

# **Supplementary Committee Agenda**



## ***Town Centre and Car Parks Task and Finish Scrutiny Panel Tuesday, 7th November, 2006***

**Place:** Committee Room 1, Civic Offices, Epping

**Time:** 7.30 pm

**Committee Secretary:** Z Folley - Resaerch and Democratic Services  
email: zfolley@eppingforestdc.gov.uk Tel 01992 564532

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**6. DEVELOPMENT OF THE NEW PARKING ENFORCEMENT CONTRACT -  
CONSULTANTS STAGE TWO REPORT (Pages 3 - 36)**

(Head of Environmental Services). To consider the attached report.

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## Epping Forest District Council

### Report for the Task and Finish Panel regarding the Parking Enforcement Contract arrangements.

Report prepared by Parking Associates Limited.

#### **Preamble – Decriminalised Parking Enforcement in Epping**

There has long been a need to control parking – there are simply too many vehicles wishing to make use of limited parking space. Parking enforcement used to be provided through the police Traffic Wardens, who patrolled roads in the district and issued Fixed Penalty Notices, which were enforceable in the Magistrates' Courts. As such, parking offences were criminal matters.

However, the police were unable to provide the level of enforcement required and did not view parking enforcement as a priority; hence there was a need for more effective enforcement, which required additional resourcing. This was addressed through the Road Traffic Act 1991, which was introduced in London in 1993 and then outside London from 1996 onwards.

The Road Traffic Act 1991 decriminalised the majority of parking offences, and allowed Local Authorities to enforce these contraventions as civil matters, using parking attendants. The police can only enforce a small range of offences, and these are likely to be devolved to Local Authorities over time. Although enforcement is now a civil matter, the process is tightly controlled by legislation, regulations and case law as well as guidance issued by the Department for Transport and the Courts Service.

Any income from the scheme must be used to cover costs in the first instance. After this, any surplus is ring-fenced to highways related matters and environmental improvements.

Enforcement is carried out by trained parking attendants who issue Penalty Charge Notices (PCNs) to vehicles contravening the parking regulations. In accordance with the penalty charge criteria set by Essex County Council, all PCNs issued in Epping require a payment of £60, discounted to £30 if payment is received within 14 days (these amounts are standard throughout England and Wales with the exception of London).

Although it is the driver of the vehicle who will receive the PCN in the first instance, it is the owner of the vehicle who is legally liable and, if the PCN is not paid within 28 days, a 'Notice to Owner' will be sent to the owner of the vehicle (as registered at DVLA). A subsequent Charge Certificate increases the amount of the penalty charge by 50% (to £90), following which the charge is registered at the County Court as a debt (£5 court fees are added at this stage bringing the amount due to £95), and a bailiff warrant may be issued.

There are a number of opportunities for motorists to appeal against the charge. Letters will be received from drivers immediately after they have received the PCN (called initial challenges), and formal Representations may be made by the owner of the vehicle on receipt of the Notice to Owner. If these are considered and refused by the Council, there is provision for the owner to appeal to the National Parking Adjudication Service (N.P.A.S), an independent tribunal service, established as part of the Road Traffic Act. Once the debt has been registered with the County Court, there is a further opportunity for the debtor to make a statutory declaration to the Court.

Currently the Council carries out all enforcement of parking restrictions in car parks and on-street in the District. On-street, this includes the enforcement of yellow lines, both single and double, disabled bays, school restrictions, limited waiting parking bays and pay and display bays. Off-street, in the Council's car parks, it includes failure to display a ticket, being parked for longer than the time paid for, being parked outside the bay markings or in a space reserved for disabled badge holders.

Enforcement is currently carried out in most of the Council run car parks, both free and chargeable. In terms of chargeable car parks, there are a total of 16 in Buckhurst Hill, Epping, Loughton, Ongar and Waltham Abbey, providing around 1,700 spaces. The parking service is also responsible for the administration of the car park season ticket scheme and residents' permits etc.

On-street restrictions tend to be concentrated in the town centres and outside these there are primarily yellow line restrictions. There are currently two small CPZs (Controlled Parking Zones, i.e. an area where all kerbside space is controlled by way of parking spaces or yellow lines), in Buckhurst Hill and in Clifton Road, Loughton, but it is anticipated that other CPZs will be introduced during the next few years.

Currently, around 22,500 PCNs are issued annually, but this is expected to increase by 15,000 if new CPZs are introduced.

## **The Enforcement Contract.**

The Council currently has a contract with Vinci Park, to provide parking enforcement services, which is due to expire in October 2007.

The existing contract includes the following services –

- Provision of on-street and off-street enforcement including staffing, vehicles and equipment.
- Management of suspensions and dispensations.
- Pay and display machine checks.
- Accommodation, including operational base and public counter facilities.
- Cash collection and associated banking arrangements.
- Supply of parking IT services.
- Provision of Penalty Charge Notice processing services.
- Issue and management of permits and season tickets.

The approximate annual cost of this contract is £720,000 per annum with payment being made on a variable monthly basis for the services and level of enforcement provided.

A new contract will be required for commencement when the existing contract expires and this contract will be let on the same basis as the existing contract, with a contract term of 5 years initially and an option to extend for a further 2 years if required.

It is intended to include all the elements listed above in the new contract, with the exception of handling correspondence, which forms part of the processing services. Discussion of the transfer of this function to the client side and the reasons for this are covered later in this report.

The enforcement market has changed substantially in the past few years and the requirements of an enforcement contract have become more sophisticated. Industry reports and developments have also affected the requirements in terms of additional enforcement, IT developments and a changing ethos in terms of customer service together with the requirements of the new Traffic Management Act, and it will be necessary to reflect these changes in the new contract.

This report discusses the form of the new contract and associated items.

## **Form of the new contract.**

Traditionally, parking enforcement contracts have tended to specify the services required and the level of service that the service provider is expected to meet and the enforcement industry has tended to include a 5% profit margin in their tendered price. In view of this level of margin, service providers have tended to

cut costs as much as possible, sometimes at the detriment of the service. Most contracts have included defaults where this level of service has not been provided in any of the elements included in the contract terms, and this had often led to an adversarial situation between client and service provider. There have been instances where the Council has levied defaults for poor service and it has proved less expensive for the service provider to pay the defaults than to invest in the service to ensure that it is adequate to meet the contract requirements.

Another potential problem is that parking is a rapidly changing environment especially at this present time. The provisions of the Traffic Management Act will be enacted late next year, but there are several aspects which will need further discussion and additional guidance before they can be implemented. These areas are unlikely to be defined fully when the contract specification is prepared and the tendering exercise is being undertaken. It is possible that some aspects will only be known shortly before contract implementation. Further enactment of the Traffic Management Act will not be implemented until 2008 and the current consultation on proportionality, which could affect the amount of the Penalty Charge Notice, may result in further changes during the life of this contract. Potential changes which will result through the enactment of the Traffic Management Act are attached in Appendix A for information.

Given this situation, it is essential that the new contract offers a partnership between the Council and the service provider, as both parties will be involved in making the changes to the enforcement and processing systems which will result. A traditional form of contract may make this more difficult.

The British Parking Association (the professional body representing the parking industry) has introduced a new form of contract, which has been trialled at Hackney and has now been used by a number of Councils, including Brighton, Kingston, Edinburgh and the Northern Ireland Roads Service. This contract has been recommended in various reports into the industry in recent months, including the House of Commons Select Committee Report and is also recommended in the Government's Statutory Guidance to the Traffic Management Act.

The contract uses open book accounting, a best value tool which allows full cost information to be shared and provides a level of access to accounting data that would not normally be available. From the Council's point of view, this ensures that there is a full disclosure of the Service Provider's cost information and therefore leads to greater accountability and transparency.

In terms of payment for the service, the contract provides for the Service Provider to receive a target payment each month, representing the actual costs of providing the service (staff costs, equipment, transport and other fixed costs). This payment is fixed each month, unlike the existing contract where the

payment is variable, and the Service Provider will receive this sum if he provides the service each month.

In addition, a percentage of this sum is then paid which represents the Service Provider's overheads and profit. The percentage can be up to 20% and recent contracts have been awarded on a percentage of around 12-15%, of which 5-7% represents the profit margin. This percentage is paid on a monthly basis, only on achievement of various Key Performance Indicators, which are based on quality of service and represent the key elements of providing an effective service. Examples include –

- Coverage of beats and patrols
- Production of good quality PCNs
- Staff training
- Customer services, e.g. response times to enquiries, complaints handling

Failure to meet the KPIs results in loss of this performance payment and continued failure results in further deductions, which will impact not only on the service provider's profit margin, but also his overheads, so the incentive to meet the KPIs and ensure that the Council receives the service it requires, is substantial.

There are clauses in the contract for reviewing the service annually and for taking further action to terminate the contract if the failure to perform is substantial.

The contract aims at establishing a partnership arrangement in which both parties can request and agree variations to the terms, particularly where there are additional costs involved, via a change control mechanism. It is usually the case that minor variations, where there are no cost implications will be accommodated without the need for a contract change to be made.

There is also provision for incentives for innovation and cost savings, which are shared between both parties. For example, if the Service Provider can achieve costs savings through innovation or different ways of working, then providing the Council are in agreement with the changes, the resulting costs savings on the contract price are split between the Service Provider and the Council. The exact percentage of the split can be determined by the Council when the contract is prepared, but other Councils who have used this contract have taken that view that a 50/50 split is fair to both parties. Some examples of cost savings would be the introduction of new equipment such as hand-held computers, revisions to patrol frequencies, the use of CCTV and cameras to enforce some areas.

Use of the contract is through a license from the BPA which costs £500 per year for members of the Association and this is the contract that will be used for tendering the service next year.

Attached as Appendix C is a sample of the target costs schedule, which we have completed with indicative prices based on the current service level provided. As this pricing document is structured differently from the way in which Vinci currently price and invoice their costs it is not possible to draw a direct comparison between individual items, but we have used current industry pricing as best we can for the individual elements of the service.

No allowance has been made for the provision of a Parking Shop and operational base, which is discussed further in this report and will be included as an optional item. Other optional items, such as lines and signs rectification and the provision of pay and display machines will be costed separately by the tenderers, using the same format for the target costs and performance percentage. These have also not been included at this stage. We have however, included additional staffing for cash collection and the maintenance of pay and display machines.

### **Ticket Targets.**

The current Epping Forest District Council parking contract does not set ticket targets however, in the past, some local authority contracts have included Penalty Charge Notice targets, which service providers have been required to meet. This is no longer appropriate and is actively discouraged in Statutory Guidance, which stresses that enforcement must be carried out to meet traffic management objectives (e.g. keeping major routes clear, preventing hazardous and obstructive parking, ensuring turnover of parking spaces) and that the aim must be to achieve 100% compliance.

Reporting requirements in Statutory Guidance are likely to require that a Local Authority justifies its enforcement policies against traffic management objectives and where a surplus is made, the Authority will need to show how this has been spent and the benefits that have been achieved by this spending. Examples could include car park improvements, the use of new technology and other innovations.

Clearly the 100% compliance objective is very unlikely to be achieved, but compliance has increased in many areas already and could continue to improve. The possible introduction of proportionality within the next few years could also increase compliance as the amount of a Penalty Charge Notice for a more serious contravention (parked on yellow lines for example) may increase, whilst the charge for less serious contraventions (overstaying for a short period in a pay and display bay) could decrease.

The BPA contract contains no ticket targets, but the structure of the KPIs ensures that all beats are patrolled to the required frequencies, that restrictions are enforced effectively by properly trained parking attendants and that all tickets issued are of a high quality and therefore able to be effectively enforced. In turn,



this will ensure that existing ticket numbers do not reduce unless compliance improves.

### **Changes to restrictions.**

The new contract will take into account the changes to restrictions in the area resulting from redevelopment in some areas, additional CPZs, and the increasing numbers of Penalty Charge Notices and permits that are likely to be issued as a result. Cash collection from pay and display machines is currently carried out 3 days a week, but in view of the above developments which also include the conversion of some free bays to pay and display, there is a potential for this to be expanded to 5 days a week in the future.

Currently, around 22,500 PCNs are issued annually and it is anticipated that this may increase by 15,000 when new controls are implemented.

The contract will need to be flexible to accommodate further changes and this will be made clear to potential tenderers.

### **Procurement strategy.**

The contract will be procured according to the EU directives and procedures and a procurement timetable has been drawn up. It is expected that the contract will be awarded in August 2007 following a decision by Members .

Tender submissions will be evaluated to a pre-agreed list of criteria, which will cover all areas of the specification and the submitted prices. This will include operational areas as well as the ability of the suppliers to deliver the KPIs and work in partnership with the Council and is it expected that this list of criteria will contain at least 30 key areas for evaluation. Scores will be allocated in each of these areas and weightings applied and full notes will accompany all areas, which will ensure that the process is transparent, that comprehensive feedback can be given to unsuccessful bidders and that all audit and scrutiny requirements will be met.

The aim of the new contract is to procure the best quality service at a competitive price and there are several options for evaluating the tenders on this basis.

Although we are aware of one Council who has recently let an enforcement contract on the basis of 80% of the score for quality and 20% for price, this is unusual. More usually, Councils will evaluate on the basis of 60% quality and 40% price, although some Councils do evaluate on the basis of 40% quality and 60% price. Optional items will be assessed separately.

The proportion of 60% quality and 40% price will avoid the contract being awarded to the cheapest bidder if he is not able to deliver the quality of service required, whilst still taking account of the need for the service to be cost-effective. It will also ensure that the way in which the Service Provider intends to operate and the quality measures he puts into place are properly assessed during the evaluation period. These are likely to include -

- staff salaries and working conditions
- the ratio of supervisors to parking attendants
- the effectiveness of the management structure and support available
- the quality of the training provided (including on-going training)
- the quality of the PCNs produced by parking attendants
- the effectiveness of the Service Provider's beat patrol frequencies and patterns
- customer service policies
- quality and comprehensiveness of procedures
- an understanding of the local area and traffic sensitivities
- a willingness to work with the Council in a partnership approach

It will be made clear to potential tenderers that the Council is looking for a quality service and they will be invited to include suggestions for added value and quality improvements to the existing service.

Once the tender documentation has been finalised, an evaluation strategy will be compiled, which will include the evaluation criteria and scoring matrix, an evaluation programme and provision for presentations from the tenderers.

The contract will be awarded on the basis outlined above (60% quality, 40% price), and quality items will be carefully evaluated to a comprehensive list of criteria.

### **Current market.**

There are four major enforcement suppliers in the market at present and all are experienced at delivering this type of service. Vinci, the current service provider was once the largest contractor in the market, but has been losing market share over the last few years. APCOA and CPS have also lost market share, and all three have suffered badly since NCP diversified into the enforcement market in 2000. NCP have been very competitive in their bidding and have won the majority of contracts they have tendered for during the last 6 years, almost always retaining them when they are re-tendered.

We would expect all four companies to bid for this contract, and it may be that this service would also be attractive to Legion Parking, who have a similar on-street contract in Cambridge and would like to make further inroads into the market, but are not in a position to bid for larger contracts.

In view of the competition between the four major service providers, prices are tending to be competitive and most of the companies will offer added value and additional services if required, sometimes at no additional cost.

It is the intention to invite the tenderers to submit their own proposals for adding value to the service.

### **Information Technology.**

The Council uses the Compex parking IT system, which is provided and wholly owned by the enforcement service provider, Vinci. It is the only IT system on the market which is not independently owned. The system is one of the oldest on the market and although Compex have recently implemented a new version in some sites, there are limitations with system functionality, the way it is structured and reporting modules that rarely make it the system of choice for experienced sites.

Recent changes to Vinci senior management have resulted in a rationalisation of the Compex IT support and development function and this has in turn resulted in the loss of several senior, highly experienced staff. We are not at present convinced that these changes will result in customers receiving a more responsive service or that the system will be able to respond quickly to the changes required to support future applications or for the requirements of the Traffic Management Act. The system tends to be used in small sites and most larger Councils who were previously using the Compex system have changed to better developed and supported systems in the last few years.

Vinci will undoubtedly bid Compex for the new contract, but is likely to be the only tenderer who will bid with this IT system. Other service providers will bid with the other systems on the market and a briefing note on the systems currently available is attached to this report (Appendix B).

It is vital that the Council obtains a system that can not only handle the current workload, but is capable of expansion and development. It would be our intention to require potential tenderers to bid with two systems as this will allow the Council to choose the most appropriate system for its requirements, and ensure that a good quality system is implemented.

As there could be a change of IT system, and there is no provision in the existing contract for a hand-over period, transition arrangements will be covered in the new contract and in discussion with the chosen service provider. Arrangements will be made for either parallel running of two systems for a short period, (although this will need to be negotiated with Vinci due to the lack of provision for such arrangements in the existing contract), or for the transfer of data from one system to another. Both options have advantages and disadvantages and there will be cost implications if the Council continue to run the Compex system past

the end of the contract. These arrangements will therefore need investigation and discussion to ensure the minimum disruption to the service. The major service providers all have experience in implementing such arrangements.

### **E-technology.**

Most of the systems providers are pro-active in the development of e-technology solutions and this will form part of the contract specification. Examples of systems which are being implemented in other sites are –

- Telephone payment systems, available 24/7 for credit and debit card payments.
- Web based payment systems, also available 24/7.
- Web based permit renewal systems.
- Web based facilities for customers to lodge challenges and appeals on-line.
- Facilities for customers to view ticket details and photographs of contraventions on-line.

### **Streetscene and Parking Attendant's duties.**

The Traffic Management Act will re-designate parking attendants as Civil Enforcement Officers and is accompanied by provisions to widen the scope of their activities. Statutory Guidance to the Act stresses that their main responsibility will be to enforce parking restrictions, but their remit may also include reporting parking related crime to the police, reporting the absence of tax discs and assisting in on-street enforcement surveys.

Some Councils have also used parking attendants to report incidences of fly tipping, littering and other environmental problems, but this is not yet widespread as these other functions can detract from the enforcement of parking restrictions and usually require additional resources and training to ensure they are carried out effectively. At present, parking attendants do not have the necessary legal powers to enforce these offences and the Department for Transport have indicated that they do not support this becoming part of the parking attendant's role.

Parking attendants in Epping currently carry out a range of other duties, which include -

- Advising members of the public
- Noting and reporting defective signs and lines
- Checking pay and display equipment
- Implementing suspensions required

They are also mindful of their role as the public face of the Council. It is not intended to broaden their areas of enforcement at present, although this could be an option to be considered for the future if required, and if they receive the powers to do so.

The role of a parking attendant as civic ambassador will be stressed in the new contract and tenderers will be asked to provide examples of how they would achieve this. For example, this could include giving directions, providing information on where to park, advising on transport links and local attractions, how to contact the appropriate Council departments and other general information.

The contract will also include provisions for tenderers to explain how they will train and advise parking attendants for this role and how they will ensure that this approach is maintained and advanced through areas such as more user-friendly uniforms and specific customer care courses.

The Council will ensure that all parking attendants operate to Council policies and practices, as implemented from time to time) and these will be designed to support traffic management objectives and ensure that enforcement action is consistent and fair, whilst being flexible to cope with changing circumstances. It will be important that the new Service Provider supports the aims and objectives of the Council and this will be one of the criteria for the quality assessment.

### **Lines and signs maintenance.**

It is vital that the lines and signs on-street are accurate and complete as deficiencies (missing lines or breaks in lines, missing signs) quite simply mean that the area cannot be enforced.

The responsibility for maintaining lines and signs rests with Essex County Council and Epping has no budget for rectification. However, delays in rectification work will impact on the enforcement operation in terms of unenforceability and loss of revenue.

The service provider will be asked to provide a costing to carry out small remedial works until such time as rectification can be arranged. This could entail for example, repairing small lengths of missing lines. If required, the service provider could carry out all rectification works and this has been included in several other enforcement contracts. Although this would ensure that the work is completed quickly, there are clear cost implications.

An approach will be made to the County Council to discuss the issue of lines and signs rectification and whether they would be prepared to fund a remedial service and the extent to which they could do so.

## **Car parks.**

The Park Mark award is a nationally recognised scheme which is backed by the government and administered by the British Parking Association. The award is given by the Association of Chief Police Officers and indicates that the car park has been assessed for the risk of crime and has taken measures to reduce the risks, such as better lighting and increased security. However, the problem with obtaining this award for the car parks in Epping is the number and size of the car parks and the cost of implementing the measures needed.

There have been some problems with anti-social behaviour in car parks in the area, which are not currently barrier controlled and therefore easily accessible during evening periods. CCTV and lights are currently being installed in two car parks and the effectiveness of these measures will need to be assessed once operational.

Barriers or rising bollards will prevent vehicular access when the car parks are not in operation, and whilst this would be effective in preventing vehicles from entering the car parks, it will be a relatively expensive operation to install these in the car parks affected, with costs of around a minimum of £1,500 for a basic barrier (excluding installation), and maintenance and operating costs will also need to be taken into consideration. There are a number of specialist suppliers who will supply and install such barriers if this is required.

A cheaper option would be to install gates at the entrances to the car parks, which will prevent vehicular access when the car park is not in operation. This would require an operative to open and close the gates daily, and could be incorporated into the enforcement contract as part of the service provider's duties.

However, even with gates, some of the car parks are bounded by low hedges and walkways, which would not prevent foot access and there is evidence that not all of the current anti-social behaviour involves vehicles.

One way of dealing with this type of anti-social behaviour would be to implement regular car park patrols, and whilst this could be included in the new contract, it is likely to be an expensive option. However, there is a relatively new device on the market which has been trialled by police forces, railway companies and car parks managers in several areas in the country, including Rotherham, Torbay and Macclesfield. St Albans Council has installed it into their car parks and is enthusiastic about its effect.

Called the Mosquito, this device emits a high frequency sound which is only audible to those under the age of about 25 as above that age people have lost the ability to detect very high pitched noises. The noise is described as 'uncomfortable' and 'irritating' but is completely harmless, even with long term

exposure. It does however act as a very effective deterrent to groups of teenagers who are attracted to car parks and has received a number of endorsements from police forces and others who have installed it. The range of the device is 15 -20 metres and studies have shown that teenagers usually move from car parks within 8-10 minutes when the device is operating.

The device contains a timer which can be set to operate whenever required and as it takes a couple of minutes to be heard, it is unlikely to deter those who are genuine car park users.

The device and housing cage will cost around £600 for each unit. There are similar devices on the market, but none have achieved the same effectiveness as the Mosquito.

We suggest that once the results of the current installation of lights and CCTV cameras is assessed, the level and type of anti-social behaviour is also reviewed and a programme for protecting car parks is drawn up, with assessments of the recommended type of controls for each car park, which may vary from car park to car park. This assessment will include an estimate of the capital costs involved and a programme of works and the results will be presented to the Panel for further evaluation of the options.

### **Pay and Display Machines.**

It is intended to include options in the new contract for the provision of new pay and display machines and the maintenance of new and existing machines. This would allow the replacement of machines over the life of the contract and may be more cost-effective than if the Council were to allocate capital expenditure to fund the installation of new machinery. Maintenance options will include both long and short term maintenance.

If included in the contract as an option item, the Council would be able to choose whether this represents good value for money and act accordingly.

### **Vehicle Removals.**

There is currently no provision for the clamping or removal of vehicles in the current contract and current information suggests that Essex County Council did not include this power in the application made to the Department for Transport to implement DPE powers. Clamping has fallen out of favour in recent years, has been dropped by several Councils, and is not currently recommended by the Department for Transport. The level of controls in the area and the numbers of PCNs issued do not justify the presence of a permanent removals operation, but

vehicle removals can be a useful tool for persistent evaders, especially those whose vehicles are not registered with the DVLA.

The Traffic Management Act aims to widen the power of Councils to deal with persistent evaders by providing for the recovery of all outstanding PCNs before the vehicle is released. As an optional item, it is intended to seek proposals for implementing an intermittent removals service as and when required, however the implementation of such an option would require the approval of Essex County Council and an amendment to the SPA Order (this should not pose a problem as the DfT are currently advising all Councils to include this provision even if they do not wish to use it). Although this could be useful for dealing with persistent evaders it may also have an application for illegal parking during market set-up time in the area. Other Councils who have this arrangement often carry out a week long removal initiative to target persistent offenders every few months and this is not just successful in recovering unpaid tickets, but also acts as a deterrent to offenders.

As an alternative, we understand that Essex County Council may consider implementing a County-wide removals service, which may be more cost-effective and ensure that all DPE Authorities in the area would have the ability to remove persistent evaders. If this option is linked to the sharing of data amongst the Essex Authorities, it would benefit Epping and other Councils alike. This option will be explored further in conjunction with other DPE Authorities in Essex in due course.

### **Parking Shops.**

The previous contract included a provision for a Parking Shop in the area, where customers could attend for enquiries, payments and to obtain permits. In practice, due to the problems finding suitable accommodation, the Parking Shop is situated in two Portakabins in North Loughton. This also houses the client side of the operation and acts as a parking attendant base.

At present the shop receives less than ten callers a day, but this is likely to increase as the numbers of PCNs and CPZs rise.

The facility for receiving and counting cash from pay and display machines is housed in a lock-up garage opposite the accommodation and this is not ideal in terms of suitable security measures.

There are a number of problems with this accommodation and the new contract will require different arrangements. These problems include –

- The location is difficult for the public to find, is badly signed, and as it is behind shops, car parking facilities, a road where buses tend to stand, and



a row of lock-up garages, could be perceived as unsafe, especially during the darkness of winter months.

- A need for increased security for the cash counting facility.
- The base provides only basic facilities for parking attendants.
- There is no disabled access for the public visiting the Parking Shop.
- There is no room to accommodate additional staff.
- The area is scheduled for re-development during the new contract term and will not therefore be available for the life of the next contract.

The provision of a Parking Shop where customers can attend to pay PCNs and to query the issue of a ticket, raise general enquiries, obtain permits and parking information is an important element in offering good customer service. Although it is possible to offer these services without a Parking Shop many people do not have access to the internet or would prefer to pay cash, and others prefer face to face contact rather than writing or dealing with the Council by telephone. Payments can often be received quicker, permits issued more promptly and queries handled by this service, which can result in fewer letters, delays and questions at a later stage.

A good Parking Shop service will also help to improve the image of the parking service and it is important that staff in the Shop are familiar with the parking operation and able to handle a variety of issues.

With the increasing use of photographic evidence to support the issue of a Penalty Charge Notice, drivers need to have access to this and again, any queries can be dealt with through the shop. If enforcement by CCTV is implemented in the future when the powers become available in 2008, current regulations provide that a viewing facility must be available to motorists.

Most DPE Councils provide at least one Parking Shop. and we are aware of one Authority who chose not to provide any public counter facilities and was criticised by the Adjudicator for not doing so.

Recommendations in Statutory Guidance advocate that motorists should be offered a range of facilities for paying penalty charges (including cash, online and telephone payment where this is feasible). Guidance also states that where payment centres are used, authorities should ensure that these are safe and accessible, and that Councils should aim to offer motorists flexible and efficient ways in which they can communicate with an authority throughout the enforcement process.

Although Parking Shop services could be provided at Council offices, the requirement to access the parking IT system and the need to train staff in parking issues and procedures will result in additional costs, even if suitable premises were available. A further issue is that drivers who visit Parking Shops can often be angry and upset and may be abusive or even violent, resulting in a need for

adequate security measures and procedures to protect staff. It may not be appropriate for Council offices to receive angry drivers in a location where other members of the public attend.

It is proposed that the new contract will deal with this issue by incorporating a range of options, which will allow the Council the flexibility to choose which is most advantageous.

Prices will be sought for the provision of an operational base and a Parking Shop. The two could be separate and processing operations could also be carried out at the Parking Shop, thus ensuring that staff are adequately occupied and there is cover for the shop opening times.

Since the existing contract was implemented, there has been re-development and there are new units available in the area. Tenderers will undoubtedly research the available premises and it could be that they will be able to secure accommodation at an economically advantageous rate.

The current Parking Shop is owned by the Council and it may also be possible to obtain alternative Council-owned premises in the area, or to retain the existing site when redevelopment plans are finalised. This could allow the tenderers to submit proposals for using the existing site and providing more suitable accommodation. Alternatively, the Council may be able to secure premises elsewhere and make them available to the Service provider. These options are being investigated at present.

By ensuring that all options are covered in the contract specification, the Council will be in the best position to ensure that the final arrangements meet its requirements.

There are a number of advantages to the client side being situated in the same accommodation as this allows better communication with the service provider, the prompt resolution of day to day issues, and assists with the effective monitoring of the enforcement service. This will continue and the service provider will be required to include suitable accommodation for the client side operation as part of his facilities. If a separate Parking Shop is provided, the client side could either be sited at the shop or at the operational base, depending on the amount of space available at each location.

### **Payments.**

Currently, the payment rate for PCNs is 70%, which is a good recovery rate for an area outside London (London will have much lower payment rates) and suggests that Vinci are issuing good tickets, and that the processing operation is effective.

At present Vinci take payments for PCNs and there are a number of payment methods available. Personal callers can pay at the Parking Shop, credit card payments are accepted by telephone and cheques or credit card details can be sent by post.

The availability of flexible payment facilities is regarded as a key element in maximising the payment rate from PCNs and in encouraging early payment. This is also linked to the location and ease of use of the Parking Shop and its opening hours. More importantly, the ability for drivers to pay by telephone or over the internet at any time has been shown to increase recovery rates, with significant increases in the numbers of drivers who pay tickets on the day they receive them.

This opportunity to improve payment facilities will be reflected in the new contract.

### **Correspondence and Challenges.**

Under the current contract arrangements, Vinci are responsible for handling all initial correspondence and challenges from drivers, prior to the issue of a Notice to Owner. There is no legal requirement for a Council to deal with initial challenges, but most do as it represents good customer service, encourages early payment and avoids further challenges to the Penalty Charge Notice. Guidelines have been issued to Vinci reflecting the Council's policies in respect of considering challenges.

Representations form the statutory way of challenging a Penalty Charge Notice and will be made by the owner of the vehicle after receipt of the Notice to Owner. If representations are rejected by the Authority, the owner may then appeal to the independent Adjudication Service, a Tribunal.

The legislation states that a Council cannot contract out its statutory duty to consider representations and no Council contracts out the Adjudication stage of the process either. Dealing with representations and appeals is a quasi-judicial function where officers must have legislative and legal knowledge, as well as technical parking knowledge. Although policies are in place to consider representations, the process also involves a legal duty to exercise discretion, which must not be fettered through such policies.

Recent industry reports and Statutory Guidance place increasing emphasis on handling all challenges effectively, not just representations, through giving full replies and the exercise of discretion where appropriate. Indeed, Statutory Guidance states that neither challenges nor representations should be contracted out. Staff involved in this service are required to have a detailed

knowledge of legislation, Council policies and practices and to consider cases fully, exercising their judgement as to whether to cancel the Penalty Charge Notice or not. During the past year, much advice has been issued on the use of discretion and the duty of a Council to exercise that discretion and this now forms part of Statutory Guidance and the new regulations accompanying the Traffic Management Act in respect of representations and Adjudication. Councils will be required to ensure they have sufficient numbers of trained staff in place to deal with this process effectively, and there are provisions for the Adjudicators to refer cases back to the Council's Chief Executive where they consider that a Council officer has not exercised his or her discretion properly.

This high level of training, knowledge, judgement and discretion required in handling cases suggests that it is no longer appropriate for the enforcement service provider to continue to handle initial challenges on behalf of the Council. It is also recommended in Statutory Guidance that staff handling challenges should be separate from the enforcement operation as this would avoid any possible conflict of interest.

When DPE was first introduced in London in 1993, several Councils contracted out correspondence handling to their enforcement service provider, along with the provision of IT services and other processing operations (payments, sending recovery documentation for example). Since then, many of these Councils have brought correspondence handling back into the client function. This was done primarily to improve the quality of replies, and to provide a consistent and cohesive service and it is now the consensus of opinion in the industry that correspondence is best handled in-house.

Outside London, the outsourcing of correspondence tends to be the exception. Manchester recently followed the line of the London authorities in bringing correspondence in-house, but most others have always retained this function.

In three sites which have recently implemented DPE, East Sussex, Cambridge and St Albans, although the enforcement contractor has provided the IT system and carries out some of the processing functions, the Council have retained correspondence handling. To summarise, the majority of DPE Councils retain the correspondence handling in-house.

In view of the above, this aspect of the processing service will be transferred to the client side, who are currently dealing with representations and appeals, when the current contract ends. This will ensure consistent handling of cases, compliance with current industry recommendations and offer a better service to members of the public who wish to challenge their PCNs.

This will require an increase of one member of staff for the client side and this post will need to be created for commencement when the new contract is

implemented. Costs of this post would be off-set by an appropriate reduction in the contract charges if this function is excluded.

### **Other Processing Functions.**

There is no indication that other processing functions need to be transferred with the correspondence handling to the client. Whereas dealing with correspondence is a quasi-judicial function, other processing operations are not and are mostly procedure driven. The client side is not in a position to provide the bulk processing of recovery notices and to deal with the receipt of post and scanning of documentation and this process would require the establishment of additional posts.

The service provider would therefore retain responsibility for handling other processing functions, including the logging on and scanning of correspondence, which would then be passed to the Council for investigation and reply. Vinci also handle incoming telephone calls, and because these tend to be of a routine nature and include general parking queries, there should be no problem with the service provider retaining this function. Calls of a more serious or complex nature will be passed to the client side for handling, as happens at present.

## APPENDIX 1

### IT SYSTEMS – BRIEFING NOTE

IT is the backbone of any decriminalised parking enforcement system. PCNs are issued by parking attendants using hand-held computer terminals, which contain details of all the streets, parking bays and restrictions in the area, various safeguards to ensure that PCNs are properly issued, and can be downloaded to the local authority's computer system at the end of the day. Hand-helds can also contain details of all permit holders in the Council's area, car park permit holders, as well as details of all persistent evaders, which will enable action to be taken against them (removal or clamping).

The system is also used to process PCNs and enable access to information to staff in the processing office who will need to reply to correspondence, representations and prepare appeals cases for Adjudication. It is vital that any system automatically processes PCNs in accordance with the regulations, whilst also allowing user intervention in certain circumstances.

In view of the volumes involved, it would be impossible to process PCNs without the use of a computer system and there are several specialised systems in the UK market which have been developed specially to handle all the administration necessary to deal with the decriminalised parking scheme. Most of the systems on the market have been developed over the course of several years and are continuing to be developed to meet the needs of users, to comply with new legislation and service the increasing demands on a parking enforcement operation.

There are currently 7 commercial processing systems available, which vary in details and the degree of functionality sophistication. Between them, they manage the enforcement operations for almost all the current DPE authorities and have been acquired either directly by the authority concerned, or as part of a DPE enforcement tender.

Any parking operation is heavily dependent on IT systems for all aspects of service delivery. The chosen IT application will usually need to support the following functions as a minimum requirement –

- The issuing of parking tickets on-street and in car parks
- The processing of parking tickets including integration with the appropriate third parties involved
- Processing bus lane and other tickets issued from video evidence and camera images

- Processing tickets issued for additional contraventions that will be decriminalised in the future
- The calculation of the penalties due and the recording of payments received
- Monitoring the enforcement contractor and the processing operation
- Debt recovery
- The production of correspondence
- Document image processing
- Suspensions and dispensations
- Abandoned vehicles and equipment maintenance
- Permit issuing functions
- Reporting and statistics

The first four functions are vital elements of the parking operation and it is essential that any system deals with these functions as effectively as possible. All these functions are absolute essentials in any system. The other functions are available on most parking systems and it is sensible to ensure that they are integrated into the chosen IT system as such integration will add to the effectiveness of the service.

The systems on the market at present all, as a minimum, provide the functionality to issue and process PCNs and all have been designed to conform to the legislative requirements required by the Road Traffic Act and other relevant legislation. Some systems are better at conforming to the legislation and ensuring that user error is reduced to the minimum possible. The ideal system will behave consistently across all modules, will prevent illegal actions and will incorporate safeguards to ensure tickets are issued and progressed properly.

Given that all the systems will provide the basic functionality required, the differences between the systems tend to be in terms of the way in which they provide these functions, and in particular the ease of use for the user. Key quality elements which often highlight the differences between systems can be summarised as –

- The ability to process PCNs with the minimum of user intervention.
- Clear, understandable information which is easily accessed.
- Good search and reporting facilities.
- A high degree of security to ensure that the user does not carry out any unauthorised action.
- Bulk processing facilities (this is particularly important for a large site processing high levels of tickets).
- The presence of facilities such as post code matching software, GPS, GPRS, web and IVR payments.
- The ability to produce reports easily and to obtain all the reports needed to monitor the operation effectively.

It should also be stated that any system is only as good as the quality of the data it holds. Some systems allow the user a high level of control over the parameterisation of the system whilst other suppliers prefer to deal with this function for the user. All companies offer support and help to the client in setting up a new system but whichever option is chosen, the client will need to be in a position to understand what their requirements are in respect of the way in which the system is set up, as the parameters built into the system at the initial stage will affect the entire operation, including the ability to produce accurate and relevant reports. For example, the completeness and accuracy of the data used to build the street database, (which contains details of all roads in the area, and can link them by zones, CPZs and particular contravention codes), will be essential to the correct issuing of PCNs and to the reliability of reports.

Furthermore, the ability for the user site to achieve a high level of individual system parameterisation, which can be changed easily and quickly if required is essential in any operation that needs to be responsive to change.

Some systems also provide bulk processing and updating facilities, essential in a larger operation, whilst the reporting functions are better on some systems than others. Some can provide on-line real time payment facilities, and all will offer the ability to deal with letters and Representations through Word or other interfaces, although the exact functionality and ease of use can vary considerably.

The following section details further information (in alphabetical order by company name) regarding the existing systems and is based on our knowledge of the current market.

## **The Current Market**

### **Chipside**

This system was developed by staff who were formerly developers with Langdale and then Cinergic (see Cinergic section below). As such, it is reflective of these origins.

The system is used by a small number of Authorities (in comparison to the market penetration achieved by the other 6 companies), several of them based in the Essex area, as mentioned below, and has recently been chosen by Sandwell Council. We do not have any current knowledge of this system as we have not worked with it, and we are not sure if the company is in a position to tender for larger contracts or whether the system includes the enhancements offered by some of the other suppliers.



The company is small and does not have the financial standing of the other systems providers who all have substantial backing. It also has a relatively small number of employees and we are not convinced that it can provide the development and support resources required to enable it to expand much further than at present.

However, the customers who use this system do speak highly of the functionality and the support they receive and it does appear to be improving over time.

### Cinergic

The Cinergic system has been available for around 5 years, having been developed by experienced parking people. It is windows based, and uses the Microsoft SQL database. The functionality of the system is good, bulk update facilities are provided and the system conforms to legislative requirements. Although used in many small sites (Hereford and Worcester for example), it has also been in use in Newham since August 2002, which is a large London site issuing 192,000 tickets a year, using bus lane camera enforcement, with plans for expansion.

The system reflects the Langdale experience of its designers and (like the Langdale system) is progression based (although these have been kept to a minimum). This means that if a user updates the system, pays a PCN for example or logs a representation, this action is not immediately reflected in the main PCN details screen. Although the action is reflected in the audit trail and in other details on the screen (such as the amount outstanding), the system sometimes indicates that there is 'No default progression' if further user action is required. This can be confusing to users as it is not immediately obvious what the next system action will be, and the screens will only be updated overnight when the progression routine is run.

The system has good reporting facilities and allows users to write their own reports. It also integrates easily with other systems and 3<sup>rd</sup> party software.

Cinergic was bought by WPS in October 2003, and there appears to be a high level of commitment to strengthening support and developing the system. Prior to the acquisition of the system by WPS, the Chipside team of developers left the company and the uncertainty surrounding the future of Cinergic led to an erosion of user confidence and caused at least one Council in Essex to switch to Chipside's own processing system.

Nevertheless, these issues have been resolved and the WPS support and investment has resulted in the system being tendered for major parking IT contracts. The system is currently being installed in Liverpool Council, which is a

large processing site. Nevertheless, the system has not been marketed aggressively and this is reflected in its relatively low level of market penetration.

### Civica

Large DPE sites tend to use either this system or the Traffic Support system and it is one of the most comprehensive systems on the market, having been running in many sites since the inception of decriminalised parking enforcement. It is unusual for a site that has purchased the Civica system direct to switch to another system once it is in place (although Camden Council switched from Civica to Traffic Support).

It has previously been among the most expensive of the systems although prices are now very competitive, and it has excellent functionality and generally offers good support. Civica have proved to be very responsive in handling changes to the system and in developing new modules (e.g. camera enforcement), all of which are fully integrated. Reporting capability is excellent with a comprehensive number of reports provided as standard.

System security is also good in that there is a high level of conformity with the legislation, which protects the Council from user error and ensures that all PCNs are processed properly and promptly. Reminders and prompts are built into the system to ensure that users do not for example, forget to cancel a Penalty Charge Notice when they have generated a cancellation letter.

Civica also offer a fully managed service with a desktop solution if this is required.

The company have recently launched their new Authority Traffic system, which is written in Microsoft.NET, and has been installed in several new DPE sites (Torbay, Sheffield, Doncaster for example), in Kingston (where the Council switched from the Langdale system) and in Manchester, where the Council upgraded from the existing Civica system. There have been some problems with sites using Authority Traffic as the full functionality was not present at first, but the system is being improved constantly and we expect it to be fully operational in all aspects within the next few months.

The advantages of this system are considerable as .NET represents the ability to easily and effectively integrate systems across a wide variety of areas. This will benefit Councils by offering integrated enforcement solutions and links to other services in the future if required (joined-up government).

Civica is also the major system provider actively developing environmental monitoring and reporting functions which will be fully integrated into the system - this is being developed in conjunction with Manchester Council who will shortly

be pioneering the incorporation of environmental monitoring functions into parking attendant duties.

Additionally, Civica is the only supplier of parking systems to be a Microsoft Gold Partner which requires a high level of expertise and a rigorous testing process as evidenced by the following quote from Microsoft.

'Microsoft® Certified Partners are independent companies that can provide you with the highest levels of technical expertise, strategic thinking, and hands-on skills. Microsoft Certified Partners encompass a broad range of expertise and vendor affiliations and their real world perspective can help you prioritize and effectively deliver your technology solutions.'

Because the Civica system provides a number of bulk processes, it tends to be used by larger sites such as Wandsworth, Manchester, Tower Hamlets, Hackney, Haringey, Edinburgh, Hounslow, but is also used by smaller authorities such as St Albans, Oxford, Guildford and East Sussex.

### Complex

This is one of the original systems on the market, and although it has been in use in both large and small sites, some larger sites such as Westminster and Kensington, who were probably their largest customers, have changed systems within the last two years (both have selected the Traffic Support system). Other sites have also switched from the Complex system (usually to either Traffic Support or Civica). However, Complex has a fairly large customer base as the company is part of the Vinci group and it will be tendered by Vinci if a Council requires provision of an IT system as part of an enforcement contract.

The Company have recently introduced a new version of the system and this has built on the functionality of the existing system – this new system is currently being rolled out to existing sites, but does not appear to be substantially different from the existing system.

The system is structured on progressions\* (see note below), in the same manner as the Langdale and Cinergic systems, and there are currently some 2000 progressions on the system. Integration with other packages such as Microsoft Word is perhaps not as functionally smooth as with some other systems, requiring the user to drop out of the ticket record to use the package and then import documents back into the appropriate record. Reports are prepared using Crystal Reports and in our experience we believe that the reporting structure does not offer the accuracy or flexibility it should as the underlying databases are not flexible enough to cater for the range of reports required.

\* Note – this type of system structure means that a path has to be created from any action that happens on a PCN in order for it to move to the next stage in the process. If the path is missing, the PCN will not progress at all but remains stuck at the previous stage. Because this type of system structure treats every action taken on a PCN as a progression which requires a path to be

created in the system, it results in a high number of progressions and the potential for missing paths. Some sites using the Compex system have experienced 'stuck' tickets, often in high numbers.

Many sites we have worked at have been experiencing major problems registering debts on the system. We do not know if these have now been completely resolved across all sites.

In sites that have used the Compex system, such as Richmond and Kensington, officers who are familiar with the system spend considerable time in ensuring that the system is working as efficiently as possible and both these sites have had a dedicated system support team in the parking section. This option is of course precluded in smaller sites where the required resources or expertise are not available and users tend to have issues with the level of support provided.

The system requires a fairly high level of user intervention compared with other systems (e.g. to place a case on hold, to trigger a progression when handling cases and to transfer payments from the suspense account) and therefore works better in our opinion in smaller sites where staff are able to process tickets on an individual basis. It does not provide the bulk processing services that some other systems do, which will allow staff to bulk generate letters and can save time when handling volumes of cases.

### Langdale

This system does provide the functionality to enable PCNs to be issued and processed in the manner required, and it meets many of the criteria for a notice processing system. It is used in a large number of local authorities, although it tends to be used more in smaller authorities where issues like integration and bulk processing have not become so critical and case handling can be conducted on an individual basis.

The Company's market penetration has been achieved principally by Councils' upgrading existing Langdale excess charge processing systems to cope with DPE requirements. The system is currently being used for processing PCNs in many small sites. Few, if any, London sites use this system in view of the numbers of tickets that the system is required to process.

Larger sites also tend to require more comprehensive reporting facilities as well as bulk processing and the system does not provide that level of functionality at present. Reporting is dependent on the underlying structure of the databases and whilst there is no problem obtaining standard reports, the system may not be in a position to meet less common, complex or unusual reporting requirements.

The system can be manipulated by users with the required IT knowledge, reducing its security and the security of the data.

Although the company have recently developed some parts of the system and claim to have made it e-gif compliant, the basic functionality has not changed substantially as Langdale have made few changes to the processing and PCN issuing software to improve its functionality.

### Spur

The Spur/Sidem system was originally designed as a financial management package, not as a bespoke PCN processing system. It has been modified from a debt collection system which was geared to sending invoices out and managing debt. As such the design of the system reflects its origins.

Although the system was being developed as long ago as 1994, it is only in the last few years that development has increased. It is currently in use in small and medium sized sites, including Bristol, Cambridge, Swindon and Portsmouth and will soon be implemented in Northern Ireland which will be its largest site (around 135,000 PCNs).

There has been substantial development on the system in the past few years and this continues. The company is very pro-active regarding changes and system enhancements.

Because the system was developed from a financial package, the financial reporting is excellent and uniquely of all the IT providers, the company has developed the facility for payments to be accepted at Post Offices – this is currently in use in one site. The system also offers an excellent instalment processing module and double entry book-keeping.

The system is highly configurable and this can be carried out by Spur or through user access. Given this high level of configurability and parameterisation, it follows that the system can be set up to offer an almost bespoke service to the client – Spur will carry out parameterisation on behalf of the client when a system is installed. Clients can carry out their own ongoing parameterisation which does allow flexibility but also has drawbacks in that firstly the user needs to know exactly what they want the system to do and secondly it places reliance for the correct operation of the system on the user, which may or may not be a problem. Having said this, the system does incorporate many safeguards to ensure that major functions conform to the legislation.

It is a reflection of the progression of this system that it is now being proposed by all the enforcement contractors and to date we have not received any negative reports of system implementation or support. Of all the suppliers, Spur currently offers more in terms of setting up and supporting the system and is responsive to client needs and to industry requirements.

### Traffic Support – ICPS system

Like the Cinergic system this system is relatively new and has been in operation for less than 5 years. However, during this time the company has achieved excellent market penetration, and many of their clients are large DPE sites, such as Camden, Islington, Kensington and Lambeth, although the system is also in use in smaller sites such as Oldham, Stoke-on-Trent and South Lakeland.

Unlike some other systems it offers a fully automated update of system records, without the need for overnight batch processing, which means that the user is able to see the next automated action and the due date of that action on the PCN record.

A recent development now offers full Word functionality (although the system does not actually use Word, as the other systems do), which brings this aspect of the system into line with the other systems on the market. It also offers some bulk processes and the automatic suspension of system actions where appropriate, minimising user intervention in these areas.

Reporting is adequate but does not always have the ability to drill down further into data when required. The system is capable of linking into other systems if required.

Although the system has achieved a high level of market penetration in high volume sites, we have heard of a number of sites who are less than satisfied with the product and many enforcement contractors are not currently bidding it as their system of choice.

### **Summary**

As stated previously, all the systems will perform the operations required for processing PCNs, although the way the systems work will be different. Systems structured on a relatively high number of progressions, like Langdale, Cinergic and Compex, carry the risk of 'stuck' tickets and this has happened at some sites using these systems. Although the Spur system does have a relatively high number of progressions, its structure does minimise the possibility of this occurring. Civica and Traffic Support have reduced the progressions to a minimum, by treating 'events' (correspondence, payments, cancellations for example) differently from 'status' (PCN issues, NTO sent), and have thus avoided these problems.

The Civica, Traffic Support and Cinergic systems have a high level of safeguards that do not allow the user to perform 'illegal' actions and have also incorporated bulk processes which assist users in handling volumes.

Currently, the major enforcement contractors are tending to bid the Spur and Civica systems.

**Note** - The section above has mentioned sites where the various systems are in use. It should not be assumed that these sites have specifically chosen the system they have by competitive tender, as this is not always the case. It is more common for Councils to require a system to be provided by their enforcement Contractor, without a separate specification, and the market share on any of the above companies cannot be taken as an indicator of user satisfaction with the system, which we have found to be highly variable, even amongst different sites using the same system.

## **APPENDIX B**

### **The Traffic Management Act 2004 and Statutory Guidance.**

#### **Background**

The provisions of the Traffic Management Act 2004 in respect of parking (Part 6 of the Act) are due to be enacted next year. Before this can be done, various regulations have to be made, including those regarding the consideration of representations and appeals, and the Department for Transport is required by the Act to issue Statutory Guidance.

Statutory Guidance is so called because the Traffic Management Act confers a statutory duty on the department to issue this guidance. Some provisions in the guidance **are** statutory in that they relate to primary or secondary legislation, whilst others are recommended as best practice. The Traffic Management Act requires that all Local Authorities must have regard to the provisions contained in Statutory Guidance.

#### **Summary of Major Changes**

1. Decriminalised Parking Enforcement (DPE) becomes Civil Parking Enforcement (CPE).
2. Parking Attendants become Civil Enforcement Officers (CEOs). Existing PAs are re-branded automatically - we assume that the re-branding (which will include all documentation to reflect the change of name and the new legislation) will coincide with the NPAS change of name to the Traffic Penalty Tribunal.
3. A Special Parking Area (SPA) and a Permitted Parking Area (PPA) now becomes a Civil Enforcement Area (CEA). Again, existing SPA/PPAs are re-branded automatically.
4. A Special Enforcement Area (SEA) is new, but simply allows all authorities to enforce double parking, pedexes and dropped footway contraventions. SEAs will normally cover the same geographical area as the CEA, but legally they must be within a CEA. Any existing SPAs will automatically become SEAs, as well as CEAs, so authorities can start enforcing without having to apply for these new contraventions.



5. The legislation appears to partially re-criminalise contraventions, allowing the police to enforce them if they care to do so. This is likely to be the subject of much discussion and objection before finalisation. It is not clear whether this would allow the police to take over enforcement in an area if they wished to do so or to block a Council from implementing CPE.
6. The Guidance applies only to England. This is due to the devolution of power, as the Welsh Assembly will have to issue its own guidance on the TMA.
7. The Guidance refers to Circular 1/95 being revised. This is not yet available, but the DfT have indicated that they are committed to this revision and hope to have it in place when the guidance is finalised (likely to be in the Spring of 2007). Latest information suggests that a draft will be available before the end of September.
8. The requirement for a CPE scheme to be self-financing has been removed, although it is still recognised as a desirable outcome.
9. Councils should see enforcement as a traffic management tool, and link it to their local enforcement plans. Revenue-raising is not an objective.
10. Policies should be in place, published, and should be regularly reviewed.
11. There is an increased reporting requirement in the form of annual reports which must contain information given in the guidance and explain exactly how any surplus has been allocated and the benefits this spend has produced.
12. Back offices should be properly staffed.
13. Training for **all** staff is recognised as important, not just for PAs (CEOs). It includes all back-office staff and their management. A separate, ring-fenced training budget should be allocated and adhered to.
14. CEOs have a wider role than just issuing PCNs although parking enforcement is still their major responsibility. They should also help the public, report criminal activity and generally be the 'eyes and ears' on the street. They should all be subject to Criminal Records Bureau (CRB) checks. This stops short of implementing Streetscene activities and the DfT have indicated that they are happy with the current situation where those authorities who wish their CEOs to play a larger part in reporting environmental problems can do so if they have the resources.
15. Enforcement by approved devices, e.g. cameras, is allowed, but further regulations will be required before Councils outside London can take up these powers.

16. Persistent Evaders are defined as having 3 or more outstanding, uncontested PCNs. Persistent evader's vehicles can be clamped or removed 15 minutes after the issue of a PCN. Other vehicles can be clamped or removed from a designated parking place only after 1 hour has elapsed since the PCN was issued (this is in the legislation – guidance states 1 hour after the expiry of paid for time so there is an anomaly to be resolved).
17. When a vehicle has been clamped or removed, an authority can now require payment of **all** outstanding PCNs before authorising the vehicle's release (including PCNs issued by other authorities), provided that there are at least 3 such outstanding PCNs, i.e. a persistent evader.
18. Contracts should not include ticket targets – the BPA model contract is recommended.
19. Elected members are to play no part in deciding challenges.
20. The exercise of discretion and the completeness of replies to challenges and representations is stressed.
21. If a case is referred back to an authority by an adjudicator for reconsideration, the case should be referred to the Office of the Chief Executive and **must** be resolved within 35 days, otherwise the adjudicator's finding is deemed to have been accepted.
22. If a PCN is served by post, it must be served no later than 28 days after the contravention, unless there is a slow response from DVLA, when provided that the DVLA enquiry was sent within 14 days of the contravention, a PCN can be served up to 6 months after the contravention.
23. A NtO must be served within 6 months of the PCN being served, or a previous NtO being cancelled due to an allowed representation or appeal, or a witness statement being made.
24. A Witness Statement replaces the Statutory Declaration, and can be made on the same grounds only. The big difference is that an authority can challenge a witness statement, by making representations to the district judge on the grounds that the witness statement is invalid or that no time extension should be allowed. Witness Statements are made under the Civil Procedure Rules 1998 and must be supported by a statement of truth.
25. Representations: the list of possible grounds has been increased, to include 'procedural impropriety' by the authority and that a fixed penalty notice was issued for the same offence, which takes precedence over the PCN.

Note – there is no provision for the enforcement of footway parking at present.

## **Timetable**

The consultation period finishes at the end of September and comments have to be collated and incorporated into the guidance (or not) as necessary. 1/95 has to be revised.

The DfT have indicated that they would like to publish the guidance and 1/95 together in Spring 2007.

Due to the changes required to systems and documentation we would expect a changeover period and anticipate full implementation in Autumn 2007.

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