

EXPLANATORY MEMORANDUM TO
THE DRAFT CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS
(ENGLAND) REPRESENTATIONS AND APPEALS REGULATIONS 2007 No.
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- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum does not contain information for the Joint Committee on Statutory Instruments

2. Description

- 2.1 These draft Regulations, the draft Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (“the Representations and Appeals Regulations”), have been laid by the Secretary of State for Transport on behalf of the Lord Chancellor. Together with three other sets of Regulations and two Orders, all of which will be subject to the negative procedure, the Representations and Appeals Regulations are designed to implement, as respects England, Part 6 of the Traffic Management Act 2004 in relation to the civil enforcement of parking controls by civil enforcement officers acting on behalf of local authorities, rather than police officers or police traffic wardens.
- 2.2 These draft Regulations set out procedures whereby persons upon whom civil penalties have been imposed for parking contraventions in areas where civil enforcement applies, or whose vehicle has been immobilised or removed on account of such contraventions, can make representations to the enforcement authorities against the imposition of the penalties in particular cases and can appeal to an independent adjudicator if their representations are rejected. The draft Regulations set out the grounds for making representations and for appealing and the Schedule contains rules for the conduct of proceedings before adjudicators.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Legislative Background

- 4.1 Part 6 of the Traffic Management Act 2004 confers powers on the Lord Chancellor and “the appropriate national authority” (in England, the Secretary of State) to make regulations providing for a national

legislative framework for the civil enforcement by local authorities of contraventions of parking and bus lane restrictions and some moving traffic contraventions, such as box junctions and banned turns. Part 6 and the regulations will replace existing provisions in the Road Traffic Act 1991 (with regard to parking), the Transport Act 2000 (with regard to bus lanes) and London local legislation.

- 4.2 The purpose of these instruments is to implement Part 6 of the Traffic Management Act 2004 so far as it relates to parking contraventions. They will in due course be followed by regulations to implement Part 6 in relation to bus lane and other moving vehicle contraventions.
- 4.3 The effect of the package of parking instruments will be to replace the present system of decriminalised parking enforcement under Part II and Schedule 3 of the Road Traffic Act 1991. The instruments will be supplemented by Statutory Guidance issued by the Secretary of State, to which local authorities will be required to have regard, although they will not be obliged to follow it.
- 4.4 Apart from the Representations and Appeals Regulations, the most important element of the package will be the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (“the General Regulations”), to be made by the Lord Chancellor and the Secretary of State. The General Regulations and the Representations and Appeals Regulations should be read as a whole. It has been necessary for the subject matter to be split between two instruments because the powers to make regulations relating to Representations and Appeals are exercisable by statutory instrument subject to the affirmative procedure, whereas the General Regulations fall to be made under negative procedure powers. The other negative instruments will contain provisions ancillary to the two principal sets of regulations.
- 4.5 The complete list of proposed instruments comprising the package is—
 - Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007
 - Civil Enforcement of Parking Contraventions (England) General Regulations 2007
 - Removal And Disposal of Vehicles (Amendment) (England) Regulations 2007
 - Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007
 - Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007
 - Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

- 4.6 The draft Representations and Appeals Regulations cross-refer to the proposed Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and also to the Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183) as proposed by the Secretary of State to be amended by the Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007. Copies are accordingly attached of the drafts of those two sets of Regulations so as to show the effect of the cross-references. Subject to the draft Representations and Appeals Regulations being approved by the two Houses, it is Ministers' intention to make the other instruments at the same time and to bring them all into force on 31st March 2008. It may be necessary to postpone the making of the draft Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 until after the others because of the requirement to notify it to the European Union, but that Order will need to come into force at the same time as the others. The instruments subject to the negative procedure will be laid before Parliament in the usual way when they have been made.

5. Territorial Extent and Application

- 5.1 These instruments apply to England.
- 5.2 They do not replicate legislation which already exists in another part of the United Kingdom

6. European Convention on Human Rights

- 6.1 The Representations and Appeals Regulations 2007 are subject to affirmative resolution. Rosie Winterton (the Minister responsible for parking policy and enforcement) has made the following statement regarding Human Rights:

“In my view the provisions of the Representations and Appeals Regulations 2007 are compatible with the Convention rights.”

7. Policy background

- 7.1 The first aim of the new framework will be to replace the unsatisfactory state of the current statute law on the civil enforcement of parking. This has hitherto rested on Part II of the Road Traffic Act 1991 and the Road Traffic Regulation Act 1984 in relation to parking places in Greater London. A series of orders extended this legislation to other parking contraventions in designated “special parking” areas in London and to certain areas outside London designated by order in relation to all types of parking contravention. Each order, applying in London or elsewhere, contains modifications of both the 1991 and the 1984 Acts in their application to the designated area. Such modifications will no longer be necessary.
- 7.2 Secondly, although it is largely based on the old system of enforcement, the framework includes many changes of detail. Some of these are similar to modifications to the Road Traffic Act 1991 made by London local legislation which is to be repealed by the Traffic Management Act 2004.
- 7.2 In the Representations and Appeals Regulations there are two main changes. First “procedural impropriety”, that is to say a failure by the enforcement authority to observe any of the detailed statutory requirements for imposing a penalty charge, is made a ground for representations and for appealing to an adjudicator. Secondly an adjudicator may refer a case back to the enforcement authority for reconsideration, where the finding is that none of the grounds of appeal apply but that there are compelling reasons for remitting a charge. There are however many differences of detail between the Representations and Appeals Regulations and the existing legislation.
- 7.3 A public consultation exercise on the draft Statutory Guidance, draft Regulations and on the Partial Regulatory Impact Assessment was conducted from 12th July 2006 to 25th September 2006. The consultation document (“Better Parking – Keeping Traffic Moving”) set out the Government’s position on the civil enforcement of parking and sought views on 20 specific issues set out in the document.
- 7.4 This document was sent to all Local Authorities in England, 85 other organisations (including the key stakeholders and members of the working group of experts set up by the Department for Transport to consider the civil enforcement of parking), and specific individuals who requested the consultation. There were 112 responses, 77 from Local Authorities, 13 from the public and motorists groups and 22 from businesses and other interested parties.
- 7.5 Those who responded were agreed on the vast majority of the issues and the policies on these will remain as suggested in the consultation.

- 7.6 There was widespread support for the Partial Regulatory Impact Assessment. 75% of respondents agreed that the Partial Regulatory Impact Assessment represented a fair analysis of the policy.
- 7.7 Most of the responses to the consultation concerned issues relating to instruments other than the Representations and Appeals Regulations.
- 7.8 The consultation has resulted in a number of minor changes to the details of the Regulations. In particular the draft Representations and Appeals Regulations were amended in the light of a number of detailed drafting points raised by the parking adjudication services for London and for the rest of England and Wales.
- 7.9 Statutory Guidance and detailed Operational Guidance will be issued to local authorities and stakeholders in association with the Regulations. The Statutory Guidance will set out the policy framework for Civil Parking Enforcement, and how enforcement should be approached, undertaken and reviewed. Section 87 of the TMA stipulates that local authorities “must have regard” to the Statutory Guidance in exercising their civil enforcement functions. The Operational Guidance is a detailed document which informs English local authorities who have not yet done so of the scope and procedure for taking over the enforcement of parking regulations from the police. It also advises all English local authorities of the procedures that the Government recommends they follow when enforcing parking restrictions, and provides the framework for a consistent nation-wide approach to parking policy and enforcement and a point of reference for members of the public, as well as for the local authorities.

8. Impact

- 8.1 A Public Sector Regulatory Impact Assessment for this set of instruments is attached to this memorandum. No significant financial implications have been identified for members for the public or the public sector.
- 8.2 A Regulatory Impact Assessment was prepared for the Traffic Management Bill as a whole and is available at:
<http://www.dft.gov.uk/consultations/aboutria/ria/thetrafficmanagementbillregu5592?version=1>

9. Contact

- 9.1 [REDACTED] at the Department for Transport can answer any queries regarding the instrument. Telephone: 0207 944 [REDACTED] E-mail: [REDACTED]@dft.gsi.gov.uk

1st August 2007

Final Regulatory Impact Assessment (RIA)

1. Title of Proposal

1. Proposals to implement the parking provisions of Part 6 of the Traffic Management Act 2004.

2. Purpose and intended effect

Objectives

2. The Government's aim is to strengthen the existing system of Decriminalised Parking Enforcement (DPE), which will become known as Civil Parking Enforcement (CPE), by providing a regulatory framework, associated Statutory Guidance and detailed Operational Guidance to enforcement authorities. The objectives are to ensure that:
 - (i) There exists a common and harmonised regulatory framework for the enforcement of civil parking contraventions by enforcement authorities across England;
 - (ii) There is a high level of public understanding and acceptance for CPE
 - (iii) Enforcement authorities have the necessary enforcement powers to secure a high level of public compliance with traffic regulations, which should lead, in turn, to reductions in congestion and improvements in safety and network management; and
 - (iv) CPE powers are exercised in a fair and reasonable manner by enforcement authorities

Background

3. As the volume of traffic on the roads increases, the need for effective parking enforcement becomes critical to the successful management of congestion and road safety.
4. At present, all London authorities and 177^a enforcement authorities in England outside London operate Decriminalised Parking Enforcement (DPE). Under DPE, parking regulations are enforced by parking attendants employed, directly or indirectly, by enforcement authorities. This reflects the need for the police to concentrate on core policing priorities. As part of the system, parking attendants issue Penalty Charge Notices (PCNs) to the owners of vehicles they believe to be parked in contravention of traffic regulations. Representations against a PCN can be made to the issuing authority and if this is rejected there is a right of appeal to an independent adjudicator. The enforcement is funded by income from parking charges and penalty charges rather than the local or national taxpayer.
5. The Road Traffic Act 1991 and regulations made under the Act^b supply the current national legislative framework for DPE. London local authorities have built on the 1991 Act using local legislation, taken additional enforcement powers

^a As at July 9th 2007

^b The Road Traffic (Parking Adjudicators) (England and Wales) Regulations 1999 (S.I. No 1918).

and altered certain aspects of the enforcement process^a. To support enforcement authorities in their exercise of DPE powers, non-Statutory Guidance was issued by the Department for Transport/Welsh Office^b.

6. With the help of stakeholders and a working group of experts, the Government has reviewed the existing system of DPE to identify how it could be improved through the issue of Regulations, Statutory Guidance and Operational Guidance. A list of the stakeholder groups invited to attend a workshop and members of the Working Group are shown in annex A and B of the Regulatory Impact Assessment.
7. Part 6 of the TMA provides a single framework in England for the civil enforcement of parking, bus lanes, some moving traffic offences and the London lorry ban. The Government intends to implement the provisions in Part 6 in stages, beginning with parking. Under the TMA, Decriminalised Parking Enforcement will become known as Civil Parking Enforcement. Parking attendants will be known as Civil Enforcement Officers (CEOs).
8. To bring Part 6 into force, the Government will need to commence the relevant Sections of the TMA, make regulations that provide the detail of the legislative framework for Civil Parking Enforcement and issue accompanying Statutory Guidance. Once the TMA has been brought into force, Part 6 and the regulations will replace existing provisions in the Road Traffic Act 1991 (with regard to parking). Any actions that commenced under the RTA 1991 or local Acts will continue to be enforceable.
9. Statutory Guidance will be issued along with the Regulations. The Regulations and Statutory Guidance will cover England only and it is expected that the Welsh Assembly Government will make corresponding Regulations and issue Statutory Guidance for Wales. The Government will also publish non-statutory Operational Guidance for England and Wales. This will supersede the Department's Circular 1/95.
10. The Mayor of London will need to consider revising his Transport Strategy so that the parking aspects in it are consistent with the new Regulations and Guidance.

Rationale for Government Intervention

11. The existing legislative framework and supporting Guidance for DPE has been successful in helping authorities to better enforce their traffic regulations. Nevertheless, the experience of DPE so far has shown that there are some areas where it would be beneficial to amend the existing legislative framework. Some of the changes result from experience in London, where enforcement authorities have obtained additional powers from local legislation.
12. The new framework is also required because:

^a See the London Local Authorities Act 1995, the London Local Authorities Act 2000 and the London Local Authorities and Transport for London Act 2003.

^b *Guidance on Decriminalised Parking Enforcement Outside London* (Local Authority Circular 1/95 and Welsh Office Circular 26/95) available from www.dft.gov.uk.

- (i) There is evidence that there is scope for improving the public's understanding of and confidence in the DPE system. This could be achieved if enforcement authorities make information about their policies and operations available publicly; and
- (ii) The Department of Transport/Welsh Office's Guidance on DPE for authorities outside of London has remained unaltered since it was originally issued in 1995. By updating this Operational Guidance it would be possible to strengthen areas where some enforcement authorities are not complying with their responsibilities correctly. It will also draw upon experience that has been gained since 1991 to improve the CPE system. This updated Operational Guidance, along with the Regulations and Statutory Guidance, will be published in 2007 to provide detailed information to enforcement authorities.

3. Consultation

Within Government

13. The main elements of the Government's proposals to strengthen DPE were worked up during the preparation, and passage through Parliament, of the Traffic Management Bill. In the course of this work, the Department for Transport (DfT) worked closely with other relevant policy Departments including the Ministry of Justice, the Home Office and the Communities and Local Government. Colleagues in the Welsh Assembly Government and Scottish Executive were also consulted on these proposals as they were developed.

Public consultation

14. In 2002, DfT consulted local authorities and a number of representative organisations about proposals to give non-London local authorities the additional powers that had been taken by London authorities since the Road Traffic Act 1991. The responses showed clear support for this approach.
15. Following the successful passage of the Traffic Management Bill in 2004, the Government has given further consideration to proposals to strengthen DPE. DfT held a stakeholder workshop and a number of meetings of the working group involving representatives from a wide range of parking stakeholders, including local authorities. A full list of the organisations invited to participate in the workshop is at Annex A. Organisations represented at the Working Group are listed at Annex B. Preliminary consultation with these key parties took place before the full public consultation
16. A public consultation on the draft Statutory Guidance, draft Regulations and on the Partial RIA was conducted from 12th July 2006 to 25th September 2006. This consultation set out the Government's position on CPE and sought to establish views on 20 specific issues that were set out in the consultation document.
17. This was sent to all local authorities in England, 85 other organisations (including the key stakeholders and members of the working group), and specific individuals who requested the consultation. There were 112 responses, 77 from local

18. There was widespread support for the Partial Regulatory Impact Assessment and 75% of respondents agreed that it gave a fair analysis of the policy.
19. Those who responded agreed with the vast majority of the issues, and the policies on these will remain as proposed in the consultation.
20. Responses on three of the issues suggested that the policy was not appropriate and the minister agreed that the policy be revised in light of these points. 82% of respondents said that a separate parking grievance/complaints unit should not be set up and it was agreed that enforcement authorities should not be asked to do this. It was also agreed not to give to the police the power to also enforce parking in areas where the enforcement authorities have this power, as 74% of respondents said the police should not be given this power. Finally, it was agreed that the time before a vehicle can be clamped or removed in a parking place would be 30 minutes after the PCN is issued rather than the 60 minutes proposed in the consultation. This was not a yes/no question, but the majority if those who responded thought 30 minutes was more appropriate.
21. There have been a number of minor changes to the details of the Regulations. These changes cover points of principle that weren't specifically consulted on. The main change is that enforcement authorities will not be able to recover the money for all past PCNs from persistent evaders that are clamped or removed. The Minister took the decision to remove this provision to protect innocent drivers and also in response to the 2nd London Local Authorities and Transport for London Bill. This Bill has proposed a system for tacking persistent evaders in London that is not possible to implement in the rest of the country at the present time because there is no power in primary legislation. After a trial in London the Minister will consider whether to implement the provisions in the rest of the country with new primary legislation.
22. The responses are too detailed to be set out in any great depth here. More detailed responses to the questions can be seen in the consultation summary on the departmental website.

4. Options

Option 1: Do nothing

23. This option assumes that the Government does not commence the parking provisions in Part 6 of the TMA and does not issue new Regulations or Statutory Guidance on CPE. As a result, the existing system of DPE would remain in force and would continue to garner relatively low public support, which may lead to increases in congestion and reductions in road safety.

Option 2: Replicate existing legislation and Guidance in Regulations and Guidance made under the TMA

24. This option involves commencing the parking provisions in the TMA, making Regulations that copy in their entirety the framework established by the Road Traffic Act 1991 and its associated Regulations, and putting existing Guidance on parking enforcement on a statutory footing. It is unlikely that this would improve public understanding and support.

Option 3: Issue Regulations and Statutory Guidance that build on the existing system of DPE

25. This option would also involve commencing the parking provisions in the TMA. It would entail making regulations that build upon and enhance the current legislative framework giving to enforcement authorities outside London the same powers as London local authorities, so that the enforcement framework is the same throughout England. It would also include issuing Statutory Guidance that would establish the key principles and minimum standards which all authorities would be expected to meet. Detailed Operational Guidance (in the form of an updated version of Local Authorities Circular 1/95) would also be issued. We believe that this option would improve the fairness and clarity of the system and encourage more authorities to take on the responsibility of enforcing, as well as making, parking policies and local regulations (as recommended by the House of Commons Transport Committee).

5. Costs and Benefits

Sectors and groups affected

26. All options would affect all enforcement authorities that currently operate DPE or intend to operate DPE in the future, and the firms who are contracted to carry out the on-street enforcement, or provide the tools to operate the system, as well as consumers who park on-street and in enforcement authority owned car parks within the authorities' boundaries. There would be no material differences in the impact on other businesses, voluntary organisations and charities or people in different social groups. However the operation of parking enforcement will have an impact on all individuals who use the road network.
27. Under option 3, the new powers will allow enforcement authorities outside London to provide enforcement with "approved devices" (these powers are already in place for local authorities inside London). The businesses that supply or design the equipment systems used for parking enforcement would be required to obtain certification from the Secretary of State before their equipment could be used. This certification is needed to ensure that devices provide correct and tamper proof evidence to a common standard. There would be no charge for this certification and the information that the Secretary of State is likely to require to support a request for certification (the details will be set out in the Operational Guidance) would be very much along the lines of tests that any reputable manufacturer/designer of a system would do to satisfy themselves that it meets the high standards required for law enforcement. Furthermore this will create a new market and therefore is a benefit to businesses.

28. There are existing requirements about the wearing of uniforms by parking attendants and it is likely that the provisions will be carried forward largely unchanged in all three options. So there will be no change in the impact that they would have on the businesses that currently supply uniforms for parking attendants.
29. The procedures to be carried out in connection with the removal and disposal of vehicles are likely to be very much the same in all three options and will to a large extent replicate what is already in place, so there will be no change in the impact that they would have on the businesses that operate these services on behalf of enforcement authorities. The discouragement of clamping and removal for vehicles except those of persistent evaders may reduce in the long term the number of vehicles clamped and removed on-street and in enforcement authority owned car parks. This could potentially have a negative effect on clamping companies and may lead to an increase in costs per unit. It should be noted that these Regulations and Guidance will make no change to wheel-clamping or removal of vehicles parked on private land, which is currently unregulated and causes a significant number of complaints from members of the public.

Race equality impact

30. There are no Race Equality impacts to any of these proposals

Environmental quality impact

31. It is unlikely that there will be any significant and quantifiable environmental impacts from any of the options. However, option 3 is designed to improve the system of civil parking enforcement. An efficient parking system may play a part in improving road safety and reducing traffic congestion and associated emissions and therefore we would expect some positive qualitative impacts.

Analysis of costs and benefits

Option 1

32. As it would not involve changes to the existing DPE system, this option would not impose any new costs. But neither would it deliver any benefits over and above those derived from the existing DPE system. There are a number of disadvantages to this option.
33. By not implementing Part 6 of the TMA the changes would not be made that are necessary to ensure that authorities conduct their parking enforcement in a transparent, fair and proportionate manner. This would lead to continued press and public antipathy and accusations that parking enforcement is only about raising money rather than enforcing transport objectives. Furthermore authorities outside London currently lack certain powers that have been given to London authorities through local legislation. These are important to the efficient running of CPE and include the power to:
- (i) Serve a PCN by post where a CEO is prevented from fixing a PCN to a vehicle or handing it to the driver. This will tackle the problem in the

- (i) Issue a PCN on the basis of information provided by an “approved device” (currently a camera plus the associated system). This will help authorities target enforcement activity on sensitive areas (e.g. in “no stopping” areas such as red routes and clearways) and areas where there is a high level of short-stay contraventions such as dropping off children at school.
- (ii) Ensure specified items of information appear on PCNs so that vehicle owners understand how they can go about paying a penalty charge, the process for enforcing a PCN and their right to appeal to an adjudicator;
- (iii) Place a 6 month time limit on the issue of a Notice to Owner.

Option 2

- 34. Authorities would face additional enforcement costs resulting from the exercise of the new powers conferred on them by the TMA. However, these costs could be funded from any additional parking income.
- 35. This option would deliver some benefits to road users in terms of improved traffic flow and safety. These would derive from the greater levels of compliance with traffic regulations that authorities’ additional enforcement powers could be expected to bring about.
- 36. However this legislation is out of date and is not built on the experience that has been garnered since the beginning of DPE. Since the RTA proposed decriminalised parking enforcement in 1991 much has been learnt about the most efficient ways to carry out enforcement and by simply replacing existing legislation with that made under the TMA, it would not update the system.
- 37. During the consultation on the Traffic Management Bill in 2002 it was established that key stakeholders supported the adoption of regulations under the TMA and that there should be a further process of consultation to establish how best to update decriminalised parking in the light of experience. There are no powers in RTA 1991 to make regulations that would allow these necessary changes to be made. Therefore option 2 would not fulfil our stakeholders’ requirements.

Option 3

- 38. There is no requirement to take on CPE powers if an authority does not wish to. Enforcement authorities who opt into CPE would face the following additional costs under option 3:
- 39.
 - (i) Implementing costs:
 - a. Enforcement authorities who do not yet operate DPE:
 - i. If an enforcement authority chooses to take on CPE powers then they will need to apply to DfT for these powers (as they

- b. Enforcement authorities who already have DPE powers (at present all London authorities and 177 enforcement authorities in England outside London):
 - i. There will be some up front costs for the transition from DPE to CPE. These costs include training, IT, stationary, uniform and promotional costs. There are also costs involved in the time it will take to understand the implications of the Act and to change the processes and procedures.
 - ii. Up front costs for the transition from DPE to CPE have been estimated for us by a number of enforcement authorities who would be affected by the new Regulations. Estimations vary from £8,000 to £54,000. These costs vary because large enforcement authorities with more employees will have more training costs for their employees, more uniforms to change for their CEOs, and may have a larger amount of stationary to replace. IT costs also varied from nothing (some enforcement authorities estimate that the IT changes will cost nothing or be very minimal since they could do these when they were due to have an IT upgrade) to £20,000.
 - iii. However, these will be covered by the income the authority gets from the parking charges and parking penalty charges. Therefore, this is cost neutral to the authority.

(ii) Running costs:

- a. Enforcement authorities that do not respond positively to the enhanced regime (either through pursuing over-zealous enforcement decisions, or through inefficiency) may face additional adjudication costs resulting from more appeals on the ground that there was procedural impropriety, or mitigating circumstances. This is unlikely to be the case for authorities that follow the Regulations and Guidance. As enforcement authorities improve their service and provide better trained staff to deal with appeals, the number of appeals to the adjudicators may decrease.
- b. We are unable to quantify the exact additional costs that enforcement authorities will face because these will vary with between different authorities, and will depend on the size of the authority, whether urban or rural, the number of PCNs issued, the extent to which these are paid or challenged, and the efficiency with which the parking system is run.
- c. However, under CPE (as with DPE) enforcement authorities will be able to cover the costs of their enforcement activity through income from parking charges and from any parking penalty charges. The Government's proposals would make enforcement easier and we expect that, overall, this would reduce the costs of enforcement. The enforcing authority will be able to run CPE in a way that is at least cost neutral.

40. We expect that contracts would be varied to take account of any additional costs incurred by firms carrying out enforcement on behalf of enforcement authorities.
41. There would also be some very minimal administrative costs in amending the Traffic Enforcement Centre's procedure for processing statutory declarations.
42. There would also be benefits to enforcement authorities, some of which would mean a positive financial impact. The Government's proposals would make enforcement easier and we expect that, overall, this would reduce the costs of enforcement. This is because their objective is that the public will see civil enforcement as fair, and the levy of penalty charges for parking contraventions as more acceptable through changes such as limiting the use of clamping and encouraging authorities to be transparent. Changes such as allowing service of a PCN on the basis of camera evidence will facilitate the provision of robust evidence that will make it more difficult to dispute that a contravention took place. This will help to protect the motorist who has not committed a contravention.
43. This option would deliver a number of benefits for all road users within CPE authorities, especially those using parking facilities:
- (i) Harmonising the powers available would improve levels of consistency between authorities using CPE and, through this, public understanding of the system;
 - (ii) The enhancements to authorities' enforcement powers should result in higher levels of compliance with traffic regulations and concomitant improvements to traffic flow and road safety;
 - (iii) Placing a 6 month time limit on the issue of a Notice to Owner would encourage authorities to follow up their PCNs in a prompt and efficient manner;
 - (iv) Introducing greater transparency into civil parking enforcement, for example by publishing policies and annual reports on CPE activities will improve public understanding and acceptance of CPE;
 - (v) CEOs undergoing independently assessed training and demonstrating a satisfactory level of competence will result in improved effectiveness and professionalism of civil enforcement;
 - (vi) The additional grounds of appeal to an adjudicator should help to ensure that authorities give proper consideration to representations made against PCNs on the basis of procedural impropriety or mitigating circumstances;
 - (vii) Clarifying issues where High Court judgements have changed the assumptions on which authorities have been enforcing for a number of years;
 - (viii) The principles and standards set out in the Statutory Guidance would help to ensure that enforcement authorities exercise their functions in a fair and reasonable manner, and in a way that increases public understanding and acceptance of CPE.
44. The Government considers that this option is the most effective way to strengthen the existing system of DPE and increase its acceptability to the public.

6. Small Firms Impact Test

45. Small firms may be affected by these proposals in two ways. The first is as organisations who themselves, and whose customers, use the road network. None of the options would have a significant impact on small firms over and above the impacts of the existing DPE system. However the existing DPE system garners low public support and thus below maximum compliance and this has a potential cascading effect on trade (for example parking outside local shops). Some small shopkeepers might contend that option 3 would have a negative impact on their trade, but what option 3 would do is to enforce effectively what is already the law, rather than change it. The Guidance would emphasise the need to discuss parking restrictions with, among others, people who run small shops. This would help ensure that the parking restrictions put in place by enforcement authorities are consulted on properly and as far as is practicable, respond to the points made in those consultations
46. We are not aware of any instance where a small firm is a contractor to an enforcement authority to deliver their parking enforcement responsibilities. But if there are any, option 3 will benefit them in the same way as larger firms by helping to improve the respect given by members of the public to their on-street employees and the regulations they enforce. Option 3 also discourages clamping. This could potentially have a negative effect on clamping companies and may lead to an increase in costs per unit

7. Competition Assessment

47. Many enforcement authorities contract out CPE functions following competitive tenders, but we have no information about how many. This means that the Government's proposals will affect private sector contractors who deliver public services. However, we believe that the changes would not have a competition impact because they will not favour one type of supplier or market.

8. Enforcement, Sanctions and Monitoring

48. It will be for enforcement authorities and the parking adjudicator to exercise the additional functions provided for in the proposed Regulations. In addition, under the TMA enforcement authorities must have regard to Statutory Guidance on CPE issued by the relevant national authority.
49. There are a number of ways in which enforcement authorities can be held to account for the way in which they carry out their CPE functions:
- (i) Through representations to the authority itself;
 - (ii) Through an appeal to the parking adjudicator where those representations do not resolve a dispute;
 - (iii) Through a complaint to the Local Government Ombudsman;
 - (iv) Through Judicial Review of an authority's decisions or actions;
 - (v) Through the democratic process, the councillors are accountable at local elections. This should be made easier by the increased

9. Implementation and Delivery Plan

50. It is our intention that the affirmative Regulations will be laid before Parliament in mid 2007. Once these have been approved, all the negative resolution statutory instruments will be laid before Parliament.
51. Subject to Parliamentary scrutiny procedures, it is our intention that the Regulations will come into force in early 2008. This will allow an appropriate implementation period for enforcement authorities to prepare for the changes and adapt to the new requirements before the proposals take effect.
52. We will inform key stakeholders when the Regulations have been laid. We will publish Statutory Guidance for all enforcement authorities who are affected by the Regulations, and for the key stakeholders.
53. We will also publish detailed Operational Guidance and a communications toolkit. The Operational Guidance will offer enforcement authorities detailed information on how to implement the new proposals. The communications toolkit will offer user-friendly information and advice to enforcement authorities on how to communicate effectively with the public to explain what parking enforcement means and why it is important.

10. Post-Implementation review

54. Enforcement authorities will be encouraged to monitor the effectiveness of these Regulations. We may also produce a monitoring toolkit that would enable this to be done by enforcement authorities across the country on a consistent basis.

11. Summary and recommendation

Option	Benefits	Costs
Option 1: Do Nothing	<ul style="list-style-type: none">• No Benefits	<ul style="list-style-type: none">• No economic costs• Potentially a worsening of congestion and road safety• Continued press and public antipathy
Option 2: Replicate existing legislation and Guidance in Regulations and Guidance made under the TMA	<ul style="list-style-type: none">• Some benefits to road users in terms of improved traffic flow and safety	<ul style="list-style-type: none">• Additional enforcement costs resulting from the exercise of the new powers conferred on them by the TMA. However, these costs could be funded from

		<ul style="list-style-type: none"> • Out of date legislation that is not built on recent experience • Will not fulfil stakeholder's requirements
Option 3: <u>Issue Regulations and Statutory Guidance that build on the existing system of DPE</u>	<ul style="list-style-type: none"> • Enforcement will be easier and overall, costs should reduce. • Increased public understanding and acceptance of CPE. • More robust evidence from cameras • Benefits for road users including consistency, improvements to traffic flow and road safety, more efficient dealings with PCNs and the issue of a Notice to Owner, greater transparency, improved effectiveness and professionalism of civil enforcement officers, clarification of procedures and powers following High Court decisions. 	<ul style="list-style-type: none"> • Enforcement authorities that already have DPE powers would face additional up-front costs for the transition period to CPE. • Enforcement authorities who do not yet operate DPE would not face any higher costs in bringing in CPE than they would have faced to bring in DPE. • There are costs resulting from enforcement, which will vary depending on the size of the LA, the number of PCNs issued, and the efficiency. These costs will be covered through income from parking charges and parking penalty charges • Very minimal administrative costs in amending the Traffic Enforcement Centre's procedure

55. In view of the above, the Department recommends that option 3 be taken forward. This option is the most effective way to strengthen the existing system of DPE and

11. Declaration and Publication

56. I have read the Public Sector Regulatory Impact Assessment in the context of the Regulatory Impact Assessment associated with the Traffic Management Act and am satisfied that the benefits justify the costs.

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Invitees to Stakeholder Workshop

Automobile Association

London Councils

British Motorcyclists' Federation

British Parking Association

Country Surveyors Society

Cyclists' Touring Club

Disabled Persons Transport Advisory Committee

Freight Transport Association

Government Office for London

Government Office for Yorkshire and Humberside

Living Streets

Local Government Association

London Technical Advisors Group

National Parking Adjudication Service

Parking and Traffic Appeals Service

RAC Foundation

Road Haulage Association

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