

**FALKIRK COUNCIL**

**Subject: POLICE SCOTLAND PROPOSALS TO WITHDRAW THE TRAFFIC WARDENS SERVICE AND DECRIMINALISATION OF PARKING ENFORCEMENT**  
**Meeting: EXECUTIVE**  
**Date: 19 NOVEMBER 2013**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**1. INTRODUCTION**

- 1.1 Police Scotland wrote to Scottish Councils earlier this year to advise of a review of its traffic warden service provision together with the level of public service at police offices (copy attached as appendix 1.) This was followed by 2 letters dated 1 October 2013 (copies attached as appendices 2 and 3) giving findings on the traffic warden review and public counter service provision. The proposed changes to public counter provision will see existing hours of opening at Falkirk, Larbert and Grangemouth all extended. Therefore no problem is anticipated in the Falkirk council area. However police station's proposal is to withdraw traffic wardens across the divisions, where this role still exists. It is understood that, should this occur, it is intended that the traffic warden service could be withdrawn as soon as early 2014. This would have implications for parking enforcement for Falkirk Council and will undoubtedly result in a much reduced and more ad-hoc car parking enforcement regime by Police Scotland officers. Currently, only Police Scotland has the necessary powers to enforce on-street parking restrictions.
- 1.2 Police Scotland is promoting this proposal as part of its commitment for greater focus on criminality and also to contribute to their savings target of £60m. However, such a change in service provision would have consequences for local authorities, the communities they serve, and particularly those authorities which do not currently operate a decriminalised parking scheme such as Falkirk Council.
- 1.3 At a recent meeting with Police Scotland representatives to discuss the proposal, it was confirmed that a decision on this matter was likely to be made by the end of the calendar year dependant on the of the consultation responses. Given the timescale for responses to the letter of 1 October, a letter was sent to Police Scotland by the Chief Executive, a copy of which is attached as appendix 4.
- 1.4 In the meantime, Falkirk Council requires to consider the implications of introducing a decriminalised parking enforcement (DPE) scheme against the alternative option of potentially having little, or no, regular police on-street parking enforcement provision across the Council area.
- 1.5 Should the Council elect to seek powers to decriminalise parking enforcement, parking offences will cease to be a criminal offence and will lead to the following changes:-

- Enforcement ceases to be the responsibility of Police Scotland and becomes the responsibility of Falkirk Council.
  - Council employed staff may place penalty charge notices (PCNs) on vehicles contravening traffic regulation orders (TRO's) and/or parking regulations.
  - The penalty charges are civil debts, due to the Council, and are enforceable through the normal civil debt recovery processes.
  - Motorists wishing to contest liability of a PCN may make representation to the Council and, if this is rejected, may appeal to independent adjudicators whose decision would be final.
  - The Council would retain the proceeds from penalty charges which would be used to contribute towards the costs of the enforcement and adjudication systems.
- 1.6 Parking offences outwith the scope of the DPE regime comprise endorsable parking offences, including those that involve dangerous or obstructive parking. Outwith the areas where local authorities enforce decriminalised parking, all public parking offences will continue to be subject to criminal law.

## **2. CURRENT POSITION**

- 2.1 In Scotland, 11 local authorities (and 2 currently going through the process) now operate DPE regimes and include Glasgow, Renfrewshire, Edinburgh, Aberdeen and South Lanarkshire. Each has successfully applied to the Scottish Government to make the necessary Orders and, thereafter, decriminalised the enforcement of parking offences within their area. There are no known instances of any Council in Scotland being unsuccessful following the submission of a business case to the Scottish Government to operate a DPE regime. It is likely that, as a result of Police Scotland's decision, many other local authorities will prepare applications to the Scottish Government to introduce DPE schemes.

## **3. PROPOSALS**

- 3.1 The steps to achieving Scottish Government approval to introduce a DPE scheme are as follows:-
- Gain Member approval to initiate the necessary work.
  - Prepare a business case to accompany an application to Scottish Government.
  - Submit an application to Scottish Government for an order under the Road Traffic Act 1991 for the implementation of DPE supported by the business case.
  - Carry out a rigorous examination of the integrity and, thereafter, the consolidation of all traffic regulation orders (TRO's) in the area.
  - Undertake a positive public relations / public awareness campaign.
  - Implement and enforce the regime.

It is estimated that, based on other council areas, it could take in excess of 18 months to complete this process. Given the timescales involved for the above to be carried out, there would be an interim period if Police Scotland decide to withdraw the services and do so by April 2014, where little on-street enforcement may take place.

3.2 Moving to a DPE scheme could bring the following benefits to the Council:-

- Improve the implementation and effectiveness of parking policies.
- Improve the management of parking facilities for particular groups (e.g. disabled drivers).
- Allow parking provision to become more responsive to the needs of the local people (e.g. ensure turnover of spaces at restricted parking areas).
- Improve traffic flow in the area by targeting known problem parking areas during peak times.
- Allow traffic regulation orders (TRO's) to be enforced more effectively and so improve road safety and traffic flow at key locations.
- Provide advice to motorists who, while not illegally parked, are nonetheless affecting traffic flow and causing potential obstruction or danger to other road users.
- The Council can determine the enforcement policy.

3.3 Council staff will be able to serve parking charge notices (PCNs) in the following locations, provided traffic regulation orders (TRO's) are in place and legally enforceable:-

- Double yellow lines and any associated loading restrictions.
- Single yellow lines and any associated loading restrictions.
- Bus bays and clearway markings.
- Disabled bays.
- Loading bays.
- Taxi bays.

All of the above locations must be marked and signed in accordance with the Traffic Signs Regulations and General Directions (TSRGD) 2002 as amended and be supported by a traffic regulation order.

3.4 There are significant additional resources required by the Council to enforce decriminalised parking. The only additional income in a decriminalised situation, compared with the current situation, would be the recovery of on-street penalty charges. Consequently, it is highly unlikely that decriminalisation will provide a better financial position for Falkirk Council than the current situation.

## 4. LEGAL IMPLICATIONS

4.1 Consultation with Governance colleagues will be required to fully identify the legal implications for the Council to undertake DPE.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 All costs involved in the process of undertaking DPE must be declared as part of the business case submission to the Scottish Government, and thereafter reported annually as part of statutory reporting of a Parking Account.
- 5.2 At the present time it is not possible to provide accurate costs associated with the introduction of a DPE scheme until a business case has been fully developed.
- 5.3 Data collected by South Lanarkshire Council suggests that only a percentage of the £60 fine will actually be collected by the enforcing Council, due to a combination of early payment, late payment and non-payment. Using this data, a figure of £37.16 was calculated by South Lanarkshire Council as the average income per PCN issued which represents a 62% recovery.
- 5.4 In addition to the direct costs of promoting orders, re-lining and signing etc., full costs associated with the implementation of the scheme are dependent on a number of factors that have yet to be assessed in a business case. A number of options can be considered as part of the business case preparation including the following:-
- The enforcement and the processing of the PCNs could be wholly outsourced (privately or possibly with a neighbouring Council).
  - The Council could employ parking attendants to enforce the parking restrictions and outsource the processing of PCNs.
  - The Council could employ parking attendants to enforce parking restrictions and have its own back office function to process the PCNs.
- 5.5 Should the police traffic warden service be removed and decriminalised parking does not take place, it is estimated that £80K per annum income could be lost to the Council from on-street pay and display parking in Falkirk town centre.
- 5.6 Information regarding the number of on-street fines issued by Police Scotland is not currently available although an early request to confirm this information will be a priority. As an indication, Falkirk Council currently receives approximately £11K per annum in fines collected against the off-street parking pay and display which is currently about 3% of annual income from parking charges.

## **6. PERSONNEL IMPLICATIONS**

- 6.1 The level of additional staff required to be employed to deliver and maintain a DPE scheme will be dependent on the business case and implementation model that the Council decides to adopt. It is understood that Police Scotland currently employ 6 traffic wardens to enforce on-street parking issues in the Falkirk Council area, which would cost Falkirk Council approximately in salary terms £120K per annum (gross) and does not include additional overhead costs such as vehicles, compound costs and back office costs.

## **7. CONCLUSION**

- 7.1 Any withdrawal of the traffic warden service by Police Scotland will mean that, if the Council is to have any effective control of parking restrictions within town centres and residential areas, the only option available is to apply to the Scottish Government to make Orders to allow decriminalisation of parking enforcement within Falkirk Council. However, this is likely to have cost implications for the Council.

## **8. RECOMMENDATIONS**

**Members agree that:**

- 8.1 to endorse the terms of the letter dated 7<sup>th</sup> November 2013 to Chief Superintendent Flynn as the Council's position on the proposals including forwarding a copy to COSLA
- 8.2 to instruct the Director of Development Services to begin early preparation of a business case to support any application to the Scottish Government for decriminalisation of parking enforcement pending a decision by Police Scotland, and report back to Members in due course.

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**Director of Development Services**

**Date: 17 October 2013**

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### **LIST OF BACKGROUND PAPERS**

Public Counter Service Review C Division Forth Valley Public Briefing Paper