

Explanatory Memorandum to the Civil Enforcement of Parking Contraventions (County of Ceredigion) Designation Order 2012

This Explanatory Memorandum has been prepared by the Local Government and Communities Group and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Civil Enforcement of Parking Contraventions (County of Ceredigion) Designation Order 2012. I am satisfied that the benefits outweigh any costs.

Carl Sargeant
Minister for Local Government and Communities

29 April 2012

1. Description

The Order will enable the Ceredigion County Council (“the Council”) to enforce civil parking restrictions within the County of Ceredigion. It will apply to all public highways. Non-endorsable offences, such as parking on double yellow lines, would become civil enforcement matters for the local authority as opposed to being enforced by the Police as criminal offences. The enforcement duty would in practice pass from the Dyfed-Powys Police to the Council and from traffic wardens to civil enforcement officers employed by the Council.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative Background

The power enabling this instrument to be made is in sections 74, 84 and 89 of, and paragraph 8(1) of Schedule 8 and paragraph 3(1) of Schedule 10, to the Traffic Management Act 2004. This gives a local authority the power to enforce parking restrictions within their area under a civil regime set out in the Act. This power has been transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This instrument follows the negative procedure.

4. Purpose and intended effect of the legislation

Currently in the County of Ceredigion the Dyfed-Powys Police enforce parking restrictions. This takes time that could be better utilised tackling other criminal activities. This Order will allow for the enforcement responsibility to pass from the Police to the Council thus enabling the Council to enforce civil parking restrictions within the County. Under this system non-endorsable offences would become the subject of civil recovery procedures. The Council would be able to issue penalty charge notices where, for example, a vehicle has been parked on double yellow lines or has not paid a parking charge in contravention of a traffic order. Reduced charges will apply where payment is made within a prescribed period. The Council would like to set their penalty charge at £70 for higher level contraventions and £50 for all other contraventions, discounted to £35 and £25 respectively for early payment. The Council would also be able to immobilise such a vehicle, although it has stated that these powers will be held in reserve and they have no plans to use them at the start of civil enforcement. The Council will undertake this function which is currently carried out by the Dyfed-Powys Police.

The Council have indicated that they will consider applying for powers of enforcement of bus lanes or other moving traffic offences when the relevant powers and national guidance become available in Wales.

If the legislation were to be annulled the Council would be unable to implement the power to enforce civil parking restrictions. They have requested these powers with the full support of the Police. Their implementation will relieve the local police from these duties thus freeing up valuable police time and resources to tackle other criminal activities.

This Instrument has a coming into force date of 4 June 2012 as requested by the Council. The self-financing nature of this scheme should mean that the Council can devote more resources to parking enforcement than the Police, who, with their many other more pressing duties, have often been unable to achieve. Better enforcement reduces congestion caused by drivers searching for on-street parking places, and results in better turnover of on-street spaces, as drivers become less willing to overstay as the risk of getting a ticket increases. In addition, greater enforcement of on-street parking restrictions should lead to increased usage of paid for parking, particularly off-street.

Unlike the clamping of vehicles in private car parks, clamping in relation to the civil enforcement of parking is regulated under the Traffic Management Act 2004. The immobilisation of vehicles must adhere to The Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No.2) Regulations 2008 (SI 2008 No. 1214 (W. 122)) and The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (Wales) Order 2008 (SI 2008 No. 613 W. 65)), which define when and how an immobilisation device may be fixed to a vehicle, and the charge payable for its release.

Enforcement will be carried out by Civil Enforcement Officers (CEOs). The Council can directly employ these Officers or they can be an employee of a contractor appointed to undertake such activity. It is a matter for the Council to decide whether civil enforcement operations are undertaken by employees of the Council or by authorised staff of contractors. Either way the requirements of the above regulations must equally be met in each case. The Council have confirmed that that they will undertake civil enforcement operations themselves in conjunction with the Wales Penalty Processing Partnership.

Drivers receiving a Penalty Charge Notice from a CEO will be able to challenge it by making representations to trained officers employed by the Council. Independent adjudication for drivers who are unhappy with the Partnership's decision will be provided by the Traffic Penalty Tribunal.

5. Consultation

The Council consulted with all the relevant stakeholders on 7 July 2011. A list of the consultees and responses is at Annex A. Full details of the consultation are included in paragraph 8 of the Regulatory Impact Assessment.

REGULATORY IMPACT ASSESSMENT

6. Options

Option 1: Do Nothing. If the legislation were not made the Council would be unable to implement the power to enforce civil parking restrictions in 2012. The Council has requested these powers with the full support of the Police. Their introduction will relieve the local police from these duties thus freeing up valuable police time and resources to tackle other criminal activities. There could be criticism for using police resources for parking offences when they could be better utilised dealing with other criminal activities.

Option 2: Implement the provisions with effect from 4 June 2012. Making the legislation would allow the Council to implement the power to enforce civil parking restrictions thereby freeing up the police to deal with other criminal matters. Full consultation as described below will ensure that no specific group will be discriminated against by the legislation.

7. Costs and benefits

a) Costs

Option 1 – Do Nothing

If the provisions are not implemented the costs will remain with the Dyfed-Powys Police. Indeed the Police advised Ceredigion County Council that their traffic warden service would be withdrawn as from 31st May 2011 meaning there would be little if any on-street enforcement taking place.

Option 2 – Implement the provisions from 4 June 2012

The costs of the scheme will be borne by the Council who are satisfied that the full financial impact of the scheme has been considered and provision has been made in its budget setting process. The Council has provided funding to cover the start up costs of the scheme. The results of financial analysis modelling show that there will be a deficit during the first year of operation. The scheme is expected to become self financing during the second year.

The Council would like to set their penalty charge at £70 for higher level contraventions and £50 for all other contraventions, discounted to £35 and £25 respectively for early payment. Drivers receiving a penalty charge notice from a parking attendant will be able to challenge it by making representations to the Council. Independent adjudication must be available to drivers who remain unhappy with the Council's decision. The Traffic Penalty Tribunal will provide this service.

There are no financial implications for the Welsh Government or other local authorities.

b) Benefits

We have identified the benefits for each option as follows:

Option 1 – Do Nothing

There are no benefits.

Option 2 – Implement the provisions from 4 June 2012

The growth in traffic levels and the limited scope for building new roads mean that traffic engineers must look to make more efficient use of the urban road network. Parking may have to be reduced on heavily used roads. Different types of use, such as buses, increasingly expect preferential treatment and such measures do not work without effective enforcement.

The self-financing nature of this scheme should mean that the local authority can devote more resources to parking enforcement than the police, with their many other more pressing duties have been able to achieve. Better enforcement reduces congestion caused by drivers searching for on-street parking places and results in better turnover of on-street places, as drivers become less willing to overstay as the risk of getting a ticket increases. In addition, greater enforcement of on-street parking restrictions should lead to increased usage of paid for parking, particularly off-street.

This is considered to be a radical, logical area where the responsibility for parking enforcement for civil parking can be clearly and completely handed over from one agency to another.

8. Consultation

In accordance with the relevant guidelines, before submitting their application the Council consulted with all the relevant stakeholders on 7 July 2011. A list of the consultees and responses is at Annex A. In addition to local councillors the consultees included bus operators and motoring organisations. The Council is committed to fully informing the public of the proposed changes to the parking enforcement and they will be launching a comprehensive publicity programme prior to the proposed commencement date. This will include the use of their

website, press releases and a general distribution of posters and leaflets.

On receipt of the Council's application, and in accordance with the relevant legislation, the Welsh Government consulted with the Dyfed Powys Police, the Administrative Justice and Tribunals Council and the Traffic Enforcement Centre. No objections were received.

9. Post implementation review

The effect of the Order will be monitored by way of an annual return from the Council to the Welsh Government and the Home Office. This will include the financial results of civil parking enforcement and any action the Council will take in respect of any deficit on the on-street parking account.

10. Summary

The Council will bear the costs of the proposals, which should become self-financing as detailed in the Costs paragraph 7a) above. The powers will enable the Council to adopt a more thorough and visible enforcement of parking contraventions. By relieving the local Police from such responsibilities this will free up their time to devote themselves to dealing with other criminal activities. The implementation of the Order is consistent with applications made by other local authorities throughout England and Wales who have already achieved such powers.

ANNEX A

SCHEDULE OF CONSULTATION

Organisation	Response
Powys CC	No adverse comments
Carmarthen CC	No adverse comments
Pembrokeshire CC	No adverse comments
Gwynedd CC	No adverse comments
TraCC	No adverse comments
Dyfed Powys Police	No adverse comments
Welsh Ambulance Service	No adverse comments
Mid and West Wales Fire Service	No adverse comments
DVLA	No adverse comments
Traffic Enforcement Centre	No adverse comments
Mid Wales Trunk Road Agency	No adverse comments
Traffic Penalty Tribunal	No adverse comments
Parking and Traffic Regulation Outside London (PATROL)	No adverse comments
Ceredigion Shopmobility	No adverse comments
Ceredigion Disability Forum	No adverse comments
Welsh Water	No adverse comments
Royal Mail	No adverse comments
Scottish Power	No adverse comments
British Telecom	No adverse comments
Automobile Association	No adverse comments
RAC	No adverse comments
HM Coastguard	No adverse comments
Local bus operators	No adverse comments
All town and community councils	No adverse comments
All local members	No adverse comments