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Best Practice in Parking Enforcement

1 Background

The Traffic Management (NI) Order 2005 introduced a decriminalised parking enforcement (DPE) system to Northern Ireland. Under the Order, the Department for Regional Development's (DRD) Roads Service assumes responsibility for the enforcement of certain road traffic contraventions.

The primary objectives in introducing DPE are to reduce traffic congestion impacts and improve highway and pedestrian safety by reducing incidences of illegally parked vehicles. In the longer-term, the introduction of civil enforcement of certain moving traffic offences is expected to contribute further to improvements in traffic management and road safety.¹

Within the Roads Service a Parking Enforcement Processing Unit (PEPU) has been established to collect parking fines, enforce non-payment and to arbitrate on disputes from vehicle owners. Article 3 of the Order permits that traffic attendants may be employed by the Department, or by a third party, to enforce road traffic contraventions.² Since October 2006 this function has been contracted to NSL (formerly NCP) and indeed this contractor has just been awarded a new contract that will see them continue to conduct On-the-ground enforcement on behalf DRD/Roads Service.

¹ Explanatory Memorandum to Traffic Management (Northern Ireland) Order 2005 [online] available from: <http://nia1.me/11y>

² The Traffic Management (Northern Ireland) Order 2005 [online] available from: <http://nia1.me/11z>

2 Context

In September 2011 The Minister for Regional Development announced to the Assembly his intention to introduce off-street parking charges in a number of provincial towns across Northern Ireland.³ The details of this proposal were presented to the Committee for Regional Development at its meeting on 18 April 2012 where the Minister stated his intention to introduce a car parking charge to an additional 25 off-street car parks.

The charges range from 20p to 40p per hour with a number of car parks charging 30p for a three hour stay; these charges were implemented in June 2012. In addition the Minister increased the fine for penalty charge notices from £60 to £90 in order to:

“Maintain front-line services, such as pothole repairs and street light maintenance [and] to avoid further annual increases in car-parking charges over the lifetime of the budget.”⁴

A number of Assembly members raised concerns over the impact this policy would have on Northern Ireland’s towns and cities, commenting that many have already suffered from significant decline over many years as a result of the increased presence of out of town retail developments,^{5 6} where, incidentally, parking is normally free. In addition, the Chairperson of the Committee for Regional Development (The Committee) raised concerns that this policy may have greater impact on Northern Ireland’s *“...most vulnerable citizens, such as the elderly, those with a disability, young people, rural dwellers and, indeed, the unemployed”⁷*

The Committee’s concerns over the plan to increase penalty charges by 50% were such that it brought a motion to the Assembly on 26 June 2012 to annul the relevant regulation.⁸ While this motion was not carried, the Committee proposed a number of options for the Minister to Consider:

- Introduction of differential parking penalties based on the level of offence; and
- Publication of parking enforcement protocol.

The Department has since advised that it will publish a protocol on parking enforcement by October 2012. This will include the procedures for issuing a Penalty Charge Notice (PCN) and details of the process available to drivers who wish to appeal the ticket by October. With regards to penalty charges, the Department has advised that it will keep the current level (£90) in place for a period of 12 months at which time it

³ Northern Ireland Assembly Official Report, 13 September 2011[online] available from: <http://nia1.me/x7>

⁴ (DRD) Department for Regional Development (2012) Kennedy sets out plans for first year review of car parking charges [online] available from: <http://nia1.me/x3>

⁵ Social Development Committee (2009) Social Development Committee Inquiry into Town Centre Regeneration [online] available from: <http://nia1.me/x8>

⁶ (NIIRTA) Northern Ireland Independent Retail Trade Association (2012) NIIRTA Submission to the Department for Regional Development Consultation on Public Transport Reform [online] available from: <http://nia1.me/122>

⁷ Northern Ireland Assembly Official Report, 13 September 2011[online] available from: <http://nia1.me/x7>

⁸ The Penalty Charges (Prescribed Amounts) (Amendment) Regulations (Northern Ireland) 2012 (S.R. 2012/203) see: Northern Ireland Assembly Official Report, 26 June 2012[online] available from: <http://nia1.me/121>

will re-evaluate the effectiveness of the policy and examine the potential for differential penalties.⁹

3 Parking Enforcement

3.1 Legal Framework

Parking Offences were decriminalised under the Road Traffic Act 1991. This Act enables local authorities to establish Special Parking Areas (SPAs) within which the local authority (or their representatives) can charge for and enforce all non-endorsable parking restrictions.

Decriminalised Parking Enforcement (DPE) became known as Civil Parking Enforcement (CPE) through The Traffic Management Act 2004. This Act expanded the range of 'contraventions' (parking offences) that could be managed, including a provision whereby drivers who's parking is deemed inconsiderate and/or double parked are guilty of an offence.

The Department for Transport (DfT) introduced Statutory Guidance to local authorities on the civil enforcement of parking in 2008. The guidance covers a range of issues including:¹⁰

- Revenue: raising revenue should not be an objective of CPE, nor should authorities set targets for revenue or the number of Penalty Charge Notices (PCNs) they issue.
- PCN level: Enforcement authorities should adopt the lowest charge level consistent with a high level of public acceptability and compliance.
- Communication: Motorists and other road users need to be aware that parking enforcement is about supporting wider transport objectives, in particular keeping traffic moving, rather than raising revenue.
- Appraisal: Authorities should continue to monitor their parking policies and ensure that parking policies still apply at the right place and time.
- CEO: The main objective of a Civil Enforcement Officer (CEO) should be to ensure parking controls are observed and enforced in a fair, accurate and consistent manner.
- Discretion: The enforcement authority should have clear policies, instructions and training for CPE Officers on how to exercise discretion. These should be published.

⁹ DALO Correspondence to Committee for Regional Development 9 August 2012.

¹⁰ DfT (2008) Traffic Management Act 2004: The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions [online] available from: <http://nia1.me/124>

This enforcement is based in the civil justice system. Consequently the penalty is a 'charge' not a 'fine'. In the event of non-payment action is taken to recover the 'charge' as a debt through the civil law process.

3.2 Differential Charges

Differential parking penalties were introduced in March 2008 through the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007.¹¹ Differential parking penalties are compulsory, not optional or adoptive and each Local Authority implemented the changes on the same day.

The higher penalty charge applies to contraventions associated with prohibited parking. The contraventions to which the lower level applies are defined where there is 'permitted parking for that class of vehicle'. The penalties range from £25 (if paid within 21 days) - £50 in the lower band to £35 (if paid within 21 days) - £70 in the higher band.

Examples of higher level contraventions:

- Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force;
- Parked in a restricted street during prescribed hours;
- Parked in an electric vehicles' charging place during restricted hours without charging;
- Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner.

Examples of lower level contraventions:

- Parked at an out-of-order meter during controlled hours;
- Parked after the expiry of paid for time;
- Parked without payment of the parking charge;
- Not parked correctly within the markings of the bay or space.¹²

All the contraventions are listed in 2007 Order.¹³

3.3 Enforcement Protocol

Parking Enforcement Protocol describes what is provided for, and expected of, both CEO and road users in terms of parking, ensuring that parking policy is clear and consistent. It will also give a clear indication of what will happen when contraventions to the guidelines take place. The DfT statutory guidance on parking enforcement s requires local authorities *"to publish and promote their [parking policies] openly"*:

¹¹ The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 [online] available from: <http://nia1.me/125>

¹² Ibid.

¹³ Ibid.

It is important that the public understand why an authority has introduced CPE and what parking restrictions are in place. Motorists and other road users need to be aware that parking enforcement is about supporting wider transport objectives, in particular keeping traffic moving, rather than raising revenue.

It is also important that motorists and other road users understand the details of the scheme. Unclear restrictions, or restrictions that do not comply with regulations or with the Secretary of State's Guidance, will confuse people and ultimately undermine the operation and enforcement of the scheme overall.¹⁴

3.3.1 Protocol Content

The guidelines are not overly prescriptive and therefore there is significant variation in both the content and detail of protocols and how they are presented. However, there are commonalities among the many protocols with many containing the following details:

- What the Legislation means for them
- The role of CEO
 - What they can/cannot do
 - Procedural/behavioural standards
 - Other duties
 - Training
 - Performance management
- What constitutes a parking place
- The process of issuing a penalty charge notice (PCN)
- How to challenge a penalty charge notice
- PCN charges
 - Details of differential charging
- Clamping and removal
 - Details of authorities policy with regards clamping
 - Details of charges for removal of wheel clamp
- Explanation of all or selected (common) contraventions e.g. yellow lines; controlled parking zones; loading unloading zones; and disabled parking zones. In a number of cases this explanation is accompanied by a graphic as demonstrated in figures 1 thru 3:

¹⁴ DfT (2008) Traffic Management Act 2004: The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions [online] available from: <http://nia1.me/124>

Figure 1: Disabled Bay Graphic and Advice

Code 40 – Parked in a designated disabled person’s parking place without displaying a valid disabled persons’ badge in the prescribed manner.

PCN Charge Level – Higher



Description – The contravention occurs when a vehicle waits in a disabled person’s parking place without displaying a valid disabled person’s parking badge and/or clock. Only valid blue badge holders may park in a disabled person’s space.

Source: Parking Service Enforcement Protocol Camden

Figure 2: Loading restriction graphic and advice

Loading Restrictions are shown by yellow lines on the kerb or at the edge of the carriageway. They indicate that loading or unloading is prohibited during the times shown on the adjacent signs. Double yellow lines on the kerb means no loading or unloading at any time.



Source: East Riding of Yorkshire Civil Parking Enforcement Procedures

Figure 3: Contravention 23 - Parked in a parking place or area not designated or that class of vehicle



Description:
Parked in a parking place or area not designated for that class of vehicle

Observation Time:
3 min

Observation:
• None

Exceptions:
• Emergency services vehicles (police, fire, ambulance etc.)
• Vehicles carrying out statutory work (water, gas, electricity etc.).

Source: Hounslow Parking and Traffic Enforcement Protocol

Charge (£):
110

- Most documents also contain tables detailing all the (99) contravention codes; a description of the contravention; the discretionary period i.e. the observation time of the CEO before issuing a PCN; and the level of penalty. Figure 4 shows an example taken from Northamptonshire County Council's parking Protocol:

Figure 4: Example of table from parking protocol detailing code, contravention, observation time and penalty charge.

Code	Contravention	Observation Times	Penalty Charge
01	Parked in a restricted street during prescribed hours	5 minutes	£70
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	0 minutes	£70
05	Parked after the expiry of paid for time at a pay & display** bay	5 minutes	£50
06	Parked without clearly displaying a valid pay & display ticket**	5 minutes	£50
07	Parked with payment made to extend the stay beyond initial time ("meter-feeding")	0 minutes	£50
12	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and display ticket issued for that place.	5 minutes	£70

- Parking protocols generally contain details of Exemptions, Dispensations & Suspensions