

<u>KEY DECISION</u> Yes
<u>DATE FIRST PUBLISHED</u>

## REVIEW OF CIVIL PARKING ENFORCEMENT POLICY

### WARDS AFFECTED

All

### EXEMPT/CONFIDENTIAL ITEM

No

#### 1. PROPOSED DECISION

- 1.1 That approval is given to amend the Council's Civil Parking Enforcement Policy as detailed in the report.

#### 2. RATIONALE FOR THE DECISION

- 2.1 Cabinet had previously considered a report dated 25<sup>th</sup> August 2010 relating to amendments to the Civil Parking Enforcement Policy however, since that time no significant review has been undertaken.
- 2.2 Following an Internal Audit Review of Parking Services in June 2017 a number of areas of improvement were identified with the recommendation that:-
- i. Any amendments to the Civil Parking Enforcement Policy should be formally approved
  - ii. A review of the continuous observations rule with regards to the issuing of Penalty Charge Notices (PCN's) should be undertaken and;
  - iii. A review of content with regards to Blue Badge misuse should also be undertaken.
- 2.3 Part 6 of the Traffic Management Act 2004 provides for a single framework in England for the civil enforcement of parking, bus lanes and some moving traffic offences. The aim of Civil Parking Enforcement is to provide for a reasonable, transparent and proportionate system of parking enforcement that is applied consistently across the Country. The objective is to increase public confidence by providing a system that can be seen to be balanced and fair to motorists whilst satisfying the Council's transport and parking duties.
- 2.4 The Civil Parking Enforcement Policy should be reviewed on a regular basis and updated when necessary to reflect any change in legislation, corporate or departmental objectives, best practice and local parking needs.

### 3. FACTS SUPPORTING THE PROPOSED DECISION

- 3.1 At its meeting on 25<sup>th</sup> August 2010, Cabinet approved amendments to the Civil Parking Enforcement Policy which included an extension to the minimum observation time for loading and unloading in restricted areas and that this be increased to 15 minutes for all vehicles. Prior to this change, the observation period for loading and unloading was 5 minutes for motor vehicles and 10 minutes for goods vehicles.
- 3.2 An observation period begins when the vehicle's details are entered onto the hand held device by the Civil Enforcement Officer (CEO) and the Penalty Charge Notice cannot be issued until the observation period has elapsed. Observation periods do vary dependent upon each specific parking contravention (as per current contravention and observation periods detailed in Appendix 1).
- 3.3 There is no legal requirement for a vehicle to be observed before a Penalty Charge Notice can be issued. An observation period only exists to ensure that the vehicle is unlikely to be engaged in an exempt activity, such as loading or unloading.
- 3.4 The intended purpose of the change to the observation period in 2010 was to relieve pressure on those streets where loading is permitted during the working day. However, the 15 minute period was applied to all restricted parking areas across the borough which effectively included all single and double yellow lines.
- 3.5 This extended observation period has caused difficulties in enforcing restrictions particularly around schools and where the offence is deemed to be causing an obstruction or is considered a danger to road users. This has prompted complaints from residents, ward councillors and businesses largely as a result of indiscriminate parking and the apparent lack of action being taken to enforce by CEO's.
- 3.6 Officers have reviewed a sample of other local authority observation periods for parking in a restricted street during prescribed hours and the majority allow a 5 minute period for motor vehicles and a 10 minute period for commercial vehicles. However, in some cases observation periods were for shorter periods (e.g. 3 minutes) or no observation period at all.
- 3.7 A neighbouring authority has recently acted upon concerns from residents, teachers and parents worried about inconsiderate and often dangerous parking around schools by removing their 5 minute observation period for cars parked on single or double yellow lines and allowing CEO's to immediately issue PCN's to any vehicle parked in a restricted area in the vicinity of 26 named schools. This essentially identifies specific areas as "hotspots" or problem areas. This could however prove difficult to manage as the extent of the "vicinity" could be open to interpretation and restrictions may extend beyond the immediate area around the schools.
- 3.8 Several authorities had also allowed CEO's to use their discretion in exceptional circumstances and issue PCN's where the vehicle is deemed to be either a danger to road users and/or the public. This would still require the CEO to have

sufficient evidence to show that a parking contravention had occurred and would only be used in exceptional circumstances.

3.8 It is therefore recommended that the current observation periods be amended as detailed in Appendix 2, to ensure that all parking restrictions are enforced effectively and appropriately across the borough and that when enforcing parking in restricted streets during prescribed hours, CEO's be permitted to issue a PCN immediately without undertaking any observation in exceptional circumstances.

3.9 The 2010/2011 Parking Services Audit Report identified that Blue Badge holders receive detailed guidance on legal parking and are exempt from most restrictions however, the Council allows a 'first strike' cancellation for their first parking contravention. The report recommended that "As the decriminalisation of parking has been operating for over two years and the public should now be aware of the parking restrictions in place, consideration should be given to reviewing the first strike cancellation policy for blue badge holders to determine whether or not it should continue."

3.10 By way of an administrative decision dated 22<sup>nd</sup> February 2012, approval was given to retain the existing "first strike" cancellation policy for blue badge holders and this has continued to be applied. However, the more recent Parking Services Audit Report (June 2017) has again identified that the misuse of blue badge permits should be considered as part of the Civil Parking Enforcement Policy review.

3.11 The specific area of the Policy that relates to Blue Badge holders says:

"Where the motorist is a Blue Badge holder/transporting a Blue Badge holder and they did not have the Blue Badge and/or clock on display or it could not be read or had expired or was displayed incorrectly.

The Council may accept representations ' If it can be established that this is the motorist's **first contravention** of this type and they can provide evidence that they are a Blue Badge holder or were transporting a Blue Badge holder.'

The Council may reject representations ' If the motorist has previously had a PCN cancelled for the same contravention and has been warned to display a valid badge/time clock correctly in the future. or

If the motorist was parked on a waiting restriction beyond the 3 hour time limit permitted by the Blue Badge Scheme, or on another restriction for which the Blue Badge does not provide an exemption."

3.12 It is possible for this policy to be abused as there are several reasons why a disabled Badge Holder may receive more than one allowed first strike against a PCN issued against a parking contraventions, which are as follows:-

a) Disabled Badge Holder - Change of Vehicle (PCN's are only linked to the VRM of the vehicle involved in the parking contravention not the Disabled Badge).

b) Disabled Badge Holder - May use the Disabled Badge in a different vehicle (Disabled Badges are not linked to specific vehicles).

- c) Penalty Charge Notice may be cancelled due to the mitigating circumstances presented within the informal challenge/formal representation, the Council can exercise discretion at any time when making decision against challenges/representations.
- d) Two Disabled Badges issued to the same household, each individual could use the same vehicle and submit challenges/representations issued against the same vehicle detailing their allocated Disabled Badge.

- 3.13 Since the introduction of Civil Parking Enforcement in 2009, the Council has issued a total of 69,063 Penalty Charge Notices of which 18,748 have been cancelled for various reasons. The total number of cancellations relating to accepted disabled badge contraventions is 8,787, which in financial terms equates to £321,867, a significant proportion of these being “first strike” cancellations.
- 3.14 Civil Parking Enforcement has been operating for over eight years and the public should now be aware of the parking restrictions in place. Equally, all disabled badge holders receive detailed guidance on legal parking which in most cases is without restriction. In addition, anyone issued with a PCN will have the legal right to challenge and to submit formal representations detailing any mitigating circumstances for cancellation.
- 3.15 As identified, the “first strike” cancellation policy could be subject to abuse and disabled badge holders may have been allowed multiple cancellations for reasons given above. It is therefore recommended that the “first strike” cancellation policy be removed from the Civil Parking Enforcement Policy with immediate effect.

#### 4. IMPLICATIONS/RELEVANCE TO MEETING SAVINGS TARGETS/ PLANNING FOR 2020

#### 5. RISKS

##### 5.1 Risks Associated with the Proposed Decision

The proposed changes are likely to result in an increase in the number of PCN's issued. This will need to be considered in relation to the current resources available within the Parking Service Section.

Additionally, there could be a public expectation that the changes to the observation period will address parking problems around schools etc and again this will need to be considered against the contractors available resources (i.e number of CEO's) and how officers are deployed to achieve the appropriate level of enforcement. Clearly, they cannot be at every school every day.

##### 5.2 Should this Risk be added to the Corporate Risk Register?

No

6. OTHER IMPLICATIONS

Legal – None

Financial – With a reduced observation periods and a withdrawal of the “first strike” cancellation policy, it is likely that the number of PCN’s issued will increase and with it the level of resultant fines. Equally, any significant increase in PCN’s will require careful consideration as the “back office” staffing requirements and the number of deployed officers to provide the optimum level of service.

Human Resources – None

Land and Property (Asset) – None

Anti-Poverty – None

Effects on existing Council Policy – None

Effects on other Council Activities – None

Human Rights – None

Equalities – An Equality Impact Assessment is attached to this report.

The assessment has raised the following positive or negative impact for staff or service users as outlined below:

- Race (Ethnicity)
- Disability and Carers
- Gender
- Gender Reassignment
- Age
- Sexual Orientation
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Religion

Asset Management – None

Health – None

7. PREVIOUS APPROVAL/CONSULTATION

Cabinet report – 25<sup>th</sup> August 2010 – Civil Parking Enforcement – Contract Review

8. ALTERNATIVE OPTIONS AND IMPLICATIONS THEREOF

None

9. APPENDICES

Appendix One – Guidelines for the consideration of challenges against Penalty Charge Notices

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BACKGROUND PAPERS

The following list of documents was used to complete this report and they are available for public inspection for four years from the date of the meeting, from the Contact Officer named above: