

DEPARTMENT FOR TRANSPORT

TRAFFIC MANAGEMENT ACT 2004

**SUMMARY OF RESPONSES TO THE BETTER
PARKING – KEEPING TRAFFIC MOVING PUBLIC
CONSULTATION**

July 2007

Summary of Responses to the Better Parking - Keeping Traffic Moving Public Consultation

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A. Background

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.

At present, all London authorities and 177¹ local authorities in England outside London operate Decriminalised Parking Enforcement (DPE). Under DPE, parking regulations are enforced by parking attendants employed, directly or indirectly, by local 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.

The Road Traffic Act 1991 and regulations made under the Act² supply the current national legislative framework for DPE. London local authorities have built on the 1991 Act using local legislation and have taken additional enforcement powers and altered certain aspects of the enforcement process³. To support local authorities in their exercise of DPE powers, non-Statutory Guidance was issued by the Department for Transport/Welsh Office⁴.

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 this consultation document.

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. In recognition of their wider remit parking attendants will become known as Civil Enforcement Officers (CEOs).

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

¹ As at July 9th 2007

² The Road Traffic (Parking Adjudicators) (England and Wales) Regulations 1999 (SI No 1918).

³ See the London Local Authorities Act 1995, the London Local Authorities Act 2000 and the London Local Authorities and Transport for London Act 2003.

⁴ *Guidance on Decriminalised Parking Enforcement Outside London* (Local Authority Circular 1/95 and Welsh Office Circular 26/95) available from www.dft.gov.uk.

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.

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 publish Statutory Guidance for Wales. The Government will also publish non-statutory Operational Guidance for England and Wales. This will supersede the Local Authority Circular 1/95.

The Mayor of London should consider revising his Transport Strategy to make the parking aspects in it consistent with the new Regulations and Guidance

The Department issued a consultation document on 12th July 2006 that set out the Government's position on CPE and sought to establish views on 20 specific questions set out in the consultation document. This was sent to all Local Authorities in England, 85 other organizations (including the key stakeholders and members of the working group), and 8 people 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

Responses were in some cases very detailed and this report provides a summary of those views. The key issues are set out below.

B. Numerical Summary

A brief numerical summary is provided below. The questions asked in the consultation are set out in full in the first table. The numbers in bold indicate the answer with the largest response. The second table shows the percentage of responses to each questions that come from local authorities, the public and other organisations.

Question No.	Question	Yes	No	Maybe
1	Does the Partial RIA represent a fair analysis of the policy?	63	14	7
2	What further evidence might be added to the assessment of costs and benefits in the RIA? Please supply substantive evidence to support your argument	Not a Yes/No/Maybe question		
3	To what extent and how should authorities publish information about parking provision and/or	Not a Yes/No/Maybe question		

	parking restrictions in their area?			
4	What additional information would be most useful to road users and how should it be presented?	Not a Yes/No/Maybe question		
5	Should the Government encourage local authorities to set up a unit independent of the parking department to handle cases where the road users had a grievance but it falls outside the remit of the adjudicator and the Ombudsman?	12	82	6
6	Should the Regulations to implement the TMA give the police the power to enforce parking if they should wish to do so?	20	80	8
7	Would differential penalty charges based on the severity of the contravention help improve public acceptance of and compliance with parking regulations?	52	23	29
8	Or would it be confusing to have two different levels of penalty charge in the same area?	30	47	24
9	Should civil enforcement officers have the discretion to decide when to issue a PCN, using the authority's published policy?	24	61	17
10	Should the Government suggest time limits for dealing with informal and formal representations?	72	21	8
11	If so are the following fair and achievable:			
11a	14 day national standard for dealing with informal challenges?	59	16	9
11b	90% of formal representations decided within 21 days?	53	23	8
12	Or should it be left to the individual local authority to set its own criteria?	43	47	5

13	Should the Statutory Guidance recommend that a postal PCN is sent within 14 days of the contravention?	65	21	10
14	Should the 50% discount be available for 21 days for certain cases where the PCN was issued by post?	55	41	3
15	Should local authorities have to re-offer a discount period after rejecting an informal challenge?	79	12	11
16	Or should it be at the discretion of the local authority to do this?	45	51	3
17	How long should the period following the issue of a PCN be before a vehicle should be removed or clamped?	Not a Yes/No/Maybe question		
18	Do you agree with the proposed definition of a persistent evader as an individual with 3 or more outstanding and uncontested PCNs?	78	16	3
19	Would it be acceptable for the ALG to expand their persistent evader database for use across England?	56	10	32
20	If not, what other options might be suitable?	Not a Yes/No/Maybe question		

The table below shows the percentage of responses to each question that come from local authorities, the public and other organisations.

Question No.	Yes	No	Maybe	Yes / %	No / %	Maybe / %	Local Authorities Yes / %	Local Authorities No / %	Local Authorities Maybe / %	Public Yes / %	Public No / %	Public Maybe / %	Other Yes / %	Other No / %	Other Maybe / %
1	63	14	7	75.0	16.7	8.3	76.1	14.9	9.0	50.0	50.0	0.0	81.8	9.1	9.1
2	Not a Yes/No/Maybe question														
3	Not a Yes/No/Maybe question														
4	Not a Yes/No/Maybe question														
5	12	82	6	12.0	82.0	6.0	4.0	93.3	2.7	33.3	50.0	16.7	36.8	47.4	15.8
6	20	80	8	18.5	74.0	7.4	12.0	78.7	9.3	22.7	77.3	0.0	54.5	36.4	9.1
7	52	23	29	50.0	22.1	27.9	41.3	26.7	32.0	80.0	10.0	10.0	68.4	10.5	21.1
8	30	47	24	29.7	46.5	23.8	33.3	38.9	27.8	10.0	70.0	20.0	10.0	70.0	20.0
9	24	61	17	23.5	59.8	16.7	12.0	69.3	18.7	50.0	37.5	12.5	57.9	31.6	10.5
10	72	21	8	71.3	20.8	7.9	64.9	25.7	9.5	87.5	0.0	12.5	89.5	10.5	0.0
11a	59	16	9	70.2	19.0	10.7	72.1	18.0	9.8	42.9	42.9	14.3	75.0	12.5	12.5
11b	53	23	8	63.1	27.4	9.5	65.6	27.9	6.6	28.6	42.9	28.6	68.8	18.8	12.5
12	43	47	5	45.3	49.5	5.3	54.3	40.0	5.7	14.3	71.4	14.3	22.2	77.8	0.0
13	65	21	10	67.7	21.9	10.4	62.5	25.0	12.5	85.7	14.3	0.0	82.4	11.8	5.9
14	55	41	3	55.6	41.4	3.0	49.3	47.9	2.7	87.5	12.5	0.0	66.7	27.8	5.6
15	79	12	11	77.5	11.8	10.8	74.3	13.5	12.2	66.7	22.2	11.1	94.7	0.0	5.3
16	45	51	3	45.5	51.5	3.0	58.3	38.9	2.8	11.1	77.8	11.1	11.1	88.9	0.0
17	Not a Yes/No/Maybe question														
18	78	16	3	80.4	16.5	3.1	84.7	12.5	2.8	66.7	33.3	0.0	68.8	25.0	6.3
19	56	10	32	57.1	10.2	32.7	52.8	11.1	36.1	77.8	11.1	11.1	64.7	5.9	29.4
20	Not a Yes/No/Maybe question														

Total responders: 112

Authorities: 77

Public: 13

Other: 22

C. Response Summary

More detailed responses on the consultation are set out below, along with the policy decisions taken by Government.

i) Regulatory Impact Assessment

Question 1: Does the Partial Regulatory Impact Assessment represent a fair analysis of the policy?

% Yes	% No	% Maybe
75	17	8

There was widespread support for the Partial RIA. Some comments of detail regarding potential additional costs are included in the final RIA.

Question 2: What further evidence might be added to the assessment of costs and benefits in the RIA? Please supply substantive evidence to support your argument.

There were considered to be some additional costs for authorities changing from DPE to CPE (including software and training costs), however these funds would be recouped through the more accurate issuing of PCNs that the Regulations and Guidance intend to bring about. There were deemed to be little extra costs for authorities yet to apply for DPE.

ii) Information about Parking

Question 3: To what extent and how should authorities publish information about parking provision and/or parking restrictions in their area?

Question 4: What additional information would be most useful to road users and how should it be presented?

The response to this section was encouraging and suggested numerous methods that local authorities (LAs) should use to communicate effectively with the public about their parking policies and their enforcement. This material is being fed into the communications working group chaired by DfT which will be producing a toolkit for authorities to use in line with the timetable for the Regulations and Statutory Guidance coming into force.

iii) Accountability within local authorities

Question 5: Should the Government encourage local authorities to set up a unit independent of the parking department to handle cases where the road users had a grievance but it falls outside the remit of the adjudicator and the Ombudsman?

% Yes	% No	% Maybe
12	82	6

There was clear agreement that this would be likely to result in more complex processes for authorities. Furthermore most local authorities commented that they already have a complaints procedure that deal with all aspects of local authority work and that particular complaints about parking are also covered by this.

Government has decided that we do not tell local authorities to create a new parking grievance/complaints unit.

iv) Role of the police

Question 6: Should the Regulations to implement the TMA give the police the power to enforce parking if they should wish to do so?

% Yes	% No	% Maybe
19	74	7

At present all parking contraventions under Decriminalised Parking Enforcement (DPE) are the responsibility of the local authority. Under Part 6 of the TMA, regulations could be drawn up so that the police would have the power to enforce parking contraventions should they so wish, as well as the local authority. The responses to the consultation indicate that three quarters of respondents do not want the powers returned to the police, and this view was supported by responses received separately from the representatives of the police. There are practical concerns which could also occur here, particularly due to cost differences between a PCN and an FPN (the latter are lower).

Government has decided that in areas where parking enforcement has been decriminalised, the Regulations will not give back to the police power to enforce as well.

v) Procedures on the Street

Question 7: Would differential penalty charges based on the severity of the contravention help improve public acceptance of and compliance with parking regulations?

% Yes	% No	% Maybe
50	22	28

Question 8: Or would it be confusing to have two different levels of penalty charge in the same area?

% Yes	% No	% Maybe
30	47	23

The principle of differential charging is that there would be a different level of penalty charge depending on the contravention (e.g. £X for overstaying where parking is permitted but £1½ X for parking where it is never permitted).

The results (particularly in terms of non-LA respondents) indicate that there was support for differential charges being introduced. The statistics reveal that 70% of non-LA respondents believe that there will not be confusion. Therefore any fears of public disquiet over confusing variations in charges are unfounded.

In addition London (where around 70% of all English PCNs are issued) have recently completed their more detailed consultation on this issue. Their results show stronger support for differential charges, both from LAs and non-LAs and differential charging will be introduced in London from July 1st 2007. It would therefore be in the interests of consistency that this system applied throughout the country.

This policy would be both fair to the motorist and demonstrate that we are tough on the traffic management side of parking enforcement. It would also show that parking enforcement is not about revenue raising, but about keeping traffic moving.

Government has decided that we introduce differential penalty charging in the Regulations

Question 9: Should civil enforcement officers have the discretion to decide when to issue a PCN, using the authority's published policy?

% Yes	% No	% Maybe
24	60	16

The consultation responses indicated that 60% of respondents did not wish to see CEOs have discretion to decide whether or not to issue a PCN. However only 35% of non-LA respondents were against CEOs having this discretion.

The Statutory Guidance will make clear that the Government believes that, generally, the place for discretion to be exercised is the back-office. Where there is scope for CEOs to exercise discretion they should have clear guidance - which is published - about the circumstances in which they may use their discretion. For instance, it may be more appropriate for a CEO to suggest to a returning motorist that s/he moves the vehicle out of contravention than to issue a PCN. The use of general discretion could make CEOs vulnerable to physical threats and accusations of corruption. It could also have the potential to undermine rather than support the Government's objective of making the parking system fairer.

The Statutory Guidance will ask local authorities to publish those situations where a CEO may not wish to issue a PCN (e.g. where a large delivery vehicle will certainly need more than 20 minutes to load and unload, or where a motorist returns to their vehicle) and that the CEO should have regard to this. This would allow LAs to enforce their traffic management priorities, whilst balancing them with proportionality and fairness to the motorist.

Government has decided that Statutory Guidance will ask local authorities to produce well publicized discretionary policies, for on-street enforcement officers, as to situations where they may not wish to issue a PCN. However discretion should rest in the back office to prevent potential abuse of CEOs.

Question 10: Should the Government suggest time limits for dealing with informal and formal representations?

% Yes	% No	% Maybe
71	21	8

The TMA contains powers to place time limits on actions of local authorities in Regulations and Statutory Guidance. Currently there are various time limits that drivers have to meet but few for LAs.

Nearly 90% of the public and other respondents to the consultation said that the Government should take this opportunity to introduce time limits for authorities in the Statutory Guidance. Although there are different pressures on smaller, less well resourced authorities and large well resourced authorities there is still widespread support, even at LA level for Government guidance in this area.

Government has decided that the Statutory Guidance suggests time limits for dealing with informal and formal representations.

Question 11: If so are the following fair and achievable:

- 14 day national standard for dealing with informal challenges?
- 90% of formal representations decided within 21 days?

% Yes	% No	% Maybe
70	19	11
63	27	10

There is widespread support for informal representations being dealt with within 14 days. There were some concerns that authorities will not have time to deal with these informal representations fully and fairly within this period and may reject them rather than giving them proper consideration. The majority of authorities however supported the proposals.

Government has decided to place this provision in the Statutory Guidance.

90% of formal representations being decided within 21 days was considered to be both fair and achievable by both local authorities and others.

Government has decided to place this provision in the Statutory Guidance.

Question 12: Or should it be left to the individual local authority to set its own criteria?

% Yes	% No	% Maybe
45	50	5

Some local authorities responded by saying that they already have ambitious time targets and can continue to set themselves appropriate deadlines. However the response to questions 10 and 11 indicates that there is little confidence outside of local authority circles and even some LAs themselves ask for Government to set appropriate criteria. Centrally set criteria are preferable to gain national consistency and build public trust.

Government has decided to set out a consistent criteria in the Statutory Guidance.

Question 13: Should the Statutory Guidance recommend that a postal PCN is sent within 14 days of the contravention?

% Yes	% No	% Maybe
68	22	10

LAs and the public on the whole agree with this principle, with the exception of some smaller local authorities who may be put under some resource strain. Over 80% of non local authorities supported this proposal, suggesting that it would increase public confidence in the CPE system.

Government has decided that this provision is placed in the Statutory Guidance.

Question 14: Should the 50% discount be available for 21 days for situations where the PCN was issued by post?

% Yes	% No	% Maybe
56	41	3

The rationale behind this proposal was that if a PCN is dispatched by post the motorist would have it for fewer days during which it can be paid at a discount than if it had been left on the vehicle or given to the person who appeared to be in charge of the vehicle at the time of contravention. The lower discount period will only apply to PCNs issued by post on the basis of evidence from a certified device. It will not apply when the CEO has been prevented from serving the PCN at the time of contravention because of violence or the person driving away.

This provision received support from local authorities, but only by a small margin because they were concerned that the two different discount systems could lead to confusion. There was strong public support and positive overall support.

Government has decided that we place this provision in the Regulations

Question 15: Should local authorities have to re-offer a discount period after rejecting an informal challenge?

% Yes	% No	% Maybe
77	12	11

Question 16: Or should it be at the discretion of the local authority to do this?

% Yes	% No	% Maybe
45	52	3

Some local authorities already re-offer a 50% discount period after the rejection of an informal representation. Recommending this in the Statutory Guidance would give a consistent and harmonised opportunity for those issued with a PCN to challenge its validity without the fear of losing the discount.

Government has decided that the Statutory Guidance recommends that where an informal representation made within 14 days of PCN issue is rejected, the 50% discount period should be re-offered for a further 14 days to encourage prompt payment.

Question 17: How long should the period following the issue of a PCN be before a vehicle should be removed or clamped?

This question refers specifically to vehicles in a parking place. Currently 15 minutes must elapse between PCN issue and clamping. There is a general consensus that 30 minutes would be an appropriate time rather than the 60 minutes proposed in the consultation document. The reason is that the time to clamp follows the issue of a PCN rather than when a contravention actually occurred. A contravention could have commenced an hour before a PCN was issued and it would still be another hour before the vehicle could be clamped. This could be seen as weak on parking enforcement. 30 minutes is seen as fair.

Government has decided that a vehicle in a parking place should not be clamped or removed within 30 minutes of a PCN being issued.

Question 18: Do you agree with the proposed definition of a persistent evader as an individual with 3 or more outstanding and uncontested PCNs?

% Yes	% No	% Maybe
80	17	3

Local authorities and non-local authority respondents agreed that persistent evaders are a problem and that they should be subject to strong enforcement methods. The consultation analysis indicated that 3 or more PCNs is the appropriate level.

Government has decided that a persistent evader be defined as having three or more outstanding and unchallenged PCNs.

Question 19: Would it be acceptable for the London Councils (formerly the ALG) to expand their persistent evader database for use across England?

% Yes	% No	% Maybe
57	10	33

There was support for the London Councils extending their database nationwide; however there were a number of important concerns. Firstly the problem of persistent evaders is one that is particularly focussed on heavily urbanised areas (notably London). Many small local authorities were not

interested in contributing to a national database. There were suggestions though of opt-in regional databases that would allow local authorities who wished to be involved to take part.

Government will ask the London Councils to make their database available for any local authority that wishes to use it. .

Question 20. If not, what other options might be suitable?

There were some suggestions that DVLA should run the persistent evader database. However this is not part of DVLA's remit.

Other Changes

Consultees were invited to offer their views on all aspects of the draft Regulations and Guidance. A number of minor changes have been made as a result of this and of further policy consideration. The main change is that local authorities will not be able to recover the money for all past PCNs from persistent evaders that are clamped or removed. Government took this decision in response to the 2nd London Local Authorities and Transport for London Bill. This Bill has proposed a system for tackling persistent evaders in London for which there is no primary legislative power in the rest of the country. After a trial in London Government will consider whether to implement the provisions in the rest of the country with new primary legislation.

Annex A: 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

Transport for London

Annex B: Members of Working Group

Automobile Association

London Councils

British Parking Association

Department for Constitutional Affairs

Essex County Council

Government Office for London

Local Government Association

National Parking Adjudication Service

North Yorkshire Police

Parking and Traffic Appeals Service

RAC Foundation

Transport for London

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