

Explanatory Memorandum to The Civil Enforcement of Parking Contraventions (County Borough and City of Newport) Designation Order 2019

This Explanatory Memorandum has been prepared by the Department for Economic Infrastructure and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Civil Enforcement of Parking Contraventions (County Borough and City of Newport) Designation Order 2019. I am satisfied that the benefits outweigh any costs.

Ken Skates
Minister for Economy and Transport
6 June 2019

1. Description

The Order will enable Newport City Council (“the Council”) to enforce civil parking restrictions within the County Borough and City. It will apply to all public highways except those listed in Annex A below. Non-endorsable offences, such as parking on double yellow lines, would become civil enforcement matters for the local authority as opposed to being enforced by the Police as criminal offences. The enforcement duty would in practice pass from Gwent Police to the Council and from traffic wardens to civil enforcement officers (“CEOs”) employed by the Council.

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

None.

3. Legislative Background

The powers enabling this Instrument to be made are under paragraph 8(1) of Schedule 8 and paragraph 3(1) of Schedule 10, to the Traffic Management Act 2004 (the “Act”). This gives a local authority the power to enforce parking restrictions within their area under a civil regime set out in the Act. This power has been vested with the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This instrument follows the negative procedure.

4. Purpose and intended effect of the legislation

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

The Council have stated that it has no immediate plans to apply for powers for moving traffic contraventions or bus lane enforcement.

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

This Instrument has a coming into force date of 1 July 2019 as requested by the Council. The self-financing nature of this scheme should mean that the Council can devote more resources to parking enforcement than the Gwent Police, who, with their many other more pressing duties, have often been unable to do so. Better enforcement reduces congestion caused by drivers searching for on-street parking places, and results in better turnover of on-street spaces, as drivers become less willing to overstay as the risk of getting a ticket increases. In addition, greater enforcement of on-street parking restrictions should lead to increased usage of paid parking spaces, particularly off-street.

Unlike the clamping of vehicles in private car parks, clamping in relation to the civil enforcement of parking is regulated under the Act. The immobilisation of vehicles must adhere to The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 (SI 2013 No. 362) and The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013 (SI 2013 No. 1969), which define when and how an immobilisation device may be fixed to a vehicle, and the charge payable for its release.

Enforcement will be carried out by CEOs. The Council can directly employ these CEOs or they can be an employee of a contractor appointed to undertake such activity. It is a matter for the Council to decide whether civil enforcement operations are undertaken by employees of the Council or by authorised staff of contractors. Either way the requirements of the above Regulations must equally be met in each case. The Council have confirmed that they will undertake civil enforcement operations themselves but in order to reduce costs associated with the administration of civil parking enforcement, the Council intends to partner with Rhondda Cynon Taf County Borough Council ("RCTCBC") to produce the necessary forms, notices, letters, etc.

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

5. Consultation

The Council consulted with all the relevant stakeholders in July 2018. A list of the consultees and responses is at Annex B. Full details of the consultation are included in paragraph 8 of the Regulatory Impact Assessment.

REGULATORY IMPACT ASSESSMENT

6. Options

Option 1: Do Nothing. If the legislation were not made the Council would be unable to implement the power to enforce civil parking restrictions in 2019. The Council has requested these powers with the full support of the Gwent Police. Their introduction will relieve the Gwent Police from these duties thus freeing up valuable Police time and resources to tackle other criminal activities. There could be criticism for using Police resources for parking offences when they could be better utilised dealing with other criminal activities.

Option 2: Implement the provisions with effect from 1 July 2019. Making the legislation would allow the Council to implement the power to enforce civil parking restrictions thereby freeing up the Police to deal with other criminal matters. Full consultation as described below has been carried out to ensure that no specific group will be discriminated against by the legislation.

7. Costs and benefits

a) Costs

Option 1 – Do Nothing.

If the provisions are not implemented the costs will remain with Gwent Police who, due to more pressing duties, will be unable to devote sufficient resources to tackle the identified contraventions that the Council could if taking over these powers. Gwent Police advised the Council that their traffic warden service would be withdrawn as from 30 June 2019 meaning there would be little if any on-street enforcement taking place.

Option 2 – Implement the provisions from 1 July 2019.

There are no financial implications for the Welsh Government or other local authorities in providing a local authority with civil enforcement of parking contravention powers

The costs of the scheme will be borne by the Council in collaboration with RCTCBC. The Council has expressed confidence that the full

financial impact of operating civil enforcement of parking as a whole has been considered and accounted for in their budget setting process. The forecasted operational cost of civil enforcement takes account of the estimated revenue raised from the issuing of Penalty Charge Notices. The Council has provided funding to cover the start up costs of the scheme. A full 5 year projected financial assessment by the Council can be found at Annex C.

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

b) Benefits

We have identified the benefits for each option as follows:

Option 1 – Do Nothing.

There are no benefits.

Option 2 – Implement the provisions from 1 July 2019.

The current need for parking, particularly within town centre areas is placing significant pressure on some on and off street parking areas. The Council recognises that it is important to improve the enforcement of parking in town centres and to improve the current operation of the network by removing illegal parking on-street to allow free-flow of traffic through towns.

The Council state that the successful acquisition of civil parking enforcement powers has the capacity to directly improve the social, economic and environmental well-being of the residents and visitors to the City and County Borough and contribute to the Council's Well-being Objectives and Well-being Goals by (amongst other things) the following impacts -

- Promote the expeditious movement of traffic and as such have a positive impact on traffic congestion reduction;
- Reduction of costs to business, residents and visitors to the city associated with travel congestion and parking contraventions;
- Reduced carbon emissions through reduction in congestion and expeditious movement of traffic through our Air Quality Management Areas;

- Promote active travel (walking and cycling) throughout the City;
- Promote highway safety;
- Promote well connected communities through reduced vehicular obstruction and inconsiderate parking;
- Defuse community frustration at the current levels of contraventions that are not being addressed due to the Police withdrawing from parking enforcement;
- Capacity to be able to deploy reactive enforcement officers to black spots that are known to create community tension i.e. outside schools and resident parking areas;
- Delivering new employment opportunities with the City; and
- Promoting well connected communities through reduced vehicular obstruction and inconsiderate parking.

8. Consultation

In accordance with the relevant guidelines, before submitting their application the Council consulted with all the relevant stakeholders in July 2018. A list of the consultees and responses is at Annex B. In addition to local councils the consultees included bus operators and motoring organisations. The Council is committed to fully informing the public of the proposed changes to the parking enforcement and they will be launching a comprehensive publicity programme prior to the proposed commencement date. This will include the use of their website, press releases and a general distribution of posters and leaflets.

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

9. Post implementation review

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

10. Summary

The Council, in collaboration with RCTCBC, will bear the costs of the proposals as detailed in the Costs paragraph 7a) above. The powers will enable the Council to adopt a more thorough and visible enforcement of

parking contraventions. By relieving the Gwent Police from such responsibilities this will free up their time to devote themselves to dealing with other criminal activities. The implementation of the Order is consistent with applications made by 19 other local authorities in Wales who have already achieved such powers.

ANNEX A

This Order applies to the County Borough and City of Newport with the exception of —

- (a) the length of the M4 Motorway within the County Borough and City, from the boundary with the City and County of Cardiff to the boundary with the County of Monmouthshire, including its exit and entry slip roads;
- (b) the length of the A48 Motorway within the County Borough and City, from the boundary with the City and County of Cardiff to the junction with the M4 Motorway;
- (c) the length of the A449 Trunk Road within the County Borough and City, from the junction with the M4 Motorway to the boundary with the County of Monmouthshire; and
- (d) the length of the A4042 Trunk Road within the County Borough and City, from the junction with the M4 Motorway to the boundary with the County Borough of Torfaen.

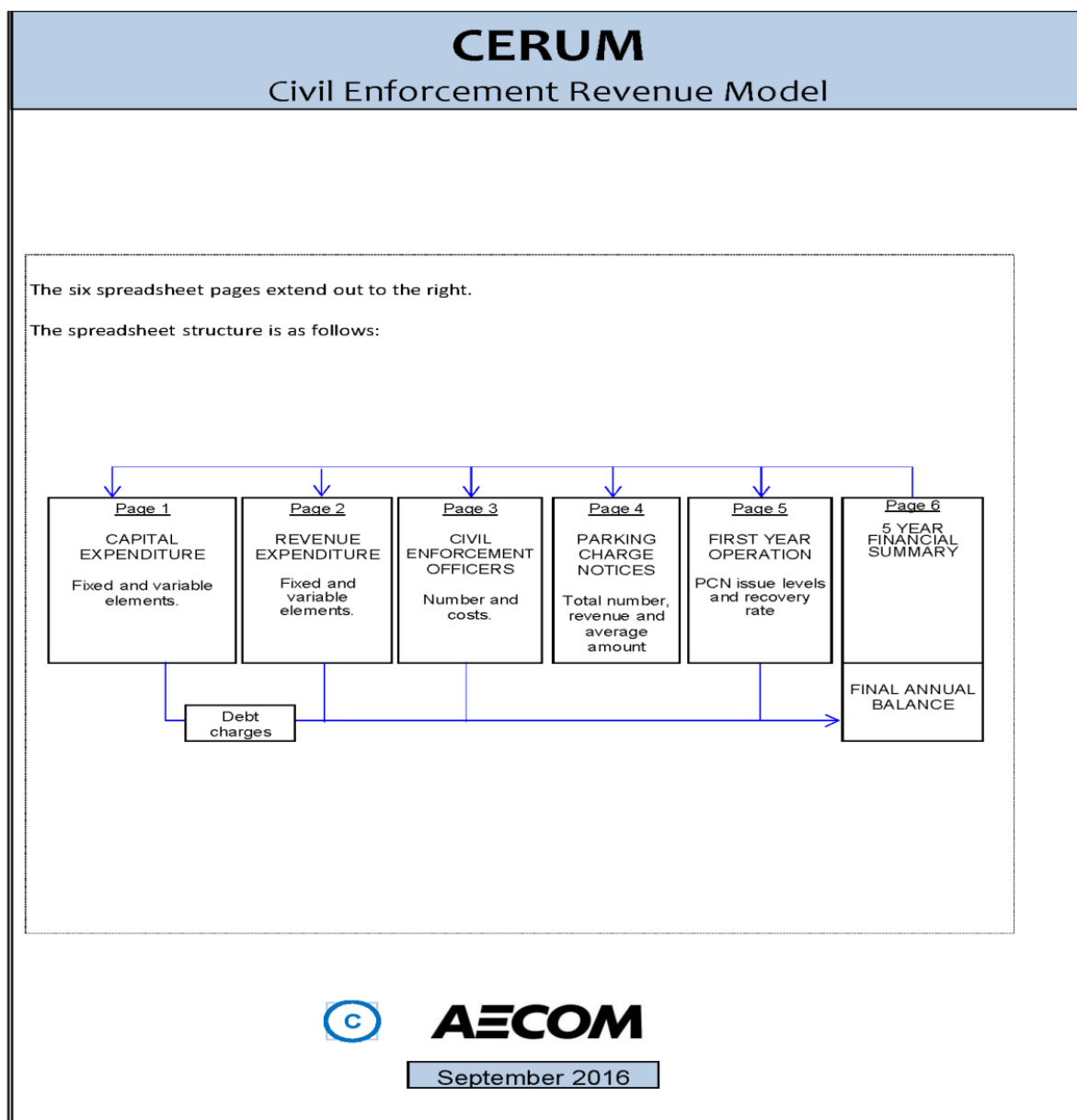
ANNEX B

SCHEDULE OF CONSULTATION

Organisation	Response
The AA	No response
Caerphilly County Borough Council	Supported
Cardiff Bus	No response
Cardiff Council	Supported
DVLA Swansea	No response
First Group	No response
Freight Transport Association	No response
Gwent Police	No response
Ministry of Defence	No comments
Monmouthshire County Council	No response
New Adventure Travel	No response
Newport Transport	No response
Phil Anslow Coaches	No response
Road Haulage Association	No response
The Royal Automobile Club	No response
South Welsh Ambulance Service	No response
South Wales Fire & Rescue Service	No response
Stagecoach	Comments

Sustrans Cymru	No response
Torfaen County Borough Council	No response
Traffic Enforcement Centre (TEC)	No response
Traffic Penalty Tribunal (TPT)	No response
Welsh Government	No comments

ANNEX C Financial Assessment



CAPITAL EXPENDITURE**CPE Implementation:**

	number	unit cost	
Financial Assessment			30,000
Business Application			20,000
Survey of Restrictions			150,000
Procurement			15,000
Recruitment	13	336	4368
Training	13	560	7280
Public consultation and Publicity			20,000
Order making including statutory advertisements			100,000
Total			346,648

Office Costs:

	number	unit cost	
Parking Services Office cost			0
Parking Enforcement Mess cost			0
Notice processing software			0
Notice processing hardware			0
Office furniture	6	560	3360
Office computer equipment and software	6	1120	6720
Office communication equipment			1,500
HHCTs (including printers)	15	1200	18000
Uniforms	15	1000	15000
Total			44,580

Physical Works:

Sign maintenance (on-street)	796955
Line maintenance (on-street)	148021
Car Park upgrading	50000
P&D Machines	0
New car parks and pound	0
Total	994,976

Employment costs:

	Number	Utilisation	Wages + OH	
Parking Manager	0	0	0	0
Assistant Manager	0	0	0	0
(cost of employing managers as part of implementation)				
Total				0

Total Setup Costs	£1,386,204
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REVENUE EXPENDITURE**Scheme Management:**

	Number	Utilisation %	Wages + OH	£/annum
Parking Manager	1	30	42462	12738.6
Assistant Manager	1	100	33970	33970
Senior Parking Officer	0	100	28308	0
Parking Officer	0	100	20382	0
Parking restrictions Officer	1	100	20382	20382
Administration Staff	1	100	16985	16985
Principal CEO	0	100	29539	0
Senior CEO	2	50	25600	25600
Total				£109,676

Support services:

Traffic Engineers	0	0	0	0
Legal	0	0	0	0
Total				£0

Office Costs:

	number	unit cost	
Parking Services Office cost	4	1950	7800
Parking Enforcement Mess cost	11	975	10725
Notice processing	13,895	6.75	93789.54
Office furniture	0	65	0
Office computer equipment and software	0	130	0
HHCTs (including printers)	2	1200	2400
Uniforms	4	1000	4000
Recruitment	4	336	1344
Training	4	560	2240
traffic orders			0
Public consultation and Publicity			0
Total			122,299

Physical Works:

Sign maintenance (on-street)	10000
Line maintenance (on-street)	10000
Total	20,000

Other services

	number	unit cost	
vehicle lease	2	1680	3360
vehicle operation	2	2240	4480
Total			7,840

PCN costs

PCN stationery	500
Adjudication Service (for numbers assume 1% of PCNs issued) =	8500
DVLA reg. owner tracing charges (for numbers assume 40% of PCNs issued) =	0
Unexecuted bailiff actions (for numbers assume 7.5% of PCNs issued) =	0
Total	9,000

Total Yearly cost **£268,814**

Civil Enforcement Officers

	Central Gen	Central RPZ	Outer Gen	Outer RPZ	Rural
Kerb length in km	28.5	9.8	123.0	14.8	0.0

Patrols each weekday	3	2	1	1	0
Total	428	98	615	74	0

Patrols at weekend	3	1	1	1	0
Total	86	10	123	15	0

Total km to cover	26,676	5,606	38,376	4,618	0
Total	75,275.2				

Km covered in 1 hour	3	3	5	5	10
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Total deployed hours	8,892	1,869	7,675	924	0
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Number of hours per CEO per annum (7 hours deployed x 220 days)	1540				
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	Central Gen	Central RPZ	Outer Gen	Outer RPZ	Rural
CEOs per annum	5.8	1.2	5.0	0.6	0.0
Total	12.6				

Wages + Overheads of a Parking Attendant	20382				
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Parking Attendants					
Wages and Overheads	£117,686	£24,730	£101,582	£12,223	£0
Total	£256,221				

Parking Charge Notice Data

	Central Gen	Central RPZ	Outer Gen	Outer RPZ	Rural
Total deployed hours	8,892	1,869	7,675	924	0
	Total				19,359

PCNs per CEO/annum	8892	934	3838	231	0
PCN issue per hour	1.00	0.50	0.50	0.25	0.25

PCNs issued	8,892	934	3,838	231	0
	Total				13,895

	Charge Rate % split	
	Low Band	High Band
Central General	40%	60%
Central RPZ	30%	70%
Outer General	30%	70%
Outer RPZ	20%	80%
Rural	10%	90%

Recovery Rate % 70.0

PCN income

Charge Rate (£)	Higher Rate	
	50	70
Central General	£124,488	£261,425
Central RPZ	£9,810	£32,045
Outer General	£40,295	£131,630
Outer RPZ	£1,616	£9,050
Rural	£0	£0
Sub total	£176,209	£434,150
Total Parking PCNs	£610,359	
Per Parking PCN	£43.93	
Bus Lanes PCNs	£0	
Total PCN income	£610,359	

First Year Operation

	Central Gen	Central RPZ	Outer Gen	Outer RPZ	Rural
PCNs issued	8,892	934	3,838	231	0
	Total				13,895

PCN Recovery Rate for Year 1

First year	%	PCN rate (£)	revenue
Paid at reduced rate	79.12%	30	23.736
Paid at full rate	9.76%	60	5.856
Paid at CC	2.70%	90	2.43
Paid with court costs	0.86%	90	0.774
Paid with bailiff	0.00%	0	0
Written off	7.55%	0	0
Total	99.99%		32.796

% payments made	14 Days	28 days	56 Days	90 days	total
Month 1	77.00%	27.00%	0.00%	0.00%	71.11%
Month 2	100.00%	100.00%	57.00%	0.00%	97.97%
Month 3	100.00%	100.00%	100.00%	50.00%	99.56%
Month 4	100.00%	100.00%	100.00%	100.00%	99.99%
Month 5	100.00%	100.00%	100.00%	100.00%	99.99%
Month 6	100.00%	100.00%	100.00%	100.00%	99.99%
Month 7	100.00%	100.00%	100.00%	100.00%	99.99%
Month 8	100.00%	100.00%	100.00%	100.00%	99.99%
Month 9	100.00%	100.00%	100.00%	100.00%	99.99%
Month 10	100.00%	100.00%	100.00%	100.00%	99.99%
Month 11	100.00%	100.00%	100.00%	100.00%	99.99%
Month 12	100.00%	100.00%	100.00%	100.00%	99.99%

PCN Issue Rate for Year 1

Month 1 = 50% issue for training

increase in issue of 5% per month for first 6 months

Month	PCN issue	% recovered	Higher Rate
1	578.95	71.11%	£18,083.82
2	868.42	97.97%	£37,372.67
3	926.32	99.56%	£40,511.57
4	984.21	99.99%	£43,229.44
5	1042.11	99.99%	£45,772.35
6	1100.00	99.99%	£48,315.26
7	1157.90	99.99%	£50,858.17
8	1157.90	99.99%	£50,858.17
9	1157.90	99.99%	£50,858.17
10	1157.90	99.99%	£50,858.17
11	1157.90	99.99%	£50,858.17
12	1157.90	99.99%	£50,858.17
Year 1 total	12447.38		£538,434.14

Annual Financial Summary

		Year 1	
Element	Cost	Higher	
Interest @2.35% p.a plus fixed repayment	63,038		
Operational Costs (per annum)	238,830		
CEO Cost	256,221		
Income		538,434	
Surplus		-19,655	
		Year 2	
Element	Cost	Higher	
Interest @2.35% p.a plus fixed repayment	63,038		
Operational Costs (per annum)	268,814		
CEO Cost	256,221		
Income		610,359	
Surplus		22,286	
		Year 3	
Element	Cost	Higher	
Interest @2.35% p.a plus fixed repayment	63,038		
Operational Costs (per annum)	268,814		
CEO Cost	256,221		
Income		610,359	
Surplus		22,286	
		Year 4	
Element	Cost	Higher	
Interest @2.35% p.a plus fixed repayment	63,038		
Operational Costs (per annum)	268,814		
CEO Cost	256,221		
Income		610,359	
Surplus		22,286	
		Year 5	
Element	Cost	Higher	
Interest @2.35% p.a plus fixed repayment	63,038		
Operational Costs (per annum)	268,814		
CEO Cost	256,221		
Income		610,359	
Surplus		22,286	

Total Revenue year on year

	Higher
Year 1	-£19,655
Year 2	£22,286
Year 3	£22,286
Year 4	£22,286
Year 5	£22,286