

Brighton & Hove City Council

For general release

Meeting: Overview and Scrutiny Organisation Committee
Date: 23rd February 2004
Report of: Director, Communications and Democratic Services
Subject: Queries re: On-Street Parking
Ward(s) affected: All

1. Purpose of the report

1.1 To report replies to queries on parking from Members following the OSOC meeting on 19th January.

2. Recommendations

2.1 That the report be noted.

3. Information/background

3.1 Councillor Bob Carden raised concerns about on-street parking issues in a letter to OSOC on 19th January (item 54 refers). This was not a formal request for scrutiny but a request for an initial discussion of on-street parking issues, if any, that may have been brought to the attention of other Members of the Committee.

3.2 A range of concerns was brought forward by a number of Members and therefore OSOC agreed to ask for officer information to be provided for the next meeting, 23rd February.

3.3 Section 5 of this report sets out a broad summary of the questions raised with officer information on each.

3.4 Leaflets as follows are being forwarded to OSOC members on:

The Blue Badge Scheme
Guidance Note for Councillors on Lobbying
'I've received a Penalty Charge Notice – What should I do now?'

3.5 General information about the parking scheme is included in section 4.

4. General Information on DPE

4.1 The City Council adopted Decriminalised Parking Enforcement (DPE) in July 2001. The majority of authorities in London have adopted this legislation together with over 100 other local authorities. A further 30 local authorities outside London, including Lewes, plan to introduce a scheme during 2004/5. An additional 26 authorities including Chichester and Worthing are considering a scheme.

4.2 The objective of the DPE is to introduce a local parking enforcement scheme that is controlled by a local authority and not the police. The rules that have been introduced allow for informal challenge of a Penalty Charge Notice and a final consideration of a Penalty Charge Notice by an independent adjudicator. Our cases are heard by the adjudicator locally. The basis of decision and proof is not to the standard of criminal law but on the 'balance of probability.' The whole process for authorities outside London is controlled by the National Parking Adjudication Service, based in Manchester.

4.3 Councillors are asked not to involve themselves in individual cases: Circular 1/95 Guidance on Decriminalised Parking Enforcement outside London paragraph 1.2 states 'There are certain minimum or common standards which the Secretary of State expects all local authorities enforcing decriminalised parking to comply. These sections of the guidance are highlighted in **bold**.

In the subsection headed 'Representations from Motorists' at paragraph 14.21 the guidance says '**given the semi-judicial role of the representation process, local authority members should play no part in deciding on individual representations.**'

4.4 The Local Authority has set up two Parking Information Centres and a processing section within parking to discuss individual Penalty Charge Notices. Councillors have been invited and taken the opportunity to inspect both the Council and contractor parking operation.

4.5 Replies to questions from OSOC members are below.

5. Questions from OSOC and initial officer replies

A. Is there information available for the public about the rules underlying street parking enforcement?

Yes. The main rules are contained in the Highway Code and are displayed on the relevant street signs and lines. The City Council through Traffic Regulation Orders has set up Controlled Parking Zones or other parking restrictions using the nationally recognised signs and lines. The City Council has produced a number of leaflets and other information outline the operation of the permit schemes that work within the CPZ's. Parking enforcement in the Brighton and Hove Council Area is carried out through the Road Traffic Act 1991. We have produced a leaflet 'I've received a Penalty Charge Notice. What should I do know?' which outlines the procedure. This is being circulated to members of OSOC. In addition we have two Parking Information Centres and a website where information can be accessed. Independent information regarding the enforcement process can be obtained from the National Parking Adjudication Service.

B. Are the parking rules different for private and commercial vehicles in particular as regards short stops?

The parking rules are the same for both commercial and private vehicles. If a Parking Attendant sees a vehicle parked in a location where there is no unloading ban and it is obvious that loading and unloading is taking place they will not issue a Penalty Charge Notice irrespective of whether it is a private or commercial vehicle.

It is however recognised that commercial vehicles are more likely to be loading and unloading. Therefore if a Parking Attendant sees a private vehicle parked where loading is permitted they will wait for 2 minutes to see if loading is taking place, before issuing a Penalty Charge Notice if no loading has been observed. In the case of a commercial vehicle the Parking Attendant will watch the vehicle to assess whether loading is taking place and will only issue a Penalty Charge Notice after 5 minutes if no loading activity has taken place.

C. What is the process for dealing with public and Councillors' queries/complaints about street parking and fines?

The system is set up to deal locally with Penalty Charge Notices. When a Penalty Charge Notice is issued by the Parking Attendant notes are taken (and in the majority of cases photographic evidence is also available). If a motorist wants to enquire regarding the issue of a Penalty Charge Notice then this should be in writing within 14

days of the date of issue. These enquiries must be sent to Brighton and Hove City Council, PO Box 103, Brighton, BN1 1XG. This information together with payment information is on the reverse side of the Penalty Charge Notice.

An enquiry or challenge will be examined by a Council Officer who will decide if it was correctly issued or mitigating factors should be taken into consideration. At this point the motorist will either not be required to pay or will receive a further 14 days to pay at the reduced amount of £30. The process moves forward into a more formal stage from this point. Ultimately the registered keeper has the opportunity to seek independent Adjudication, In the event the motorist/registered keeper has chosen to ignore or not to pay the PCN then the debt can be registered at the County Court and a warrant obtained for the debt to be collected by a bailiff.

If a member of public wishes to make a general complaint then this can be done through the Council's Complaints Procedure. Because of the formal procedure we have to follow Councillors are asked to refer to the specific protocol to avoid confusion. This is being circulated to OSOC members.

D. Is there guidance for the disabled on how to properly use and display blue disabled badges and clocks?

Yes. The Department of Transport issue a booklet 'The Blue Badge Scheme' being circulated to OSOC members which contains all the information about how to use the scheme. The booklet is issued when a Blue Badge is issued to a disabled person.

E. Is it illegal to park on hard and/or soft verges particularly where there are yellow lines?

It is not correct to use the word illegal in this context because an illegal act has to be dealt under criminal law whereas these offences have been decriminalised and therefore come within civil law. Under the 1991 Act we can enforce parking contraventions. In this case if the yellow lines are in place then the contravention would apply to the pavement and the verge. However each case has to be examined on its own merits because in some cases the highway borders on private land, a building line or parkland which may not be enforceable.

F. Do parking wardens receive commission/bonuses and is it part of their remit to help keep traffic flowing?

The Police have Traffic Wardens under their control. Since July 2001 the City Council has Parking Attendants carrying out enforcement under the 1991 Road Traffic Act. The Parking Attendants do not receive commission/bonuses for Penalty Charge Notices issued etc. They do receive an attendance bonus. Part of the Parking Attendants' remit

is to help keep traffic flowing. However the Parking Attendants are not allowed to direct traffic or deal with moving traffic.

G. Is the Trader Parking Scheme working effectively?

I would say generally that the parking system has improved from the system that was handed to us from the Police in 2001. The difficulty we have is the balance of parking. The Council has a waiting list of over 2000 for Residents Parking Permits. Some 230 Traders have purchased permits and large numbers of Waivers are purchased each day. The Traders representatives TAPP are in contact with the council and when schemes are reviewed or new ones introduced these factors are considered.

COMMITTEE REPORT APPENDIX



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| Meeting/Date | Overview and Scrutiny Organisation Committee |
| Report of | Director, Communications and Democratic services |
| Subject | Queries re: On-Street Parking |
| Wards affected | All |

Financial implications

There are no direct financial implications arising from this report.

Legal implications

There are no direct legal implications arising from this report.

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| Corporate/Citywide implications | Risk assessment |
| Sustainability implications There are no specific sustainability implications. | Equalities implications There are no specific sustainability implications. |
| Implications for the prevention of crime and disorder There are no implications for crime and disorder. | |

Background papers *[Part 1 reports only]*

Contact Officer

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