

Explanatory Memorandum to The Civil Enforcement of Parking Contraventions) (City and County of Swansea) Designation Order 2008

This Explanatory Memorandum has been prepared by Transport Wales and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

(i) **Description**

The Order will enable the City and County of Swansea Council (“the Council”) to enforce civil parking restrictions within the City and County of Swansea. It will apply to all public highways except for the length of the M4 Motorway and its slip roads within the City and County and the A483 Fabian Way from its junction with the A4067 to the Neath Port Talbot County boundary. This means that 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 the South Wales Police to the Council and from traffic wardens to civil enforcement officers employed by the Council.

(ii) **Matters of special interest to the Subordinate Legislation Committee**

None

(iii) **Legislative Background**

The power enabling this Instrument to be made is contained in the Traffic Management Act 2004. 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 transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. The SI will be made under paragraph 8(1) of Schedule 8 and paragraph 3(1) of Schedule 10 to the 2004 Act.

This instrument is to be made using the negative resolution procedure.

(iv) **Purpose and intended effect of the legislation**

Currently in the City and County of Swansea the South Wales Police enforce parking restrictions. This takes time that could be better utilised tackling 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 City and County. 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 £50/70 (discounted to £25/35 for payment within 14 days).

The Council would also be able to immobilise such a vehicle, although it has stated that it has no present intention of exercising this power. Charges may be recovered through civil procedures subject to appeals against penalty charge notices being dealt with by adjudication. The Council will undertake this function, which is currently carried out by the South Wales Police. The M4 Motorway and associated slip roads and the A483 Fabian Way from its junction with the A4067 to the Neath Port Talbot County boundary will be excluded from the Order and this has been agreed with the South Wales Police.

The Council has also requested that Bus Lane Enforcement powers and Moving Contravention powers are included in the Statutory Instrument to allow for future enforcement. These powers will not be exercisable until the Bus Lanes and Moving Contraventions Regulations have been introduced in Wales, the timing of which is uncertain. In view of this the Council has been informed that it is not possible to include such provisions for future enforcement in Bus Lanes and for Moving Contraventions in this Designation Order. When such Regulations are introduced this will enable consideration to be given to granting such powers at that time. The Council is content with this.

(v) **Implementation**

This Instrument has a coming into force date of 1 September 2008. This is in accordance with the wishes of the Council.

(vi) **Consultation**

The Council consulted from April to August 2007. Full details of the consultation are included in paragraph d of the Regulatory Impact Assessment.

Regulatory Impact Assessment

a) Options (for achieving the policy objective – as set out in paragraph (iii) of Part 1 above)

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 2008. The Council has requested these powers with the full support of the Police. Their introduction will relieve the local 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 criminal matters.

Option 2: Implement the provisions with effect from 1st September 2008.

Making the legislation would allow the Council to implement the power to enforce civil parking restrictions thereby freeing up the police to deal with criminal matters. Full consultation as described below will ensure that no specific group will be discriminated against by the legislation.

b) Benefits

We have identified that the benefits for each option are as follows:

Option 1 – Do Nothing

There are no benefits.

Option 2 – Implement the provisions from 1 September 2008

The growth in traffic levels and the limited scope for building new roads mean that traffic engineers must look to make more efficient use of the urban road network. Parking may have to be reduced on heavily used roads. Different types of user, such as buses, increasingly expect preferential treatment and such measures do not work without effective enforcement.

The self-financing nature should mean that the local authority can devote more resources to parking enforcement than the police, with their many other more pressing duties, have often been able to achieve. 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 significant increases in income from paid for parking, particularly off-street.

This is considered to be a rational, logical area where the responsibility for parking enforcement for decriminalised parking can be cleanly and completely handed over from one agency to another.

c) Costs

Option 1 – Do Nothing

If the provisions are not implemented the costs will remain with the South Wales Police.

Option 2 – Implement the provisions from 1 September 2008

The costs of the scheme will be borne by the Council. The scheme is expected to become self-financing during the second year. In assessing its performance against this objective the Council are taking into account costs and revenues from its off-street parking operations. Included as part of the Council's application is a Financial Model of Implementation. This identified their start up expenses and projected expenses/income/capital balance over the first five years of the scheme. The cash-flow summary is as follows:

Capital Start-Up Costs	£0
Operational Start-Up Costs	(£169,237)
Total Start-Up Costs	(£169,237)
Year end balance 1 st year end	(£194,483)
Year end balance 2nd year end	£81,090
Year end balance 3rd year end	£87,646
Year end balance 4th year end	£87,646
Year end balance 5th year end	£87,646

The Council's current on-off street parking operations provide a surplus for reinvestment in parking; highway improvement and public transport schemes and future operations are expected to maintain a surplus. The above figures are based on the assumption that about 21,500 Penalty Charge Notices will be issued in a year. The Council would like to set their penalty charge at £50/£70 (discounted to £25/£35 for payment within 14 days). Drivers receiving a penalty charge notice from a parking attendant 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 (formerly known as the National Parking Adjudication Service) will provide this service.

The financial assessment of the scheme should consider both direct and indirect financial implications. For example, whilst income from restricted parking enforcement may not cover its costs it should increase income from paid on-street and off-street parking.

There are no financial implications for the Assembly Government or other Local Authorities.

d) Consultation

In accordance with the relevant guidelines, before submitting their application, the Council consulted between May and September 2007 and has provided copies of the responses of all relevant stakeholders. There is no requirement to consult with other such groups who have the opportunity to comment on the Council's individual traffic regulation orders before such parking restrictions are/were introduced. However, the Council has also consulted the Swansea Disability Forum, which takes account of disabled people, Swansea Access for Everyone and Business Improvement District Ltd (a group consisting of more than 700 local traders to create a clean, more attractive and more accessible city centre). It has also published articles in the local authority newsletters that are circulated to every home in the County. These describe the proposed changes and seek views from the public on the proposed implementation. This process will continue alongside a wider public information and public relations exercise until the powers are implemented. The effect of this Order will not change those restrictions but will merely transfer their enforcement from the police to the Council to address the issue of parking in contravention of current restrictions. The Stakeholders consulted and their responses are listed in Annex A. The National Parking Adjudication Service (NPAS) (now known as the Traffic Penalty Tribunal (TPT)), the DVLA and Northampton County Court (where the TPT is based) confirmed that the relevant adjudication services will be available and the remaining bodies who responded to the consultation had no objection to the proposal.

On receipt of the Council's application, and in accordance with the relevant legislation, we consulted with the South Wales Police on 2 April 2008 who responded on 14 April 2008 saying that they are supportive of the application. We also consulted with the Administrative Justice and Tribunals Council on 4

August 2008 who responded on 17 April saying they consider the adjudication arrangements satisfactory.

e) Post implementation review

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

f) Summary

The Council will bear the costs of the proposals, which should become self-financing as detailed in the Costs paragraph c) above. The powers will enable the Council to adopt a more thorough and visible enforcement of parking contraventions. By relieving the local Police from such responsibilities this will free up their time to devote themselves to dealing with more criminal activities. The implementation of the Order is consistent with applications made by other local authorities throughout England and Wales who have already acquired such powers.

ANNEX A

THE CITY AND COUNTY OF SWANSEA COUNCIL

SCHEDULE OF CONSULTATION

Welsh Assembly Government	Supportive of the application
South Wales Police	Supportive of the application
Mid and West Wales Fire and Rescue Service	No objection
Welsh Ambulance Service NHS Trust	No objection
DVLA	No objection
Northampton County Court	No objection
NPAS (now Traffic Penalty Tribunal)	No objection
Neath Port Talbot County Borough Council	Initial objection that was subsequently withdrawn.
Carmarthenshire County Council	No objection
SWWITCH	No objection
Swansea Disability Forum	No response to date
Business Improvement District Ltd	No response to date
Swansea Access for Everyone	No response to date