

TORBAY COUNCIL

Report No: **ENV/50/04**

Title: Implementation of Decriminalised Parking Enforcement

To: The Executive on 14th September 2004

1. Purpose

- 1.1 To report the conclusions of the Transportation Strategy Working Party on their consideration of progress towards the implementation of Decriminalised Parking Enforcement (DPE) and the submission of the application to the Secretary of State for its implementation.

2. Relationship to Corporate Priorities

- 2.1 The implementation of DPE will support the Council's priority to have excellent access and communication to, from and within the Bay.

3. Recommendations

- 3.1 That Members agree to the submission of the application to the Secretary of State for designation orders under the Road Traffic Act 1991 creating a Permitted Parking Area (PPA) and Special Parking Area (SPA) for the whole Borough of Torbay, to allow for the introduction of DPE on-street and in the car parks to start on 4th April 2005.
- 3.2 That Members approve the level of parking penalty charge to be set at £60, discounted to £30 if paid within the first 14 days, for on and off-street parking.
- 3.3. That the following element of DPE be contracted out as one contract with a five year term:
- Parking attendant provision and Penalty Charge Notice (PCN) issue for on and off street.
- 3.4 That the following elements of DPE be included in the contract as optional extras:
- Pay and Display/parking equipment provision & maintenance;
 - Cash collection;
 - Clamping & removals.
- 3.5 That the following elements of DPE be retained in-house:
- Provision of IT;
 - Notice Processing and Administration;
 - Customer interfaces in the Connections offices for queries, payment and permit application;
 - Line & sign maintenance;
 - Car park management and refurbishment.
- 3.6 That authority be given to the Council's Solicitor (Assistant Managing Director) to enter into an Agreement under Section 101 of the 1972 Local Government Act, with the National Parking Adjudication Service (NPAS).
- 3.7 That Members nominate two Councillors (one as a substitute) to serve on the National Adjudication Service Joint committee.

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| 3.8 | That Members note the suggested staffing structure shown in Appendix 1 and that the Director of Environment Services, in consultation with the Executive Member for Environment, progresses this issue. |
| 3.9 | That Members approve the financial course of action outlined in paragraph 5.12 of the report. |

4. <u>Reason for Recommendations</u>

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| 4.1 | To obtain Members' approval for the submission of the application to the Secretary of State for the implementation of DPE and their approval to other issues relating to its implementation. |
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5. Background

- 5.1 A decision was made by The Executive at its meeting on 14th October 2003 that an application be made to the Secretary of State for powers to enable the Council to undertake on-street parking enforcement from April 2005. This is known as Decriminalised Parking Enforcement (DPE).
- 5.2 A consultation document was recently sent to all residential and business properties in the Bay to seeking the public's views on parking issues. The outcome of this consultation is currently being analysed, but initial findings are that there is general support for additional parking enforcement and the introduction of further controls. In addition to the support for the on-street parking enforcement that can be carried out by the Council following the introduction of DPE, consultation has identified a need for improved enforcement to stop vehicles being parked on footways and verges. Although this type of enforcement cannot be undertaken by the Council using the current legislation associated with DPE, the Council is investigating measures to be submitted to the Secretary of State for his consideration of its implementation in the future
- 5.3 There will be three distinct functions within the new parking service;
- The enforcement element of the existing car park operation will be combined with the enforcement of on-street restrictions to provide one parking enforcement team issuing penalty charge notices (PCN) on and off street.
 - The PCN processing and issue of Council parking permits, on and off street.
 - The management and maintenance of the car parks.
- 5.4 Before DPE is implemented, the Council have the opportunity to consider how it delivers the various elements of the whole parking service. There are options available to the Council for contracting out some aspects of both DPE and car park management and this report explores these options. It should be noted that no one way is better than another, but rather that it depends on the existing resources available within the Authority. Of the Local Authorities now operating DPE, about 50% have maintained the delivery of DPE operations in-house.
- 5.5 The decision to contract out some elements of the service and, if so which elements to include, should have regard to the resources and expertise required, the need for consistent, cohesive, customer focussed service delivery and the viability and cost effectiveness of the service.
- 5.6 The recommendation from the Secretary of State is that the formal application for the powers to enable the Council to undertake DPE takes 16 weeks. However, the experience of Local Authorities who have applied recently is that it is currently taking up to 20 weeks. Therefore, the application must be submitted by the end of October to meet the proposed

start date of 4th April 2005. Project Centre, the consultant employed by the Council to assist with the implementation, is preparing a draft application now to meet this deadline.

5.7 Similarly, if the decision is taken to contract out some elements of the service, the tender must be prepared for issue by the end of October at the latest. Project Centre has been instructed to start the preparation of a draft tender based on the following considerations before a decision is made.

5.8 There are a number of experienced contractors who are capable of setting up and running a contract for parking enforcement and other related services. It is recognised that there have been problems in the past with contracts operating on low margins leading to poorly paid, poorly trained attendants with the emphasis on PCN quotas rather than service delivery, which has given the industry a poor reputation. This is being addressed with current contracts aiming to drive up the quality of the service by monitoring across a range of quality areas using key performance indicators such as patrol frequencies, deployed attendant numbers, attendant behaviour, quality of PCN issue and training and development. This type of contract gives more flexibility to develop a partnership approach with the contractor and to amend service delivery in the light of changing local conditions and priorities. However, the success of the service will depend on the quality of the contract itself and the qualities of the contractor's and Council's contract management.

5.9 Delivery of the main elements of DPE

The main elements of the parking service are;

- Parking attendant provision and PCN issue
- Clamping & removal
- Notice Processing
- Parking shop services
- IT provision
- Pay and Display equipment provision & maintenance
- Cash collection
- Line & sign maintenance
- Car park management
- Car park refurbishment

Recommendations on the delivery of these service elements are set out below.

5.9.1 Parking Attendant Provision and PCN issue.

Contracting out this element removes the need for the Council to provide a large number of parking attendants, and to provide an operational base. It is the element with the greatest potential to deliver benefits if contracted out.

Although the Council would set the level of service and operational policies through key performance indicators the contractor would have the responsibility for recruitment, training, retention and performance of staff and the provision of all the other items needed to deliver the service. This includes transport, uniforms, communication and stationery.

It is the opinion of Project Centre that costs for running the service in-house or contracting out some elements will be broadly similar. However, contracting out allows the start-up costs to be spread over the term of the contract.

It is considered that five years, with options for extension, is a suitable term for such a contract to allow time for a contractor to provide a competitive and cost effective service but to allow the Council to carry out a review within a suitable time scale.

It is recommended that parking attendant provision and PCN issue be contracted out.

5.9.2 Clamping and Removals

The powers to enable clamping and removal will be included in the application. However, where removals are carried out, the contractor is required to provide a secure vehicle pound with 24 hr access for the motorist to pay and retrieve their vehicle. The cost of the removal vehicles and a secure pound is not generally cost effective or practical for smaller authorities and may not be appropriate in Torbay.

It is recommended that clamping & removal is not carried out initially. However, the option should be included in any enforcement contract for future consideration.

5.9.3 Notice Processing

The Road Traffic Act 1991 requires the Local Authority to deal with representations. This is the formal correspondence against PCN issue that takes place after the 'Notice to Owner' is issued if payment has not been received after 28 days. There are other administration functions such as replying to other correspondence, opening and scanning post, printing and sending out notices, receiving and banking payments, telephone enquiries and permit issue that can be contracted out. However, even though dealing with the initial enquiries following the issue of a PCN is not part of the formal stage, and can be contracted out, this is the first contact that the public and media will have with 'the Council' and will reflect the reputation of the service.

It is the experience of many Local Authorities that it is preferable to retain all correspondence and administration functions in-house as it offers a cohesive service. Responses are more likely to be consistent, comprehensive and reflect wider Council policies. Where all correspondence is dealt with in this way it has been shown to reduce representations, increase income and reduce conflict.

It is recommended that, to ensure the most effective use of resources and consistent high quality response to the public, that all Notice Processing and administrative functions are retained in-house.

5.9.4 Parking shop services

As Council services become increasingly customer focused the expectation is for conveniently placed access for personal callers for queries and payments. With the layout of the Bay there would need to be three separate locations for dedicated parking queries and payments, one each in Torquay, Paignton and Brixham. There is already a Connections office in each of these locations, providing a public interface for off-street parking and other services. It would not be cost effective to provide additional premises solely for DPE enquiries. However, one shortfall of using the Connections offices is that they are currently only open during office hours. It may be inconvenient, especially for visitors to the Bay, that the facilities are not available during the evening, at weekends and on Bank Holidays, but this is not essential and contact would still be available by telephone at other times.

There may be implications for the Council in relation to the additional resources that will be needed for the Connections offices in relation to the additional volume of enquiries, which will be included in the DPE expenditure budget, but which cannot be quantified at the present time.

It is recommended that the provision of customer interfaces for queries, payment and permits be delivered in the Connections offices by in-house staff.

5.9.5 Information Technology (IT)

The Council will require a dedicated parking enforcement IT package to operate the whole DPE service from the issue of PCN's using handheld computers, through notice processing

and permit issue and including appeals and debt registration. It is important at this stage to acquire the most up to date technology to maximise the quality of the service offered. There are currently bespoke parking systems on the market, which include document scanning, integrated cameras and scope for flexibility for future expansion, e.g. if the Traffic Management Act decriminalises further 'moving traffic' contraventions. The costs of the bespoke system can be spread over the life of the asset.

It is recommended that, a bespoke IT system be purchased by the Council for the operation of DPE.

5.9.6 Pay and Display Equipment Provision and Maintenance.

The payment system in use in the Council's car parks is pay and display and there are currently 112 machines off-street, many of which are due for replacement. Each machine costs approximately £3,000 to purchase and install, and currently there is no maintenance contract in place. Maintenance is carried out in-house by the car park supervisors or brought in from the manufacturer.

It is likely that pay and display will be expanded in the near future to control short stay parking on-street and the machines could be purchased or leased by the Council or included as part of an enforcement contract. If included as part of an enforcement contract the contractor could also be required to carry out maintenance. The machines could revert to the Council at the end of the contract.

It is recommended that, subject to the provision of parking attendants and the issue of PCN's being contracted out, the option for the supply and maintenance of pay and display/parking equipment be included in a contract.

5.9.7 Cash Collection, Verifying and Banking

Whoever carries out this service, it is vital that it is closely monitored and audited to safeguard income. It is currently carried out in-house by Exchequer Services, where there are safeguards and policies to ensure that it is effectively controlled, monitored and audited. Any future growth caused by on-street pay and display cash collections may not be absorbed into the current structure, resulting in an increase in costs. There may be advantages to operating cash collection in-house as the Council has to provide a service to other Directorates.

It is recommended that, subject to the provision of parking attendants and the issue of PCN's being contracted out, that the provision of all parking cash collection is included as an option in the contract.

5.9.8 Line & Sign Maintenance

Correct and properly maintained lines and signs are a vital element in the success of DPE and the income it generates. PCN's cannot be issued or followed through if the lines and signs are not in accordance with the Traffic Regulation Orders (TROs) and correctly maintained. This function currently sits within the Highways Management Group, along with the provision of white carriageway markings. It would not be practical to separate out the provision of markings associated with the control of parking from other markings.

It is recommended that line and sign maintenance are not included in the contract.

5.9.9 Car Park Management & Refurbishment

Many of Torbay's car parks require considerable capital investment to bring them up to the high quality standards increasingly demanded by the public, and the development potential is being investigated.

It is recommended that car park management and refurbishment is not included in the contract.

5.10 Staffing Levels and Structure

There are currently 18 full time equivalent Council staff managing and enforcing the Council's 42 car parks. Of these, 12 full time equivalent are car park attendants, who issued 5,632 excess charge notices in 2002/2003. There are 13.5 police traffic wardens enforcing highway regulations across the Bay issuing 6,951 fixed penalty notices (FPNs). The combined existing staffing resources of the two organisations equates to 31.5 full time equivalent staff issuing a combined total of 12,583 excess and fixed charge notices. These figures do not include any consideration for staff currently needed to process police FPNs, which is a function of Central Government.

Following consultation with other Local Authorities, it is suggested that the new staffing structure mirror the three separate strands of the service i.e. Enforcement, Notice Processing/Administration and Car Park Management. Appendix 1 shows the recommended structure.

Subject to Members accepting the recommendations made in section 5.9 above, the staffing of the enforcement strand will pass to the contractor together with the responsibility of providing a staffing level to meet the key outcomes of the contract.

There is a significant staffing implication with taking this initiative forward. Initial indications from the Police are that they do not expect any traffic wardens to be available for employment by Torbay Council. However, if Members approve the recommendations in paragraph 5.9 this would result in a number of Council staff transferring (under TUPE) to the successful enforcement contractor. Clearly, discussions need to commence with trade union representatives regarding these proposals as soon as possible.

To meet the implementation deadline of 4th April 2005, the appointment of senior posts by the Council needs to be completed before January 2005 so that the remaining posts can be recruited to allow training of all staff to be commenced at the start of the new calendar year.

It is recommended that Members note the suggested structure as shown in Appendix 1 and that the Director of Environment Services, in consultation with the Executive Member for Environment, progresses this issue.

5.11 Application to the Secretary of State

The application to the Secretary of State must contain information on 16 defined issues. These are listed in Appendix 2, together with information on progress to date. For the application to be submitted the following resolutions are needed from Members:

5.11.1 Designation

Members agree to the submission of the application to the Secretary of State for designation orders under the Road Traffic Act 1991 creating a Permitted Parking Area (PPA) and Special Parking Area (SPA) for the whole Borough of Torbay, to allow for the introduction of DPE on-street and in the car parks, to start on 4th April 2005.

5.11.2 Penalty Charge Notice Level

The cost of penalty charge notices is set by the Secretary of State and there are currently three charges available to Local Authorities outside London of £40, £50 and £60. These must be discounted by 50% if paid within the first 14 days. Almost without exception, Local Authorities have opted for the £60 band when they decriminalise parking enforcement. It

should be noted that the current £75 enforcement charge in the Council's car parks will be standardised to £60.

It is recommended that Members approve the level of parking penalty charge to be set at £60, discounted to £30 if paid within the first 14 days, for on and off-street parking.

5.11.3 National Parking Adjudication Service (NPAS)

Members will see from the list of information required for the application to the Secretary of State (Appendix 2) that the Council is required to make arrangements with NPAS so that motorists, whose representations to the Council have been rejected, are able to appeal to the independent parking adjudicator.

In order for the Council to use the NPAS Joint Committee adjudication service it will be necessary for the Council's Solicitor (Assistant Managing Director) to be given authority to enter into an Agreement under Section 101 of the 1972 Local Government Act established by the existing Local Authorities who make up the Joint Committee.

It will also be necessary for Members to formally nominate a Councillor to serve on the Joint Committee. NPAS recommend that a substitute Member is also nominated. Joint Committee meetings are scheduled for January and September each year with other ad-hoc meetings as necessary.

It is recommended that:

- **Authority be given to the Council's Solicitor (Assistant Managing Director) to enter into an Agreement under Section 101 of the 1972 Local Government Act, with National Parking Appeals Service Joint Committee (NPASJC).**
- **Members nominate two Councillors (one as a substitute) to serve on the NPASJC.**

5.12 Financial Implications

Councils are required to set up a parking account, including car park income and expenditure that is at least 'self financing' and requires the provisions of Section 55 (as amended) of the Road Traffic Regulation Act 1984 to apply. This stipulates that any surpluses can only be used to fund:

- a) The making good of the Council's general fund for the parking account deficits in the preceding four years;
- b) The provision or enhancement of off-street parking spaces;
- c) Public Transport improvements;
- d) Highway improvements.

Information of the programme of public transport and highway improvements is given within the Council's Local Transport Plan.

Project Centre's financial assessment shows a self-financing budget that meets the requirements of the application. They anticipate that the cost of providing the service in-house or contracting out some elements will be broadly similar.

The provisional costs and income associated with DPE over the initial two year period will need further scrutiny before inclusion as part of the 2005/06 Council budget setting process. To ensure Council Tax levels in year 1 are not distorted by the costs of establishing the new service, it is suggested by the Director of Finance that any deficit in year 1 is met by a reserve fund contribution that will be made good as the parking account achieves its surplus position.

Members approval is sought for this course of action

- 5.13 Following detailed consideration of the recommendations set out in this report by the Transportation Strategy Working Party at its meeting on 3rd September 2004, Members agreed to endorse the recommendations and asked for a report to be presented to the Executive for their approval.

6. Key Risks associated with the Recommendations

- 6.1 Provision of service – Likelihood Risk: Level 1 and Impact Risk: Level 1 = score of 1
- 6.2 Legal - Likelihood Risk: Level 1 and Impact Risk: Level 1 = score of 1
- 6.3 Reputation – Likelihood of Risk: Level 1 and Impact Risk: Level 2 = score of 2
- 6.4 Financial - Likelihood of Risk: Level 1 and Impact Risk: Level 2 = score of 2
- 6.5 Strategic - Likelihood of Risk: Level 1 and Impact Risk: Level 1 = score of 1
- 6.6 Environmental - Likelihood of Risk: Level 1 and Impact Risk: Level 1 = score of 1
- 6.7 In summary, there is a low risk that the implementation of DPE may affect the Council's reputation and financial position if it is not introduced and administered in a professional manner. The use of a consultant to prepare the application for DPE to the Secretary of State and advise on the issues involved in its implementation has kept this risk to a minimum.
- 6.8 The matrix below summarises the scatter of risk in relation to the six criteria listed in paragraphs 6.1 to 6.6 above.

Likelihood	6	6	12	18	24
	5	5	10	15	20
	4	4	8	12	16
	3	3	6	9	12
	2	2	4	6	8
	1	xx1xx	xx2	3	4
		1	2	3	4
		Impact			

Low risk
 Intermediate risk
 High risk

The "x" in the above matrix denotes where the author has assessed the level of final risk to fall

7. Alternative Options (if any)

- 7.1 Where alternative options to the delivery of the service and the application to the Secretary of State are available, these are set out in paragraphs 5.9 and 5.11 above.

Mike Yeo
Director of Environment Services

Contact Officer:	Steve Hurley – Service Manager (Town Services)
Telephone no.	7680
Contact Officer:	Ann Taylor – Parking Project Manager
Telephone no.	7679

IMPLICATIONS, CONSULTATION AND OTHER INFORMATION

Part 1

These sections may have been completed by the Report author but must have been agreed by the named officers in the Legal, Finance, Human Resources and Property Divisions.

Does the proposal have implications for the following issues? If "Yes" - give details. <i>delete as appropriate</i>		Name of responsible officer
Legal	Yes. These are largely addressed within the body of the report. It should be noted that the implementation of DPE will remove the prospect of any prosecutions in the magistrates' court for TRO contraventions and that DPE, via representations and appeals procedures, provides adequate safeguards to individuals who may have a genuine grievance in relation to the issue of a PCN	Jeremy Shute
Financial – Revenue	Yes. As detailed in the report	Adrian O'Rourke
Financial – Capital Plan	Yes. There will be Capital Accounting Implications arising from the purchase of IT software and equipment which initially will have to be funded from Reserves and will be charged to the parking account over the life of the assets.	Lynette Royce
Human resources	Yes. The transfer of Parking Attendant staff under TUPE to the Enforcement section. The need to consider liability issues regarding this transfer. The likelihood of additional staff requiring to be recruited in Connections and also in the Notice Processing section. Shift patterns may need consideration, if the opening times are extended beyond those of Connections/the Council. Training as may be required for these staff. Also whether specific training for the Car Park Inspectors in the Car Park section will be required.	Janet Teece
Property	Yes. Office accommodation will be required for this new service. The existing location of the Town Services Team at South Devon College, Newton Road is unsuitable as there is no expansion space and the lease expires on 1 st September 2005 giving insufficient security of occupation. Several options have been investigated and it is anticipated a solution can be found within the timescale required. The enforcement of revised parking regulations has the potential to affect the rental income from the Councils let Estate.	Sam Partidge

Part 2

The author of the report must complete these sections.

Could this proposal realistically be achieved in a manner that would more effectively:		
<i>delete as appropriate</i>		
(i)	promote environmental sustainability?	No
(ii)	reduce crime and disorder?	No
(iii)	promote good community relations?	No
(iv)	promote equality of opportunity on grounds of race, gender, disability, age, sexual orientation, religion or belief?	No
(v)	reduce (or eliminate) unlawful discrimination (including indirect discrimination)?	No

If the answer to any of the above questions is "Yes" the author must have addressed the relevant issue/s in the main report and have included a full justification and, where appropriate, an impact assessment.

Part 3

The author of the report must complete this section.

	<i>delete as appropriate</i>	If "Yes", give details
Does the proposal have implications for any other Directorates?	Yes	Legal, Financial, Human Resources and Property (see Part 1 above)

Part 4

Is this proposal in accordance with (i.e. not contrary to) the Council's budget or its Policy Framework?		<i>delete as appropriate</i>
		Yes
1.	If "No" - give details of the nature and extent of consultation with stakeholders and the relevant overview and scrutiny body.	
	-	
2.	If "Yes" - details and outcome of consultation, if appropriate.	
	There has been extensive consultation with the Torbay community, including a consultation document being sent to all business and residential properties in the Bay, together with Roadshows in Torquay, Paignton and Brixham. Furthermore, Members of the Transportation Strategy Working Party have been updated on progress towards the implementation of DPE.	

Part 5

Is the proposal a Key Decision in relation to an Executive function? (i.e. would generate expenditure or savings in excess of £100,000 or 20% of an approved budget OR affect more than 2,000 residents of the Borough.)	<i>delete as appropriate</i>	If "Yes" - give Reference Number
	Yes	X36/2004

Part 6

Wards

All Wards

Appendices

Appendix 1 Draft Staffing Structure for Parking Enforcement

Appendix 2 List of information to be provided to the Secretary of State

Background Papers:

The following documents/files were used to compile this report:

Executive Report ENV119/03

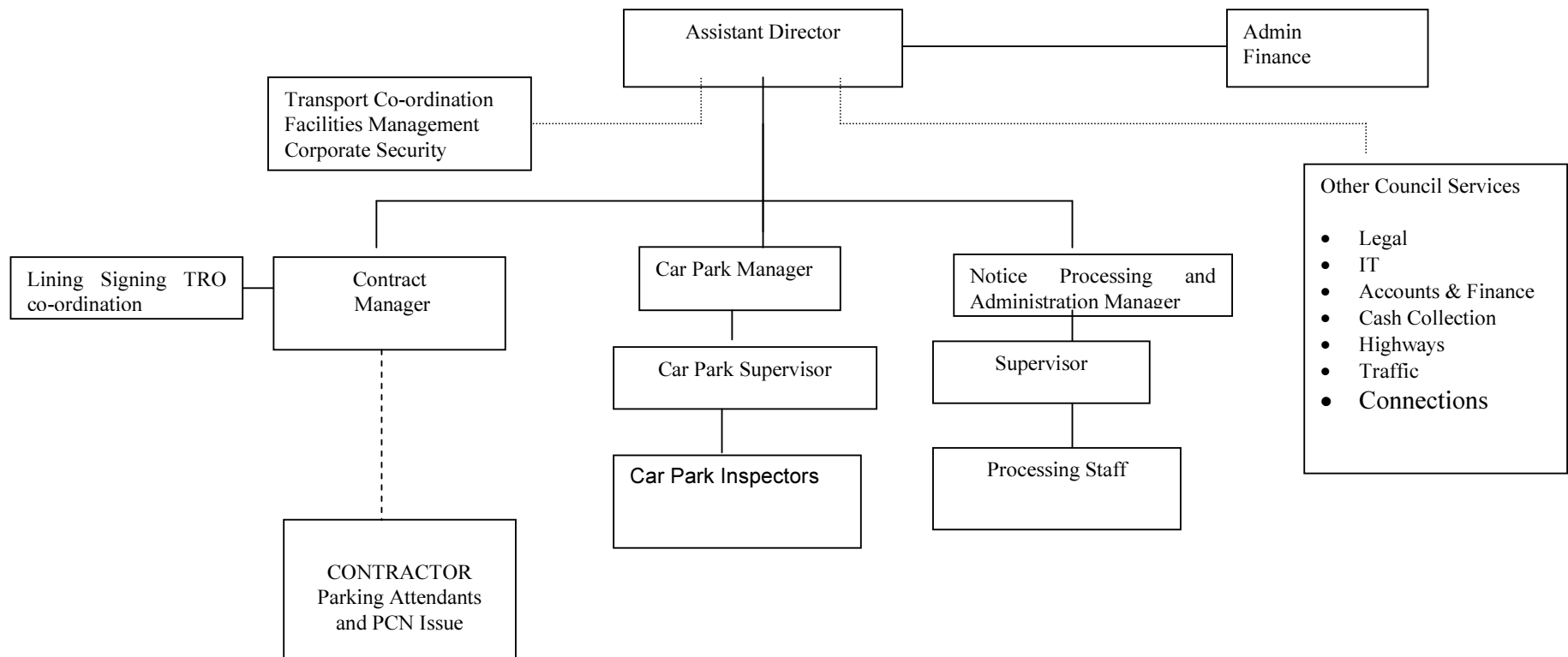
Minutes of Transportation Strategy Working Party

Report to Transportation Strategy Working Party – 3rd September 2004

Torbay Local Transport Plan 2001 – 2006

Torbay Local Transport Plan Annual progress Report 2004

Draft Structure Parking Enforcement



Each section may need additional seasonal staff at the appropriate time

**DPE Application to the Secretary of State
Information to be provided**

- a) Whether application is for a Special Parking Area (SPA), Permitted Parking Area (PPA) or both.
- b) The proposed commencement date.
- c) The area covered by the SPA/PPA.
- d) Evidence that the authority have thoroughly reviewed its parking policies.
- e) Confirmation that all Traffic Regulation Orders (TRO's) will have been modified by the implementation date.
- f) Details of the proposed level of charges for PCN's
- g) Evidence that the financial implications have been considered and that they will be self-financing.
- h) Evidence that the policies and procedures have been reviewed with respect to waivers and dispensations for disabled people, diplomats, doctors and others.
- i) Copies of correspondence with the police and other local Councils.
- j) Details of the arrangements for the provision of uniformed parking attendants and confirmation that they will be adequately trained and will conduct themselves in a fitting manner.
- k) Confirmation that suitable documentation will be used to convey information to motorists.
- l) Confirmation that the Council will use the standard contravention descriptions and codes
- m) Evidence that the motorist will have adequate payment facilities.
- n) Details of the arrangements for issuing Notice to Owners (NTOs), for considering representations and issuing charge certificates including the details of arrangements with DVLA and (Traffic Enforcement Centre (TEC)
- o) Details of the arrangements with National Parking Appeals Service (NPAS) to allow motorists to make appeals to the independent adjudicator.
- p) Confirmation that the Council will collect statistics on DPE in it's area and provide them to the Home Office.

In addition the application should confirm that if and when the Council introduces wheel clamping and removal it will comply with the Secretary of State's recommendations, with reasons why such an operation is unnecessary in the short term, and confirmation that the police are content. The application should be accompanied by an order under section 106 of the Road Traffic Regulation Act (RTRA) 1084 to give the police wheel clamping powers in the SPA/PPA.