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## **ON-STREET PARKING AND TRAFFIC MANAGEMENT**

**Report by Chief Officer, Roads**

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### **SCOTTISH BORDERS COUNCIL**

**29 JUNE 2016**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 This report proposes to update the Council on the progress and findings of the Decriminalised Parking Enforcement (DPE) Working Group and to seek permission to undertake further work and analysis prior to a final decision being made in relation to the control of on-street parking.**
- 1.2 Following the withdrawal of the traffic warden service there has been a reduced monitoring and enforcement service of waiting and loading restrictions within the area's towns and villages. This in turn has led to concerns of reduced compliance and poorer traffic management as well as increased public dis-satisfaction and complaint.
- 1.3 An officer/member Working Group was set up to look into the issue and explore the options available to the Council in relation to the future control of on-street parking. The Working Group has concluded its work and made recommendations on what it considers the preferred way forward for the Council.
- 1.4 Staff have undertaken initial investigations but further detailed study is required in relation to establishing the scale of the issue. In this regard it is proposed to commission consultants to undertake detailed parking studies and analysis.

#### **2 RECOMMENDATIONS**

- 2.1 I recommend that the Council**
  - (a) Notes the updated position in regard to on-street parking control and in particular the findings and recommendations of the Member/Officer Working Group.**
  - (b) Notes the concerns raised under financial risks in terms of affordability.**
  - (c) Notes the alternative of using the powers provided within the Police and Fire (Reform) Act 2012 to inform the Local Policing Plan as a mechanism for greater control of on-street**

**parking enforcement in the future.**

- (d) **Agrees to the funding of parking studies in key towns at a cost of £17,700 to be funded from within the existing Place budget.**
- (e) **Agrees that following the analysis of the parking studies a further report, on the findings, is presented to the Council in September 2016.**
- (f) **Agrees that should the Council decide to support DPE then a full public consultation will need to be undertaken and that proposed details on this be presented to the Council in September 2016.**

### **3 BACKGROUND**

- 3.1 In February 2014 Police Scotland withdrew their traffic warden service in Scotland.
- 3.2 On-street parking transgressions in the SBC area remain a criminal offence and enforcement responsibility lies solely with Police Scotland regardless of the fact that they no longer have a dedicated Traffic Warden Service.
- 3.3 Legislation is available however, that allows roads authorities to apply to Scottish Ministers to introduce Decriminalised Parking Enforcement (DPE) in their area. This process allows a council to undertake the management and enforcement of on-street parking. It is however a protracted legal process with significant set-up and running costs associated with it. A number of authorities have gone down this route in the past but, as the map in Appendix A illustrates, to date this has primarily been urban authorities for whom it was financially attractive to implement.
- 3.4 A member/officer working group was subsequently established to further explore the different options available to the Council in regard to on-street parking enforcement.
- 3.5 CoSLA (the Convention of Scottish Local Authorities) has also been working on the issue on behalf of its member authorities; particularly in relation to economies of scale and potential joint working across authority boundaries.
- 3.6 The latest national position, through CoSLA, is that 14 of the 32 local authorities now have DPE in place and a further 4 are within the application process. Of the remaining authorities 6 have indicated they currently have no intention of introducing DPE. The remaining authorities, including Scottish Borders, are still actively considering their position.
- 3.7 Officers have also had background discussions with neighbouring authorities in terms of options available and the potential for sharing back, and/or front, office resources or alternatively "piggy-backing" on existing DPE operations. At this stage it is not possible to draw firm conclusions in this regard as costs will very much depend on the specific level of service required by the Council. Further information will be supplied on these options in the report to Council in September 2016.

### **4 DECRIMINALISED PARKING ENFORCEMENT**

- 4.1 Decriminalised Parking Enforcement (DPE) is a regime which enables a local authority to administer its own parking penalties, including the issuing of Penalty Charge notices (PCNs). In areas with DPE, stationary traffic offences cease to be criminal offences enforced by the police and instead become civil penalties enforced by the local authority.
- 4.2 DPE can only be introduced on an authority wide basis. There is no mechanism for pilot studies or permanent schemes on a reduced area or town by town basis. It is however entirely up to individual local authorities how it applies its resources once DPE is introduced. For clarity the Council will be responsible for parking control over the wider Council area but can

- choose to concentrate on certain towns or areas within that area.
- 4.3 A comprehensive Business Case and application to Scottish Ministers is required. A key component of the business case is that a scheme must be financially sustainable.
- 4.4 The preparation of a business case and the application to Scottish Ministers is a complex and specialist task that is likely to require the appointment of consultants to undertake it. An important aspect of the process is the thorough checking of existing Traffic Regulation Orders (TROs) and their application on the ground.
- 4.5 In comparison to the current system, where the Council is reliant on Police Scotland for any enforcement action, DPE would allow the council to determine its own on-street checking frequency and pattern. This would allow much greater flexibility across the area as well as the opportunity to focus on specific areas of concern.
- 4.6 Once DPE has been introduced in an authority it is deemed unlikely that Police Scotland would consider accepting the return of enforcement duties in the foreseeable future. As such a decision to go down the route of DPE is unlikely to be reversible.

## **5 DPE WORKING GROUP FINDINGS**

- 5.1 Following a recommendation from the Environment & Infrastructure Committee a Member/Officer Working Group was established in the summer of 2014. Member representation on the group was through Councillors Cockburn, Edgar, Paterson and Smith with officers drawn from the Council's Network Section. The meetings concentrated on the options available to the Council and the staffing, operational and financial implications for each.
- 5.2 The main decision to be made by the group was whether to recommend the acceptance of the current situation of limited control and enforcement through Police Scotland or to seek to introduce a Council controlled DPE regime. Within the latter there are several different operating models that can be employed; both in terms of back office processing and on the ground operations.
- 5.3 The Working Group initially discussed five options, and these are listed in Appendix C along with initial commentary from the Working Group at the time. It was identified that the preferred way forward for the Council, in terms of traffic management in our towns, would be to apply to Scottish Ministers to introduce Decriminalised Parking Enforcement.
- 5.4 There is a considerable body of work required in order for the Council to reach the position where it could apply for and thereafter, if successful, introduce DPE. In terms of arriving at this position the Working Group identified a number of preferred working arrangements and these are discussed in the subsequent paragraphs.

- 5.5 A key aspect of DPE is the validation of the existing Traffic Regulation Orders (TROs) across the concerned area. In the Scottish Borders most towns and villages have their own TRO schedule and map. Many of these date back to the early seventies. Over the intervening years, most have been subject to multiple amendments. As a consequence the documents are extremely difficult to follow and interpret in practice. In recent years the trend has been for authorities (particularly those moving to DPE) to move to map based schedules that can be stored electronically and viewed on the web. The Working Group recommendation is that the mapping and checking of existing TROs is outsourced to a specialist consultant.
- 5.6 In the interim period it was agreed that staff should continue to consolidate existing TROs as they came up for review.
- 5.7 The working group identified that existing parking attendants and back office numbers would need to be increased were DPE to be introduced following further agreement.
- 5.8 The Working Group recognised that the existing individual TROs had led to a huge variance in terms of limited waiting times; minimum no-return periods and operational times. In order to simplify this and to aid parking attendants it was recommended that more standardised limited waiting be introduced across the Scottish Borders.
- 5.9 In relation to the practicalities of monitoring the length of time vehicles have been parked the working group concluded that a disc parking regime would offer significant benefits. Under a disc system drivers are required to set a parking clock to the time when they arrive in their car. This allows parking attendants to make an immediate check on whether a clock has been set and for how long a vehicle has been at that location. In the absence of a disc system, parking attendants have no way of knowing whether a car has recently arrived or been there all day. In practice they would need to record individual vehicles as they first encountered them and then check back following the maximum waiting period allowed to determine if they had moved on or not.
- 5.10 There was additional discussion on the cost to the Council of producing parking discs and the potential for this to be defrayed through allowing advertising on them. Whether to charge for the discs; where they could be obtained and the impact of disc parking on potential visitors were all discussed. No firm conclusion was reached but on balance it was felt that the benefits of parking discs outweighed the dis-benefits and the group determined to recommend their use.
- 5.11 The working group does not propose to introduce payment for on-street parking at this stage. The Council has to date been resistant to this course of action and it is not a requirement of DPE.
- 5.12 Essentially what the group has proposed is that parking attendants would undertake the duties previously performed by traffic wardens in ensuring that waiting and loading restrictions are being complied with and the issuing of penalty charge notices where appropriate. This approach would not however preclude the Council from revisiting the situation in the future and introducing a payment regime to park on-street.

- 5.13 In conclusion it is accepted that in operational terms a Council operated DPE system would offer a number of practical advantages in addressing current complaints, but there is considerable concern over the financial implications, both in terms of set up costs and ongoing revenue requirements; at a time when the Council is facing unprecedented financial constraints.
- 5.14 In addition to the financial concern officers are also mindful that a decision to introduce DPE is likely to be very difficult to reverse in the future as Police Scotland would no longer have any responsibility for traffic management and there would appear to be little to no incentive for them to accept that responsibility back.

## **6 DISCUSSION & PROPOSALS**

- 6.1 The Police and Fire (Reform) Act 2012 provides the Council with the mechanism to require the police to address parking enforcement as part of the local policing plan through section 45 (3) of the Act, which states "a local authority may specify policing measures that it wishes the local commander to include in a local policing plan". The Council is also afforded the opportunity to request performance information on parking enforcement through section 45(5)(a) of the act which states "A local commander must provide to the local authority such reports on carrying out police functions in its area (including by reference to any local policing plan in force for the area)".
- 6.2 The local police commander can be held to account for the action suggested in 6.1 through the Police, Fire and Rescue and Safer Communities Board.
- 6.3 Observational analysis by Council Officers suggests that in most towns the majority of drivers are actually reasonably compliant to the Traffic Regulation Orders in place and that there is a turn-over of vehicles, albeit somewhat less than when traffic wardens operated. There exists however a significant number of drivers who regularly flout the regulations and some of these are occupying spaces for large periods of the day making it more difficult for others to find a place to park.
- 6.4 In relation to single yellow and, to a lesser extent, double yellow lines there appears to be a notably higher level of non-compliance in the absence of traffic wardens.
- 6.5 To allow any decision to be taken based on facts rather than appearance a professional independent analysis of the problem is proposed. To achieve this a specialist company would be required to undertake full day surveys and analysis in a number of key towns. Indicative costs have been obtained for undertaking 0800 -1800 surveys and providing detailed analysis in a number of key town centres is detailed below.

TOWN	SINGLE DAY	3 DAYS	EACH ADDITIONAL DAY
Hawick	£995 + Vat	£2,800 + Vat	£4,000 + Vat
Kelso	£1,580 + Vat	£4,210 +Vat	
Melrose	£995 + Vat	£2,800 + Vat	
Peebles	£995 + Vat	£2,800 + Vat	
Galashiels	£1,350 +Vat	£3,860 +Vat	
Duns	£995 + Vat	£2,800 + Vat	
<b>All Discounted</b>	<b>£6,500 + Vat</b>	<b>£17,700 +Vat</b>	

- 6.6 In addition to the above Council officers have been in discussions with RTA Associates Ltd. RTA have worked with the majority of authorities in England and Scotland who have investigated going down the DPE route and are the acknowledged experts in the field of examining the scope for DPE. They have provided an informal quote of just under £9,000 (ex VAT) to undertake a feasibility study for introducing Decriminalised Parking Enforcement in the Scottish Borders.
- 6.7 The decision on DPE will have far reaching consequences for the Council and it is important that it is in as informed a position as possible on the extent of the current situation. It is therefore recommended that the 3 day parking surveys are undertaken in the six towns identified. Thereafter a further report on the findings would be brought before the Council in September 2016.
- 6.8 Officers recognise the desire for a speedy inquiry and resolution to this issue. Should this proposal be accepted then the surveys and analysis will be commissioned immediately and undertaken over the summer. This will allow an informed Council decision to take place at the September Council.
- 6.9 Also contained in the September 2016 report will be further comment on the alternative suggestion of using the Police and Fire (Reform) Act 2012.

## 7 IMPLICATIONS

### 7.1 Financial

There are a number of financial implications for the Council directly associated with the recommendations within this report and these are listed below as (a) and (b). Also listed are the financial implications for the Council should it determine to proceed with applying for DPE.

- (a) The cost to undertake parking surveys on the scale of the issues ranges from £6,500 to £17,700.
- (b) It is intended that the results from the parking study should inform the decision on whether to proceed with the next stage of a feasibility study into the viability of the Council undertaking DPE. An informal quote of £9,000 has been obtained for this important element.
- (c) Outwith the costs discussed in (a) and (b) above, initial set-up costs of £220,500 have been identified for DPE. It should be noted that £60,000 of this is required to introduce a map based Traffic Regulation Order system and that this is something that the Council

may well be required to do anyway at some point in the future.

- (d) It is estimated that a DPE scheme will run at an initial operating loss of £15,390 per annum. An option for funding this would be to run it in conjunction with the existing off-street Pay & Display regime. The average surplus for the current off-street regime is £36,163 per annum (calculated over a six year period) with Galashiels providing the majority of this.
- (e) A breakdown of the costs in c) and d) is attached as Appendix B. It should be noted that the previous requirement that DPE had to at least reach a break-even position has now been relaxed. It is now sufficient to demonstrate that there is a method of sustainably funding the process.
- (f) There is currently no provision in the 2016/17 Financial Plan for any of the expenditure described in the paragraphs above.

## 7.2 Risk and Mitigations

- (a) An application to Scottish Ministers may be unsuccessful and any costs incurred will be lost to the Council. This can be mitigated against through close liaison during the application process and by limiting expenditure as far as possible until a decision is forthcoming.
- (b) There is a risk that the service will be unpopular with the public attracting negative publicity for the Council. There is however a similar risk for the Council in not being seen to take action on this subject.
- (c) If the Council decides not to go down the route of DPE then there is a likelihood that the increased level of parking infringements, reduced turn-over of spaces and poor traffic management will continue to get worse and that public dis-satisfaction and complaints will increase. This in turn can be mitigated against through putting in place greater priority on police parking enforcement through the powers provided within the Police and Fire (Reform) Act 2012 to inform the Local Policing Plan
- (d) There is a risk that the financial projections for DPE prove to be insufficient and the cost to the Council in either, or both, initial set-up or running costs is greater than projected. The financial assumptions have been checked with the Finance service and are believed to be reasonably robust, and a contingency of 10% has been set against the set-up costs.
- (e) There is a risk that the more successful a Council operated system of DPE is the less revenue it produces as drivers become more compliant and parking infringements reduce.
- (f) A Private Members Bill to make provision for the restriction of parking on footways and at dropped footways, and double parking was introduced by Sheila White MSP on 21 May 2015. Should this come to fruition it would potentially place significant additional



burden on the authority responsible for on-street parking enforcement. No allowance has been made for this in the proposals outlined.

The current status of the Bill is that it fell on 23 March 2016, following dissolution of Session 4 of the Parliament.

- (g) There is anecdotal evidence that there is greater resistance to the payment of parking charges when they are not issued through the Police.
- (h) If Members agree in September 2016 to pursue DPE there is still considerable work to be undertaken in order to reach a position where approval is received and it can be implemented on the ground.

Key steps in this are as follows:

Feasibility Study

Consultation

TRO review

Preparation and submission of draft Business Case

Transport Scotland (TS) comment on Business Case

Review of comments and submission of final application

TS final application and prepares Scottish Statutory Instruments (SSIs) as appropriate

Subject to ministerial approval SSIs made and laid before the Scottish Parliament

Provided no objections raised, SSIs come into force.

There are a number of factors that can affect this programme including the quality of the application; the level of readiness of the authority; its engagement through the process and parliamentary recess dates. Current TS advice is that it is likely to be up to two years from the decision to progress to the SSIs coming into force.

### 7.3 **Equalities**

An Equalities Impact Assessment has been carried out on this proposal and it is anticipated that there are no adverse equality implications.

### 7.4 **Acting Sustainably**

There are no significant impacts on the economy, community or environment arising from the proposals contained in this report.

### 7.5 **Carbon Management**

It is not anticipated that the Council's carbon emissions will be effected by the Council's decision in regard to this report.

### 7.6 **Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

## 7.7 Changes to Scheme of Administration or Scheme of Delegation

If the Council decides to proceed down the route for introducing DPE it is likely that some amendments will be required to the Scheme of Administration and Scheme of Delegation

## 8 CONSULTATION

- 8.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer HR, and the Clerk to the Council have been consulted and comments received are incorporated in the report.

### Approved by

**Brian Park**  
**Chief Officer, Roads**

**Signature .....**

### Author(s)

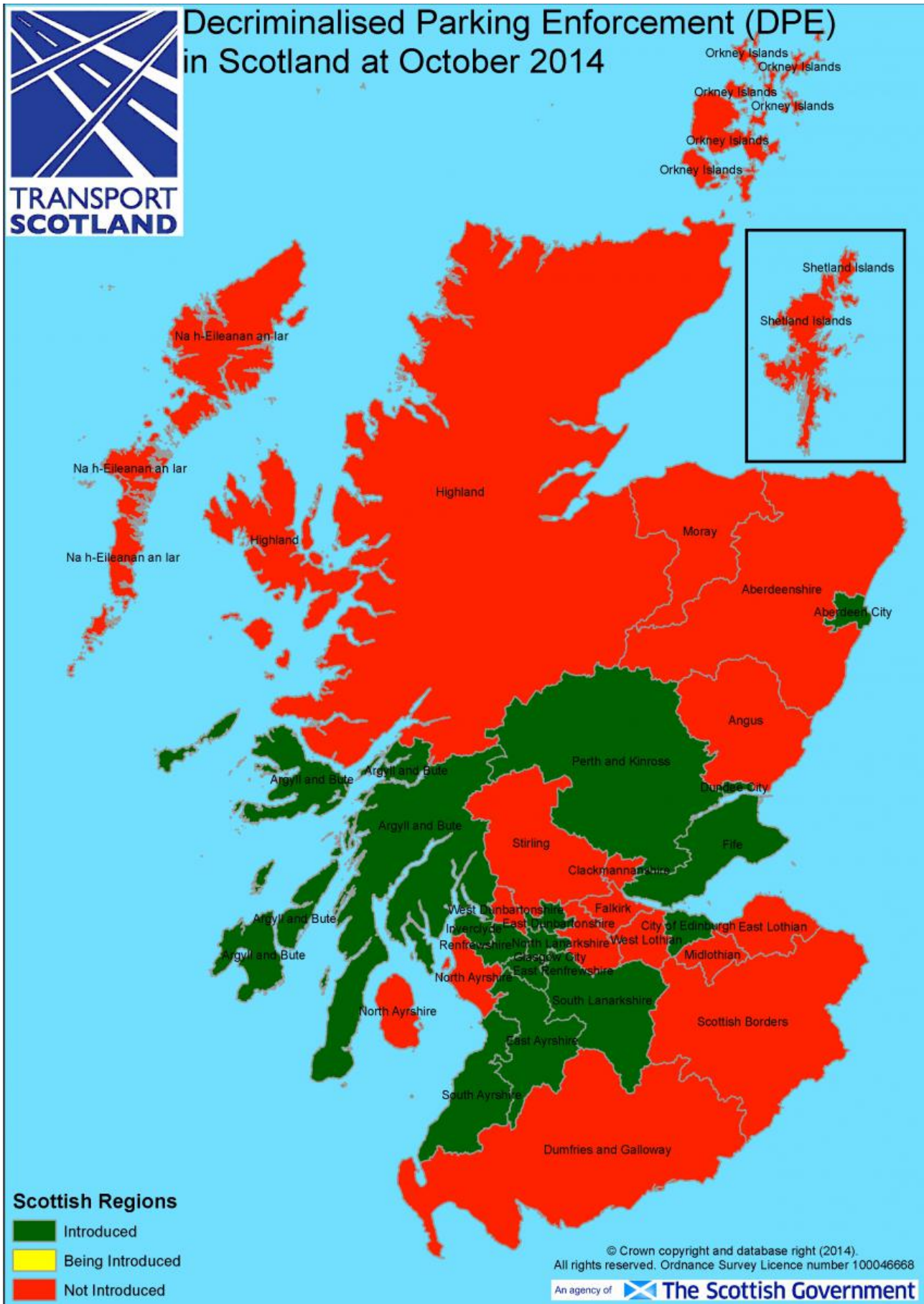
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**Background Papers:** None

**Previous Minute Reference:** None

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Contact us at Jacqueline Whitelaw, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email [eitranslationrequest@scotborders.gov.uk](mailto:eitranslationrequest@scotborders.gov.uk).



## Appendix B

		<b>Additional Costs to Current Off-Street P&amp;D Operations</b>	
		<b>One off cost</b>	<b>Annual cost</b>
Preparation of DPE Application	Consultants	£50,000	N/A
Buchanan Computing	TRO Loading TRO Review	£60,000	£3,100
Signs and Lines	Replacement of missing signs and lines from TRO review	£20,000	£1,500
Disc Parking Signing Amendments	Sign Manufacture and Erection	£35,000	£1,000
Parking discs	Purchase of 50,000 without advertising	£10,000	£2,000
Additional Staff	1.8 FTE Parking Attendant 0.7 FTE Back Office Staff		£45,000
Vehicles	1 x New Van		£6,000
Handhelds	Upgrade x 5 New x 1	£3,000	£500
Software	Upgrade	£5,000	
Uniforms	New/Replacement Uniforms for staff	£1,000	£200
Stationary		£500	£200
Training		£5,000	
Telephones		£1,000	£1,000
Publicity/Advertising		£10,000	
	SUB TOTAL	£200,500	
10% Contingency		£20,050	
	<b>TOTAL</b>	<b>£220,550</b>	<b>£60,500</b>

Based on Police Scotland Fixed Penalty Notices issued (1300 pa) and a recovery rate as below (based on Argyll & Bute's submission to Transport Scotland) it is estimated that an income of £45000 pa will be achieved from PCNs

<b>Recovery rate</b> - 80% of PCNs will be paid without being contested (15% at £60, 62% at £30 and 3% at £90)	-£39,390
20% will be appealed or contested and these will be recovered at an average rate of £22	-£5,720
<b>Deficit to be made up from Off-Street P&amp;D</b>	<b>£15,390</b>

## **Appendix C**

### **Option 1 – Do nothing.**

Members discussed the option of taking no action in response to removal of wardens, which was the present ongoing position. For this to be effective there would be reliance on drivers to self-comply and for the police to continue their existing purge approach. The risk was that it would not work and that it would lead to indiscriminate parking. The view was expressed that police should not spend their time on parking enforcement. It was agreed to rule out this option at the present time.

### **Option 2 – Funding police to reintroduce Traffic Wardens locally**

Funding police to reintroduce wardens locally would be in accordance with Section 95 or the Road Traffic Regulation Act 1984 under which wardens can be employed only by the police. The officers advised that this was unlikely to be a serious option bearing in mind the decision of Police Scotland to remove the service. Although this could be a short term solution and was the one being followed by one local authority the cost involved was likely to be significant. The Group agreed that Police Scotland should be approached for a response as to whether this was an option that could be considered for the Scottish Borders. Following further consultation with Police Scotland it quickly became apparent that this was not a viable option.

### **Option 3 – Offer from private company – warning letter**

It was explained that SBC had been approached by two former police officers who offered to provide the service on behalf of the Council. In the short term this could be on a trial basis, at low cost, to issue warning letters to drivers as a means of parking control. They felt they could do this very economically in tandem with an existing role providing mobile security. In effect this would be an external management arrangement under Option 5. A DPE scheme would still be required and procurement rules would apply. It was agreed this option should be kept in reserve as a possible way forward under DPE.

### **Option 4 – A TRO review to 'slim-down' and rationalise restrictions, relaxing/removing as many as possible and consolidating traffic orders into one.**

It was explained that a TRO review would be an opportunity to take away unnecessary restrictions and bring in closer connected schemes. This should lead to a situation where restrictions were easier for the public to understand and easier to police. It was suggested that, in relation to TROs, there should be a standardisation of times across the Borders. Although this option would result in easier management of restrictions this would not provide any level of enforcement. Members agreed that a TRO review should be carried out whether or not a DPE Scheme was set up and noted that work had already started on a review and that this would include a review of regulations associated with disabled spaces.

### **Option 5 - Agreed Borders-wide regime of DPE**

It was agreed that to provide a DPE service would give the best control of parking. There would be an ability to target problem areas and would improve road safety especially near schools. The disadvantages were that it would be a time-consuming process to operate and would be expensive in terms of staff time and/or consultants fees. It would be difficult to make a financial case for a DPE scheme. The areas to be looked at would be whether there should be a full on-street and off-street scheme, or

partial in critical areas where needed, following a TRO review; and whether there should be on-street charging. A decision would also be needed as to whether management of the scheme should be in-house, external or a mix of both.