

The Highland Council

Community Service

6 November 2014

Agenda Item	14
Report No	COM 40/14

Decriminalised Parking Enforcement

Report by Director of Community Services

Summary

This report updates the Committee on the work which has been undertaken to construct a decriminalised parking enforcement model (financial) for The Highlands; describes the service delivery options which have been considered; and recommends a preferred delivery option that will ensure the new service is cost neutral to The Highland Council.

1. Background

- 1.1 Since 1997, any Scottish Local Authority may apply to decriminalise certain parking offences within their area and includes enforcement of on-street parking as well as waiting and loading restrictions. An Authority which operates a Decriminalised Parking Enforcement (DPE) regime employs parking attendants who place Penalty Charge Notices (PCNs) on vehicles parked in contravention of Traffic Regulation Orders (TROs). Under DPE, penalty charges are civil debts due to the Local Authority, rather than the former system where they would be criminal offences.
- 1.2 In order for a Local Authority to request the enforcement powers from Police Scotland, an application has to be made to Transport Scotland (TS) which will include a financial business case on how the scheme will be operated. Historically, Transport Scotland has required that any proposal is financially self-sustaining, i.e. makes enough money to pay for itself on an annual basis.
- 1.3 The consequence of not implementing DPE, and the potential traffic chaos which has been reported in some media quarters, is unlikely to materialise immediately. As some members of the public become aware that no enforcement is occurring, general abuse of parking, and the associated problems it brings in terms of congestion and lack of accessibility to our towns and City, would grow.
- 1.4 There is anecdotal evidence which suggests that exploitation of parking enforcement, and the lack thereof, has already started occurring in locations such as Inverness, Fort William, Dingwall, and Wick. Verbal reports to officers have included cars parking on footpaths, abuse of disabled, loading, and coach bays respectively.

- 1.5 A report was brought to the August 2014 Community Services Committee (link below) which gave the background into DPE and the reasons why The Highland Council are now pursuing these powers.

http://www.highland.gov.uk/download/meetings/id/66273/item_15_decriminalised_parking_enforcement

- 1.6 The August 2014 Committee agreed that options for DPE, informed by the business case, are presented along with a recommendation by officers for a preferred service delivery mechanism. Options have now been considered and are presented below.

2. Business Case

- 2.1 A study by RTA Associates Ltd was commissioned by The Highland Council to investigate the feasibility of creating a Special Parking Area (SPA) across the whole of the Council's administrative area, and the resulting financial viability of such a step. A SPA is an area in which parking offences are decriminalised, using the powers of the Road Traffic Act 1991. Within a SPA, the responsibility for the enforcement of virtually all parking passes from the Police to the Road Authority. The income from the parking tickets issued is retained by the Road Authority, to be used to fund the scheme, with on-street surpluses being ring-fenced under Section 55 of the Road Traffic Regulation Act 1984 for parking, public transport and road management. Highland Council would be responsible for all of these matters directly. The issue to be investigated was whether or not this is a viable power to be acquired, and the implications of doing so were the Council to decide to proceed.
- 2.2 The general conclusion is that adopting DPE and the creation of a Special Parking Area within the Council can be operationally desirable but would need substantial financial input to cover set up costs. The 5 year business plan uses the nationally set PCN level of £60 reduced to £30 if paid within 14 days.
- 2.3 DPE is in line with Government policies for restraint over the growth of traffic in urban areas, and it complements other Government measures such as the encouragement of the use of public transport, the restraint of commuter-based parking and the consideration of workplace charging. In a "carrot and stick" approach, better parking enforcement is an effective deterrent to the growth in traffic. Decriminalisation of parking enforcement will help the Council towards these objectives.
- 2.4 If the Council were to adopt DPE, it would then be in a position to enforce both on and off-street parking in a coordinated and comprehensive manner which for the first time, would provide a single policy and responsibility for the control of public car parking in Highland.
- 2.5 Police Scotland has indicated that they will support the principle of a SPA which covers the whole of the Council's area, and that they will cooperate with the handover of the powers in an agreed manner. Their support is paramount

to the success of an Application to the Scottish Government for DPE powers. The Police Scotland Traffic Warden force in Highland is now down to two wardens enforcing on street parking, part paid for by Highland Council.

- 2.6 To acquire the DPE powers, the Council will have to formally apply to the Scottish Government for a Designation Order which decriminalises parking enforcement across the whole of Highland. From the date set in this Order, the Police will be unable to enforce the majority of parking related offences, and the Council must be ready to undertake these responsibilities. This application process is estimated to take around 8 to 9 months to complete.
- 2.7 The timescale for implementation of DPE is however likely to be driven by remedial works to Traffic Regulation Orders and the associated signing and lining works on street. A target date of April 2016 has been set, and while this is ambitious, RTA believes this to be a realistic target based upon their experiences with other Local Authorities.
- 2.8 The full RTA feasibility study is available via the following web link:-

http://www.highland.gov.uk/downloads/file/12060/draft_feasibility_study_october_2014

3. Traffic Regulation Orders (Signing & Lining)

- 3.1 One of the most important aspects of DPE is the Traffic Regulation Orders and whether these are legally enforceable. This is particularly important as penalty notices issued where orders are incorrect, or associated signing and lining does not accurately reflect the order, can be successfully appealed. Successful appeals result in no revenue and an added cost to the Council for processing the appeal.
- 3.2 Appeals raised against PCNs are decided by an independent adjudicator. Outstanding debts are dealt with by the Council's existing debt recovery system. As part of the DPE process the Council must participate in an independent appeals mechanism, known as the Scottish Parking Appeals Service (SPAS).
- 3.3 The Scottish Government requires to see evidence within the Application that a review has been carried out on the TROs. This has to review and remedy the accuracy of the implementation of the TROs on the ground in the first place, but also should review the appropriateness of the TROs. This would include ensuring that TROs which were implemented as part of historical developments are still appropriate if those developments no longer exist.
- 3.4 The DPE debt pursuit process is quite different from the current criminal system; adjudicators taking appeals will routinely require detailed presentations of the TROs which apply at a location. They therefore must have some form of accessible extract of the relevant TRO. The easiest way to do this is by using a GIS database, and for appeals staff to be able to prepare a relevant extract map, and details of the Order, and enclose these with the

adjudicator case file. In reality, it is the accuracy check which is absolutely paramount prior to commencement of DPE in an area. Enforcing inaccurate TROs will run the risk of being identified by adjudicators, and they will not hesitate to accept such appeals. They have also been known to criticise Council's heavily where TROs are considered to be in such a state that enforcement in general, is questionable.

- 3.5 The appropriateness check can be carried out up to and after the start of the enforcement, and in effect, this is the on-going TRO maintenance work which should occur in any event.
- 3.6 RTA Associates Ltd have undertaken a sample survey of Inverness, which covered the majority of the City Centre, in order to refine the costs within the financial model for remedial works before DPE is implemented, as well as estimate realistic timescales to undertake the remedial works. A large number of queries were raised as part of the exercise which covered aspects such as wear and tear of existing signs and lines, as well as their appropriateness when considered against the requirements of the Traffic Signs Regulations and General Directions (TRSGD) guidance. This is discussed in further detail within Section 4.

4. Financial Model

- 4.1 A detailed financial base model was created for the purposes of carrying out a financial assessment of the costs involved in setting up and running DPE. This model also allowed the officers and the consultants to test a range of possible outcomes for the project, and to arrive at conclusions regarding the range of circumstances which would result in financial viability.
- 4.2 The project included the direct costs and income of the increased enforcement associated with decriminalisation; it also included in the financial assessment, the predicted impact of certain indirect consequences of DPE. Five variations were tested for the base model, utilising all services in-house and then by comparison using an external processing service provider and then varying the level and number of PCNs.
- 4.3 The level of enforcement required was estimated by gathering all existing Traffic Regulation Orders and predicting how many penalty notices this would equate to for differing types of restrictions. For example, a vehicle causing a safety problem by obstruction in a clearway area could be ticketed immediately, and therefore a parking attendant can cover a significant area and the number of potential tickets increase. Whereas for a TRO that has time restricted limit of say one hour, the Parking Attendant would return to retrace the same area, and therefore the number of potential tickets issued would be less.
- 4.4 To address the major change in responsibilities arising from decriminalisation, the model indicates a requirement for 13 full time equivalent Parking Attendants. Using the predicted deployed hours on enforcement and allowing extra time for travel this equates to 0.67 PCNs issued per deployed hour on

street and 1.0 PCNs per deployed hour off street. In perspective, on average, a 7.5 hour shift would generate 5 PCNs per PA. If the PAs are deployed where they are likely to be most effective in minimising traffic congestion then this figure is achievable under the current restrictions.

4.5 A number of scenarios have been considered and are summarised below:

- The base model considers that DPE will be an entirely new setup with 100% new resourcing.
- Option 1a expands upon the base model, considering that the resourcing will be a shared function, i.e. Community Wardens
- Option 1b considers that resourcing will be primarily from existing off street Parking Attendants, with 8 of the existing 9 staff taken across to perform an on-street and off-street Parking Attendant role.
- Option 1c is the same as Option 1b, with the back office functions outsourced.
- Option 1d is a sensitivity test of Option 1c with 10% additional PCNs issued
- Option 1e is a sensitivity test of Option 1c with 10% fewer PCNs issued

The financial results of these scenarios are summarised in Table 1 below.

Table 1 – DPE Financial Results				
Model Version	Years to cumulative surplus	Annual surplus/ (deficit) in year 5 £0,000's	(Set up Costs) pre-commencement including capital £0,000's	(Deficit) after 5 years, including capital £0,000's
Base	never	(222)	(546)	(1580)
1a	never	(1078)	(738)	(5809)
1b	12	47	(486)	(251)
1c	14	45	(443)	(217)
1d	8	61	(443)	(142)
1e	never	29	(442)	(292)

4.6 Base: It can be seen that attempting to resource DPE as an entirely new setup with new staff and associated equipment results in a significant loss in the first 5-year period, almost £1.6 million.

4.7 Option 1a: When combining the role of the Parking Attendants with a Community Warden role, it can be seen the loss increases to almost £5.8 million in the first 5-year period. RTA Consultants Ltd have explained the reasoning for this as follows:

Use of dual role Community Wardens to issue parking tickets is preferred by some Authorities. However the financial impact of this is such that the business case for DPE is unsustainable. Studies elsewhere have shown that Community Wardens typically issue 1 environmental ticket for every 20 PCNs.

The issue rate of environmental tickets would be 1.5 per week per Warden. The issue rate for parking tickets is estimated to be 26 per week per Parking Attendant. The parking tickets have a simplified administrative process as they are civil parking contraventions and are dealt with outside the legal framework. Environmental tickets are criminal and as such are pursued under the court framework and costing far more to administer per ticket. Average cost of administration per PCN is £5.50 each. Dealing with the environmental tickets takes on average 5 hours to write up and administer against a PCN that takes on average 10 minutes to administer and 2 minutes to issue. Unless a separate budget is provided that covers the increased deficit on the parking budget that Community Wardens would impose, it is strongly recommended that the dual role is not pursued and that Parking Attendants stick solely to parking enforcement duties.

- 4.8 Option 1b: Utilising existing staff resources, namely 8 of the existing 9 off street car Parking Attendants, would result in the model becoming more financially viable with the loss after 5-years reducing to a quarter of a million pounds. It should however be borne in mind that a substantial amount of the start-up costs are for remedial work to signing and lining, and therefore in the longer term, this option could be sustainable.
- 4.9 Option 1c: A further variation on this option would be to outsource the back office functions to another Local Authority. Utilising an external notice processing service based on an agreed levy per PCN will give stability to the accounts and assist in budget profiles for the service. A recommended way forward is that a minimum number of annual PCNs is agreed and then this levy is paid as a minimum to the provider with extra PCNs paid pro rata over and above the agreed minimum number. This shares the risk between the respective Local Authorities.
- 4.10 Adopting a £5.50 PCN levy and the use of an external notice processing centre will improve the model by £34,000 over the 5 year period with a reduction in set up costs of £43,000 providing the bulk of the initial savings. This will give a more flexible approach to deal with fluctuations in the number of PCNs over the life of the project.
- 4.11 Options 1d & 1e: These are sensitivity tests which demonstrate the impact a 10% variation could have on Option 1c, both positive and negative.
- 4.12 It is recommended that Option 1c is taken forward as the preferred delivery mechanism for the major urban areas where congestion currently exists, namely Inverness and Fort William.
- 4.13 While the consultant has explained the potential pitfalls of combining a Parking Attendant service with a Community Warden service, it is considered that many areas within The Highlands, and the low levels of PCNs which could be expected therein, would not warrant a full-time Parking Attendant service. Outwith Inverness and Fort William it is therefore considered that this option is still taken forward, with Wardens only adopting Parking Attendant duties when local circumstances dictate.

- 4.14 It is also considered prudent that the Parking Attendant service is scaled up gradually to the 13 Parking Attendants the model predicts, whereby the service can continually be reassessed and the needs of The Highlands met. The total start-up costs are likely to be in the region of £450,000 with the preferred Option 1c and it should be noted that the service would be predicted to initially make a loss in the first couple of years of operation before becoming financially stable.

5. Summary

- 5.1 Car parking provision and its management and enforcement is vital to the traffic movement and quality of life in our towns and city. It directly affects the businesses, residences, and retailers located therein and hence the overall economy of The Highlands.
- 5.2 The introduction of DPE can be financially sustainable but it will require funding from other sources to provide the set up costs. The main set up cost is the review and making good of the TROs at an estimate of £286,000. The total start-up costs are likely to be in the region of £450,000 for the preferred service delivery Option 1c.
- 5.3 The preferred Option 1c delivery entails utilising existing off-street Parking Attendants to perform an on-street Parking Attendant function. It also utilises the back office processing of another Local Authority currently undertaking DPE which would reduce the processing costs of PCNs for both parties.

6. Implications

- 6.1 Support from various services will be required for DPE implementation, including Legal and Human Resources. There is a significant TRO mapping exercise required, and the delivery mechanism for this is currently being explored but is likely to comprise a combination of external consultants through a formal procurement process, and existing Highland Council staff.
- 6.2 Due to the preferred service delivery option requiring existing staff to undertake the enforcement duties, consultation and agreement will be required with Unions and the respective staff members. There will also be consultation and agreement required with Police Scotland on the possibility of the two existing Traffic Wardens within their service being TUPE'd across to the new Council service.
- 6.3 The implementation of DPE will aid with the traffic management of towns and Inverness City, reducing potential congestion and the associated emissions. Should DPE be taken forward therefore, benefits would be seen to the environment and aid with the Council's CARBON CLEVER programme.
- 6.4 There are no known equalities implications as a result of this report.
- 6.5 Rural implications have been discussed in the report and option 1c reflects a

balanced approach to rural parking needs

Recommendation

The Committee is invited to:

- (i) note the service delivery options which have been appraised; and
- (ii) agree the preferred service delivery option (Option 1c) to be taken forward with a view to implementation in 2016 (subject to a DPE application to Transport Scotland).

Designation: Director of Community Services

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