PURPOSE OF REPORT
To request that the Executive agree to the recommendations below to enable the City Council to implement Part 6 of the Traffic Management Act 2004 (TMA) and note the implications for the Parking Service in Manchester.

RECOMMENDATIONS
It is recommended that:

[1] The Executive agree to set the level of Penalty Charges in respect of Civil Parking Enforcement at £70.00 for Higher Level Contraventions and £50.00 for Lower Level Contraventions, as per Appendix 1 of this report.

[2] The City Solicitor shall be authorised to advertise these Penalty Charge levels and other additional charges as detailed in Appendix 1 of this report.

[3] The Strategic Director of Neighbourhood Services be authorised to consult with the Police regarding the proposal for Civil Enforcement Officers to commence enforcement of parking restrictions at Pedestrian Crossings.

[4] Council is requested to adopt the following amendment to the Scheme of Delegation to Officers within the Council’s constitution:

In the delegation to the Strategic Director of Neighbourhood Services [after item 7B] add:

‘7C. To discharge the Council’s functions under Part 6 of the Traffic Management Act 2004 (except those relating to appointment etc of adjudicators to be discharged by joint committee arrangements) and in particular to approve and authorise named officers to undertake the function of canceling Penalty Charge Notices.’
**Financial Consequences for the Revenue Budget**

There are financial consequences on the revenue budget depending on the level of penalty charge set. It is envisaged that a significant proportion of PCNs will be at the lower level of £50, for this reason if Option 1 at Table 1 below is adopted the consequences for the Revenue Budget is likely to be neutral.

**Financial Consequences for the Capital Budget**

None as a result of this report.

**Contact Officers**

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**Implications for:**

<table>
<thead>
<tr>
<th>Anti-poverty</th>
<th>Equal Opportunities</th>
<th>Environment</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
1 INTRODUCTION

1.1 As the Executive will be aware, the Council was designated a Decriminalised Parking Authority (‘DPE’ authority) by Order made under the Road Traffic Act 1991, and as such has been undertaking civil enforcement of parking/waiting restrictions since 1999. Civil enforcement of bus lanes has been undertaken since 2006 pursuant to powers given to DPE councils under the Transport Act 2000.

1.2 The introduction of Part 6 of the Traffic Management Act 2004 on 31 March 2008 will automatically designate all DPE authorities as Civil Enforcement Authorities for the purpose of enforcement of parking and waiting contraventions. This will mean that there will be changes to the way in which civil enforcement of parking and waiting restrictions will operate for all such councils and that all Councils enforcing parking will have to comply with new rules regulating how parking enforcement can be undertaken.

1.3 The main consequences are as follows: -

- The Council will be a Civil Parking Enforcement Authority (“CPE”) under the Traffic Management Act, rather than a DPE authority under the 1991 Act
- Differential Penalty Charges will apply in respect of different types of contravention, depending upon the seriousness of the contravention
- In certain circumstances, penalty charges can be enforced by way of CCTV evidence
- In certain circumstances, penalty charge notices will be able to be served by post rather than be issued in person
- The Parking Attendants will be called “Civil Enforcement Officers” (“CEOs”)
- Penalty Charge Notices can be issued for parking on zigzags on pedestrian crossings
- In certain circumstances the council will be able to issue penalty charge notices in respect to vehicles which double-park, or park across driveways (dropped kerbs)
- All parking stationery (i.e. PCNs etc.) will need to be changed to comply with the requirements of the Traffic Management Act 2004
- Charges for removals must comply with guidelines set by the Secretary of State
Published policies are required regarding:
  - the standards and guidelines under which Civil Enforcement Officers will operate
  - when vehicles will be removed
  - how the Council will exercise its discretion to cancel Penalty Charge Notices
  - considering late representations

The Council will also be required to publish an annual report about its parking enforcement activities

The scheme of delegation to Chief Officers within the Council's constitution will need to spell out which named officers are authorised to cancel penalty charge notices

The Council may need to set up a new Joint Committee with other Councils operating Civil Parking Enforcement, in order to appoint Adjudicators under the Traffic Management Act 2004

2 MAIN ISSUES

2.1 The Level of Penalty Charges

Currently parking attendants may issue a £60.00 Penalty Charge Notice (PCN) where they believe a parking contravention has occurred. The TMA 2004 states that Councils must apply either a higher or lower level of penalty charge in respect of different contraventions depending on the level of seriousness of the contravention. The Department for Transport has indicated that the reason for this is that there is a perceived unfairness of receiving the same penalty regardless of the seriousness of the contravention. Regulations set out which contraventions attract the higher level of penalty charge. Parking on double yellow lines or in a disabled bay without displaying a valid disabled badge will for example attract a higher level of penalty charge (PCN) than parking without a ticket/ over stocking in a parking bay, which will have a lower charge as the former are likely to have a significant effect on congestion/ impact on the needs of other road users. A list of the contraventions serious enough to attract the higher level level of penalty charge is set out at Appendix 2 to this report. All other contraventions attract the lower charge.

2.2 The Regulations give CPE authorities two options in relation to the charging bands for higher and lower level of penalty charge and the Council needs to determine which band it will use and set these charges. The options are set out at Table 1 below.
2.3 Table 1 - Options

<table>
<thead>
<tr>
<th>Band</th>
<th>Higher level penalty charge</th>
<th>Lower level penalty charge</th>
<th>Higher level penalty charge paid early</th>
<th>Lower level penalty charge paid early</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1</td>
<td>£70</td>
<td>£50</td>
<td>£35</td>
<td>£25</td>
</tr>
<tr>
<td>Option 2</td>
<td>£60</td>
<td>£40</td>
<td>£30</td>
<td>£20</td>
</tr>
</tbody>
</table>

2.4 It is recommended that the Council adopts Option 1 set out in Table 1 above, as this would be in line with Manchester’s reasonable and proportionate approach to parking enforcement. It is hoped that this option will lead to increased levels of compliance in those areas, which affect traffic flow, the most. Likewise including parking in a disabled bay or residents bay in the higher band will seek to address the more anti-social aspects of driving which can cause considerable frustration from law abiding motorists and likewise lead to increased levels of compliance in these areas. From discussion between the Council’s Head of Parking Services and officers from other Councils it seems likely the majority will adopt the same option as recommended above. However because of the significant number of pay and display bays in the city centre it is envisaged that a significant proportion of PCNs will, in fact, be issued in respect of lower level contraventions attracting the lower level of penalty charge which is lower than the level under the current regime.

2.5 Members should note that the provisional statutory guidance states that the requirement is to set penalty charges at a level which is reasonable and which sets out to attain a high level of public acceptability and compliance. The setting of the charge is not a means of raising revenue which is not the objective of Civil Parking Enforcement. As it is envisaged that a significant proportion of PCNs will be at the lower level of £50 if option 1 is adopted the consequences for the revenue budget are likely to be neutral.

2.6 Enforcement of Parking Contraventions utilising CCTV

The TMA provides that PCNs may be issued on the basis of evidence supplied by an approved CCTV device. The provisional statutory guidance states that CCTV evidence is only to be used where enforcement is difficult or sensitive and CEO enforcement is not practical. It cannot be used where permits or exemptions [eg Blue badges] not visible to the equipment may apply. It is proposed that officers report further on the practicalities of CCTV enforcement once the TMA provisions have bedded in.

2.7 Pedestrian Crossings
Currently only the Police can enforce where vehicles are parked on the zig-zags of a Pedestrian Crossing. With effect from 31st March 2008, Civil Enforcement Officers will be able to issue a Penalty Charge for this contravention. This is seen as a positive move and will contribute to increased road safety. As the police will continue to be able to issue fixed penalty notices in respect of such contraventions consultation with the Police is required before such enforcement can commence.

2.8 Serving PCNs via the Post

The TMA will allow for PCNs to be issued by post in the following circumstances:

1. Where the contravention has been detected on the basis of evidence from an approved device. As indicated above, a separate Report will be prepared later in the year for the Executive’s consideration, regarding whether CCTV as a means of enforcement is to be adopted and in what circumstances.

2. If the CEO has been ‘prevented’ from serving the PCN either by affixing it to the vehicle or by giving it to the person who appears to be in charge of that vehicle. This includes situations where the person who appears to be in charge of the vehicle is abusive or prevents service indirectly through intimidation or directly through threats or actual physical force.

3. If the CEO had begun preparing a PCN but did not have enough time to serve it before the vehicle was driven away.

3 AMENDMENT TO STANDING ORDERS

3.1 The Secretary of State in the Statutory Guidance states that Councils should amend their Standing Orders to identify named Officers responsible for the cancellation of Penalty Charge Notices so that only fully trained officers make such decisions and so there is a clear written audit trail. It is recommended that the Council’s Standing Orders are amended to designate the Strategic Director of Neighbourhood Services as authorised to nominate which officers are authorised to cancel PCNs.

4 ADJUDICATION JOINT COMMITTEE

4.1.1 TMA regulations require Councils to exercise their functions relating to the appointment of / staff for etc adjudicators jointly with other CPE councils. It appears likely from the wording of the regulation that a new joint committee will be required for this purpose but specialist Counsel’s advice is being sought regarding this and the position will be reported to the Executive at the meeting.
CONCLUSION

5.1 These changes will allow the Parking Service to build on the success of recent years and to widen the enforcement remit as well as providing a fair, equitable and reasonable service and assist with the aims and objectives of the Parking Service to improve the quality of life for Manchester's citizens.

IMPLICATIONS FOR COUNCIL POLICY

6.1 Anti-Poverty
None

6.2 Equal Opportunities
None

6.3 Environment
Parking management is a key component of the overall management and stewardship of the City's street scene.

6.4 Employment
None.
Appendix 1

Below is the Level of Penalty Charges and other additional parking charges relating to Parking Enforcement, assuming that the Executive agree to set the Charges at Option 1 of Table 1 above.

Amounts payable by Owners of Vehicles issued with a Penalty Charge Notice in respect of contraventions of on and off street parking places orders, waiting and loading restrictions and all relevant parking contraventions, within the areas of Manchester designated, as a Civil Enforcement Area will be:

<table>
<thead>
<tr>
<th>Charge Description</th>
<th>Higher Level Penalty</th>
<th>Lower Level Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level of Penalty Charge</td>
<td>£70.00</td>
<td>£50.00</td>
</tr>
<tr>
<td>If the Penalty Charge is paid early, within 14 days of service of Penalty Charge Notice</td>
<td>£35.00</td>
<td>£25.00</td>
</tr>
<tr>
<td>If the Penalty Charge is paid between 15 days of service of Penalty Charge Notice and date Of service of Notice to Owner</td>
<td>£70.00</td>
<td>£50.00</td>
</tr>
<tr>
<td>If the Penalty Charge is paid between the date of issue of Notice to Owner and date of service of Charge Certificate</td>
<td>£70.00</td>
<td>£50.00</td>
</tr>
<tr>
<td>If the Penalty Charge paid after Service of Charge Certificate</td>
<td>£105.00</td>
<td>£75.00</td>
</tr>
<tr>
<td>Penalty Charge if paid After the service of an Order for Recovery</td>
<td>£110.00</td>
<td>£80.00</td>
</tr>
<tr>
<td>Removal Release Fee</td>
<td>£105.00</td>
<td></td>
</tr>
<tr>
<td>Vehicle Pound Storage Fee</td>
<td>£12.00 for each 24 hours or part thereof, that the vehicle is impounded</td>
<td></td>
</tr>
<tr>
<td>Disposal of Unclaimed vehicle</td>
<td>£50.00</td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX 2

Higher Level Contraventions

1. Parked in a restricted street during prescribed hours ie parked on yellow lines
2. Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force
3. Parked in a residents / shared use parking place without clearly displaying a permit/ pay and display ticket
4. Parked in a suspended bay
5. Parked in a parking place or area not designated for that class of vehicle
6. Parked in a loading place during restricted hours without loading
7. Vehicle parked more than 50 cm from the edge of the carriageway and not within a designated parking place
8. Parked adjacent to a dropped footway
9. Parked in a designated disabled person’s parking place without clearly displaying a valid disabled person’s badge
10. Parked on a taxi rank
11. Stopped on a restricted bus stop/stand
12. Stopped in a restricted area outside a school
13. Parked wholly or partly on a cycle track
14. A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban
15. Parked in contravention of a commercial vehicle waiting restriction
16. Parked in contravention of a coach ban
17. A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways
18. Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking).
19. Stopped on a pedestrian crossing and/or crossing area marked by zig-zags
20. Parked in a loading gap marked by a yellow line
21. Parked in a parking place designated for police vehicles
22. Stopping where prohibited (on a red route or clearway)
23. Parking in a permit space without displaying a valid permit.
24. Parking in a parking place designated for diplomatic vehicles.
25. Parked in an electric vehicles’ charging place during restricted hours without charging.
26. Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited

In respect of Off street parking places:

33. Parked in a loading area during restricted hours without reasonable excuse
34. Parked in a restricted area in a car park
35. Parked in a car park disabled person’s parking space without clearly displaying a valid disabled person’s badge
36. Parked in a permit bay without displaying a valid permit
37. Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited
38. Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area
39. Parked in a car park or area not designated for that class of vehicle
40. Parked causing an obstruction