

REPORT TO CABINET

REPORT OF: Cllr Frances Cartwright – Economic Development

REPORT NO: AFM0126

DATE: 04th January 2010

TITLE:	Civilian Parking Enforcement	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Policy Framework	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	CLLR FRANCES CARTWRIGHT – ECONOMIC DEVELOPMENT	
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INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below:	Full impact assessment Required:
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Local Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS		

1. RECOMMENDATIONS

Cabinet are asked to agree in principle and recommend to Council that:

- 1.1 *Civilian Parking Enforcement is undertaken within the administrative boundary of South Kesteven District Council through partnership with the other seven authorities covering on and off street enforcement.*
- 1.2 *Authorisation is given for Lincolnshire County Council's application to the Department for Transport for Civilian Parking Enforcement on behalf of the authority.*
- 1.3 *South Kesteven District Council resolves to join 'The Joint Committee of England and Wales for the civil enforcement of parking and Traffic Regulations outside London' in accordance with the requirements of the Traffic Penalty Tribunal. This requires a member nomination and substitute nomination at an appropriate time*
- 1.4 *The level of differential penalty charge as stated in Statutory Instrument 2007 No.3487, Road Traffic, England will be adopted. The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007*

be set at band 2 PCN level, discounted by 50% for payment within 14 days, and incremented by 50% for payment after the issue of a Charge Certificate.

- 1.5 *Council delegate the authority to sign the partnership Memorandum of Understanding and any associated Service Level Agreement to the Chief Executive and the Leader of the Council.*
- 1.6 *That the Council proceeds with external enforcement.*
- 1.7 *That authorisation is given for South Kesteven District Council to use the central processing unit for the administration of the tickets and guarantee a minimum level of tickets per annum to be paid for.*

Once approval has been granted, subject to the above matters being agreed and finalised, this will be brought to Council in January 2010, for full and final endorsement.

2. PURPOSE OF THE REPORT/DECISION REQUIRED

- 2.1 *To seek authority for the implementation of Civilian Parking Enforcement in accordance with the recommendations within this report.*

3. DETAILS OF REPORT (SUMMARY – USE APPENDICES FOR DETAILED INFORMATION)

- 3.1 *Part 6 of the Traffic Management Act (TMA) 2004 permits the 'decriminalisation', or the transfer of most non-endorsable parking offences for specific areas in England and Wales. Within these areas, Civilian Parking Enforcement ceases to be the responsibility of the Police and becomes the responsibility of the highway authority, which will be for this authority Lincolnshire County Council. Local highway authorities may apply to the Secretary of State for designation orders which decriminalise parking offences within particular geographical areas.*
- 3.2 *Lincolnshire County Council is responsible as highway and traffic authority for on-street enforcement under the Traffic Management Act (TMA) 2004, but can delegate and use an agency basis to enable such enforcement by districts.*
- 3.3 *All Lincolnshire authorities are working together on the implementation plan, alongside a consultant.*
- 3.4 *Implementation of Civilian Parking Enforcement will enable action to be taken against unauthorised on street parking which is currently little enforced by the Police. The service will be integrated with off-street (car parks) parking enforcement to maximise efficiencies.*
- 3.5 *Motorists wishing to contest liability may make representations to the authority and if these representations are unsuccessful, they have the right to appeal to the Traffic Penalty Tribunal who comprise independent parking adjudicators whose decisions can only be appealed should extraordinary mitigating circumstances arise.*

3.6 *In order that the process of Civilian Parking Enforcement moves forward in a timely manner, Lincolnshire County Council must apply to the Department of Transport for adoption of the powers required under the Traffic Management Act 2004. In support of this application, each authority must make a number of resolutions which are detailed in the recommendations in this report. Nevertheless, the authority should take heed that taking up powers for Civilian Parking Enforcement is an irreversible process and once the statutory instrument is obtained from central government, then unless legislation changes, the powers cannot be handed back.*

3.7 *The powers applied for will relate to all parking enforcement within the district boundary, which will include both on and off street.*

3.8 *There are specific advantages to the authority if CPE powers are adopted. There would be improved traffic flow and better management of overall traffic levels, fewer accidents and a fairer distribution of available parking places. In addition the integration of enforcement and parking policy responsibilities should provide better monitoring of the effectiveness and value of parking controls in order that parking provision becomes more responsive to the public's needs.*

3.9 *The implementation date for Civilian Parking Enforcement is targeted to be implemented by September 2010 and in order to meet this deadline the formal application must be submitted by February 2010.*

4. OTHER OPTIONS CONSIDERED

4.1 *To withdraw from the partnership arrangement and not to take part in the process; however should the remainder of the County proceed without South Kesteven District Council, it may be difficult to rejoin the service at a later date.*

4.2 *County not to proceed with Civilian Parking Enforcement; however there are powers within the Traffic Management Act that would allow the government to direct the authorities to undertake decriminalised parking enforcement.*

4.3 *Lincolnshire County Council as Highway Authority could take sole responsibility for Civilian Parking Enforcement across Lincolnshire, but as the current expertise for enforcement of off street parking is held at district level, this would not be appropriate.*

5. RESOURCE IMPLICATIONS

5.1 *The Council has to decide on whether external enforcement as opposed to in house enforcement is the desired option. A detailed financial appraisal has been undertaken of the two options and it is evidenced that external enforcement is financially the better option.*

It is therefore recommended that the external enforcement option is considered owing to the following benefits:

- An external contractor would be up and running faster and would usually issue more PCN's than an in-house team;
- There are lower capital and revenue start up costs, with increased income for the first twelve months;
- There are less costs if sickness arises, as with in house there is the cost of paying staff whilst they are off sick and filling their post in this event; whilst external can sort provision out immediately at no extra cost;
- An external provider has much more experience with Civilian Parking Enforcement than in-house and therefore can get up to speed quickly with operational procedures;
- The industry naturally suffers high recruitment and retention costs, which would not have to be borne by the council if an external provider was used.

6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)

Risk

The greatest risk to the Council is the potential deficit if implementation of Civilian Parking Enforcement proceeds and the financial modelling is more sensitive than envisaged

There are also TUPE implications, particularly if the external enforcement route is taken.

There is also the risk that a guaranteed minimum level of tickets per annum is to be paid for, notwithstanding whether or not this is achieved.

Health and Safety

There are no major health and safety concerns as a result of this implementation.

Data Quality

Every effort is undertaken to ensure rigid data quality checks are carried out.

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

An initial Equality Impact Assessment will be distributed at a later date.

8. CRIME AND DISORDER IMPLICATIONS

There are crime and disorder implications owing to the nature of the problem; however, these should be mitigated through the introduction of CPE.

9. COMMENTS OF SECTION 151 OFFICER

This report sets out the proposal for the District Council to be included in the application to the Department for Transport for Civilian Parking Enforcement (CPE). Indicative financial modelling has been undertaken by utilising specialist external support working on behalf of the districts and county council. This modelling has demonstrated that the potential financial implications of adopting CPE is extremely sensitive and is dependant upon the effectiveness and the costs of the enforcement regime. The assumptions built into the model are largely based on past experiences of the impact of CPE elsewhere in the country. Therefore there is a risk that these assumptions will not necessarily reflect the true impact of CPE in South Kesteven. The proposed Memorandum of Understanding (MOU) will identify how any individual surpluses and deficits incurred by each individual authority will be shared and met by the partnership collectively and how the initial set up costs incurred by each authority will be reimbursed.

The report states that the central processing unit will be paid on an assumed level of Penalty charge notices (PCN's) being issued. However, Cabinet must be aware that although a minimum level has been set there is no certainty that the assumed level will actually be achieved.

There are set up costs identified in respect of the implementation of CPE and these have been costed in the region of £30K. If the recommendations are supported then these set up costs will be included in the budget proposals for Council in March 2010.

Although there are financial risks to the adoption of CPE these need to be balanced with the benefits CPE will bring to the district from an improved traffic management perspective. The financial risks have been identified but will only be fully known when CPE has been implemented and operational. However the model identifies that any financial risk can be minimised and should be within acceptable financial parameters.

10. COMMENTS OF MONITORING OFFICER

The report accurately reflects the powers under the Traffic Management Act 2004 for the local highway authority (Lincolnshire County Council) to carry out enforcement of on street traffic regulation orders and off street car parks.

I understand that cross county discussions are still taking place to finalise the agreement. It is important that issues concerning consultation are taken into account during those negotiations. The Secretary of State expects local authorities considering major changes to their policies to consult fully with stakeholders. The relevant Guidance recommends, as a minimum, local authorities should consult with the following groups:

- a) those involved in the implementation and operation of parking including the police, neighbouring local authorities, the DVLA and the Traffic Enforcement Centre.*
- b) Wider stakeholders with an interest in parking, including businesses, motoring groups and representative organisations; and those who will be affected, including residents, motorists and the general public.*

The guidance recommends that the consultation follows the DfT model of a 12 week consultation period. Consequently, time needs to be factored into the implementation process to allow this to happen. There is also the question of who is to bear the cost of consultation that needs to be agreed.