

**Explanatory Memorandum to The Civil Enforcement of Parking
Contraventions (County Borough of Caerphilly) 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 of Caerphilly) Designation Order 2019. I am satisfied that the benefits outweigh any costs.

Ken Skates
Minister for Economy and Transport
14 March 2019

1. Description

The Order will enable Caerphilly County Borough Council (“the Council”) to enforce civil parking restrictions within its County Borough. It will apply to all public highways except that listed in Annex A below. Non-endorable 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 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 of Caerphilly 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 Gwent Police to the Council thus enabling the Council to enforce civil parking restrictions within the County Borough. Under this system non-endorable 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 all 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 they do not wish to apply for powers for moving traffic contraventions or bus lane enforcement at this time as there are currently no particular problems within the County Borough.

This position will be reviewed within 2 years of the Order coming in to operation and, if warranted, considered for introduction as part of future enhancements to the highway network to improve traffic flows, reduce congestion and to generate a move to more sustainable transport modes across the County Borough.

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 8 April 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 Parking 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 Civil Enforcement Officers (CEOs). The Council can directly employ these Officers 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 the RCTCBC, acting under the direction of the Council. Independent adjudication for drivers who are unhappy with the Councils decision (as

articulated by RCTCBC in correspondence) 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 8 April 2019. Making the legislation would allow the Council to implement the power to enforce civil parking restrictions thereby freeing up the Gwent 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. Parking enforcement by the Gwent Police has declined in recent years as resources have been redirected to combat core crimes.

Option 2 – Implement the provisions from 8 April 2019.

The costs of the scheme will be borne by the Council in collaboration with RCTCBC. The Council is satisfied that the full financial impact of the scheme has been considered and provision has been made in its budget setting process. The Council has provided funding to cover the start up costs of the scheme. 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.

There are no financial implications for the Welsh Government or other local authorities.

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 8 April 2019.

The current need for parking, particularly within town centre areas is placing significant pressure on some on and off street parking areas. As the County Borough continues to develop the opportunity to locate land for the provision of off-street car parking, space becomes increasingly difficult.

Therefore, it is essential that the existing parking areas are managed effectively to ensure that maximum use is made of the available space. This will be undertaken in parallel with seeking to provide and promote alternative modes of travel to access town centres and other destination areas by reducing the need to travel and park within town centre areas.

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 use, such as buses, increasingly expect preferential treatment and such measures do not work without effective enforcement.

Taking direct control of enforcing civil parking restrictions enables the Council to increase prevention of parking disruption and congestion in conurbations contributing to well-being of its communities. This proposal also contributes to the Council's Well-being Goals.

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

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 local 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 17 other local authorities in Wales who have already achieved such powers.

ANNEX A

This Order applies to the County Borough of Caerphilly with the exception of the length of the A465 Trunk Road within the County Borough, from the boundary with the County Borough of Merthyr Tydfil to the boundary with the County Borough of Blaenau Gwent, including its exit and entry slip roads.

ANNEX B

SCHEDULE OF CONSULTATION

Organisation	Response
The AA	No response
Blaenau Gwent County Borough Council	No response
Brecon Beacons National Park	No response

Cardiff City Council	No response
DVLA Swansea	No response
Freight Transport Association	No response
Gwent Ambulance Service	No response
Gwent Fire Service	No response
Gwent Police	No response
Harris Coaches	No response
Merthyr Tydfil County Borough Council	No response
Ministry of Defence	No response
New Adventure Travel Group	No response
Newport Bus	No response
Newport City Council	No response
Powys County Council	No response
Rhondda Cynon Taf County Borough Council	Supported
Road Haulage Association	No response
The Royal Automobile Club	No response
Stagecoach in South Wales	Commented
Sustrans Cymru	Supported
Torfaen County Borough Council	No response
Traffic Enforcement Centre (TEC)	No response
Traffic Penalty Tribunal (TPT)	No response
Welsh Government	No comments