dated November 2016 be adopted as a Council policy to replace the 2007 policy.

2 Background

- 2.1 In June 2001, the then Executive approved the introduction of decriminalised parking enforcement in Test Valley. Under an Agency Agreement with Hampshire County Council, the Borough Council took over responsibility for civil enforcement of on street parking restrictions from the police, in addition to enforcement within the Council's off street car parks. Enforcement of both on and off street parking, including the issuing of Penalty Charge Notices comes under the Traffic Management Act 2004. Parking Attendants become Civil Enforcement Officers (CEOs) and all roads in Test Valley, excluding motorways and trunk roads, form part of a Civil Enforcement area.
- 2.2 The Council's current Parking Enforcement Policy was adopted by the Council in November 2007. This review was in response to the introduction of Part 6 of the Traffic Management Act 2004, that came into force on 31 March 2008. The current review was undertaken to consider how best to present the information to the public and to reflect changes in the industry since 2008.

- 2.3 The revised layout of the Parking Enforcement Policy and Guidance document in the Annex follows examples of best practise highlighted by the Traffic Penalties Tribunal. This is the independent body the public can make representations to where a parking enforcement authority outside London has rejected their challenge to a Penalty Charge Notice (PCNs). The proposed new policy document sets out clearly how the Council enforces parking and waiting restrictions on street and in the Council's car parks. It details the processes to be followed by the Council's parking enforcement and administration staff. The policy is in 8 sections;
- Introduction
 - The Legislative Background.
 - The Council's Approach to Enforcement.
 - Contravention Descriptions & Considerations for Establishing Enforcement Action including Observation Times.
 - Penalty Charge Recovery Process and How to Challenge or Appeal the Penalty Charge Notice.
 - Policy for Deciding Appeals Against a Penalty Charge Notice including The Statutory Representations Against a Notice to Owner & Mitigation
 - Frequently Asked Questions
 - Record of Amendments
- 2.4 Most of the sections are self-explanatory. Section 2 sets out the Legislation under which the Council operates when undertaking enforcement of parking and waiting restrictions and the recovery of penalty charges.
- 2.5 Section 3 puts parking enforcement into the context of the Council's corporate objectives.
- 2.6 Section 4 lists the parking and loading restrictions that are valid in Test Valley by contravention code. Not all contraventions are applicable, as a result code numbers do not run consecutive. The section describes the contravention, the evidence that is required to make the restriction enforceable and the operational considerations that may apply in respect to issuing a PCN. This section is primarily focused at the CEO who issue PCNs.
- 2.7 Section 5 covers paying or appealing a PCN. It details what action the Council will take if a PCN is neither paid nor appealed. It sets out the charges at the various stages of the debt recovery process, these charges being prescribed in legislation. The section also details how appeals can be made against a PCN, up to and including an appeal to the Traffic Penalties Tribunal.
- 2.8 Section 6 sets out the statutory grounds on which a motorist / vehicle owner can appeal. S1 to S8 are for specific reasons. S9 enables motorist / vehicle owner to provide other information, often comprising of mitigating circumstances they wish the Council to take into account when considering an appeal. Section 6 lists those grounds where an appeal would be accepted and those where it would not. S9 by its nature is more difficult to specify as to

what appeals will be accepted or not. The intention here is to provide guidance when considering individual circumstances. Within the criteria of the policy the parking team do take into account mitigating factors and use discretion when considering whether or not to accept an appeal.

2.9 Following a review of the Council's 2007 Enforcement Policy a number of changes are proposed. The changes are partly in response to the changes in the legislation and partly to reduce the potential fraudulent claims. These changes are in line with the practice of other neighbouring authorities. The proposed changes are:

- Where an appeal to a PCN is made on the grounds that a pay and display ticket had been purchased but had fallen down or is inadvertently face down. The appeal will only be allowed where a ticket is seen by the CEO in the vehicle and the CEO issued the PCN because they were unable to read the details on the ticket (code 83 page 12). The objective is to reduce the ability for drivers to borrow a ticket once they have been issued a PCN.
- The Council would in future only allow one appeal for non-display of Blue Badges. Under the 2007 policy appeals are allowed provided an appeal has not been allowed on the same grounds within a 12 month period. This brings Blue Badge holders in line with other season ticket and permit holders. The policy helps to address one aspect of the misuse of Blue badges and in doing so makes more disabled bays available to genuine Blue Badge holders.
- The Council currently allows a blanket 15 minutes to cover unforeseen delays. The new policy replaces this with specific times for different circumstances and gives further guidance on the evidence required to support an appeal.
- In circumstances where an appeal is allowed for a first contravention and permits are issued to an organisation for shared use, the allowance would only be allowed once and not for each user of the permits (See S1.7). The organisation to which the permits have been issued will be notified that an appeal has been allowed and no further appeals will be allowed for this contravention. This change is to reduce the potential for misuse of permits in the appeals system and to achieve better compliance.
- Following amendments to the regulations, the Council can now enforce where vehicles are parked obstructing a dropped kerb, vehicle or pedestrian access, without the need for other restrictions such as yellow lines to be in place (contravention 27 page 9). In respect of vehicle accesses, the contravention does not apply where the access is to a single property and a resident of the property has given consent for the vehicle to be parked there. Because of this the Council will only enforce contravention 27 when requested to do so by a resident of the property affected, and will only include the property in scheduled patrols where the resident has given written confirmation that they do not park in front of their access or give consent for others to do so.

- 2.10 From time to time new regulations and changes to best practise require changes to the way the Council enforce parking and waiting restrictions. It is therefore recommended that the Head of Planning Policy and Transport be authorised to make changes to the Parking Enforcement Policy and Guidance in response to changes in legislation or operational procedures.

3 Corporate Objectives and Priorities

- 3.1 The effective management of the available on and off street parking, and the control of inappropriate parking, supports the Council's priorities of;
- Work and do Business
 - Enjoy the natural and built environment.
- 3.2 Enforcement of parking restrictions across the borough in a fair and transparent manner is key to this.

4 Consultations/Communications

- 4.1 Consultation has been undertaken with the Council's Legal Service to ensure these proposals comply with Legislation. Hampshire County Council have been consulted and raised no comments on the draft

5 Options

- 5.1 Option 1, adopt the Parking Enforcement Policy and Guidance 2016.
- 5.2 Option 2, keep the existing Enforcement Policy dated 2007.

6 Option Appraisal

- 6.1 Option 1 provides clear policy guidance for the public and officers on how the Council enforces parking restrictions, the process for appealing against a penalty charge and provides guidance on the grounds an appeal would be accepted or not. The policy follows examples of best practise commented on by the Traffic Penalties Tribunal, the independent arbitration body for penalty charge appeals. The appeals guidance is in line with neighbouring authorities.
- 6.2 Option 2. The existing enforcement policy dated 2007 is limited in its scope and does not follow current best practise.

7 Risk Management

- 7.1 A risk assessment has been completed in accordance with the Council's Risk management process and the existing risk controls in place mean that no significant risks (Red or Amber) have been identified.

8 Resource Implications

- 8.1 There are no resource implications to option 1.

9 Legal Implications

9.1 There are no legal implications to Option 1

10 Equality Issues

10.1 It is considered the EQIA impact of the proposed policy is overall positive.

11 Other Issues

11.1 Community Safety - Effective enforcement of parking restrictions, particularly on street, has a positive impact on community safety by reducing inappropriate parking.

11.2 Environmental Health Issues - Nil

11.3 Sustainability and Addressing a Changing Climate – No impact

11.4 Property Issues - Nil

11.5 Wards/Communities Affected - All

12 Conclusion and reasons for recommendation

12.1 The proposed Parking Enforcement Policy and Guidance 2016 sets out clearly how the Council enforces parking restrictions, both on street and in the Council’s car parks. It shows the public what factors the enforcement officers consider before a Penalty Charge Notice is issued, provides guidance on the appeals process and what factors the Council will consider when making a decision of penalty charge appeals.

12.2 The recommendation is that

- The Parking Enforcement Policy and Guidance as set out in the Annex be adopted.
- That the Head of Planning Policy and Transport be authorised to make changes to the Parking Enforcement Policy and Guidance in response to changes in legislation or operational procedures.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
None			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	1	File Ref:	
(Portfolio: Planning Policy and Transport) Councillor M Hatley			
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Report to:	Cabinet	Date:	30 November 2016