EXPLANATORY MEMORANDUM TO

THE CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (WOKINGHAM BOROUGH COUNCIL) DESIGNATION ORDER 2017

2017 No. 895

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument enables Wokingham Borough Council to enforce parking contraventions within its administrative area, with the exception of a few major roads, through a civil law regime as opposed to enforcement by police or traffic wardens in a criminal law context.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The regime for civil enforcement of parking contraventions in England is set out in Part 6 of the Traffic Management Act 2004 ("the 2004 Act") together with instruments made under that Part of that Act. Those instruments are the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (S.I. 2007/3482), the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (S.I. 2007/3483), the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (S.I. 2007/3487) and two other instruments (S.I. 2007/3485 and 2007/3486). A further instrument, S.I. 2007/3484 (which amended S.I. 1986/183), was made under different powers, but in relation to civil enforcement areas. The 2004 Act regime has replaced the previous civil enforcement regime under the Road Traffic Act 1991 (c.40).

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Effective traffic regulation requires a robust enforcement of traffic restriction and prohibition orders to promote safety and traffic flow, and to deal with abuses of the system. This has been addressed in relation to parking by the 2004 Act. That Act enables the creation of "civil enforcement areas" and "special enforcement areas" in which responsibility for enforcing parking restrictions is transferred from the police and police traffic wardens to civil enforcement officers employed by local authorities. It is government policy to encourage local authorities in England to take these powers.

7.2 When an area is designated as a civil enforcement area, the effect is that certain specified parking offences are enforced by the local authority. Where such a designation is in place, a special enforcement area may also be created; the effect of creating a special enforcement area is that two additional parking prohibitions are enforced by the local authority (double parking and parking at dropped footways).

7.3 Pursuant to this Order, the whole of the administrative area of Wokingham Borough Council, with the exception of some major roads, will be designated as a civil enforcement and a special enforcement area.

Consolidation

7.4 The issue of consolidation does not arise in this case.

8. Consultation outcome

8.1 The Secretary of State has a statutory obligation to consult the appropriate chief officer of police, in this case of Thames Valley Police, before making an order (under paragraph 8(3) of Schedule 8, and paragraph 3(4) of Schedule 10, to the 2004 Act) and has done so. The Secretary of State has also consulted Highways England in this case as the local authority is applying for civil parking enforcement powers for the first time. Neither Highways England nor Thames Valley Police offered any observations.

8.2 Wokingham Borough Council has consulted the police, Highways England, DVLA, the Traffic Enforcement Centre, the Adjudication Service and neighbouring authorities. With the exception of Highways England, Royal Berkshire Fire and Rescue Service and Royal Borough of Windsor and Maidenhead, who offered no observations, the application was supported by all other organisations. An application will not proceed unless any objections have been resolved.

9. Guidance

9.1 The Secretary of State's 'Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions' sets out the policy framework for civil parking enforcement and explains how local authorities should approach, carry out, and review their parking enforcement activities. (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/609788/statutory-guidance-local-authorities-enforcement-parking-contraventions.pdf)

9.2 All enforcement authorities in England should use the guidance in conjunction with the statutory instruments that give effect to the parking provisions in Part 6 of the

2004 Act. Section 87 of the 2004 Act stipulates that local authorities must have regard to the guidance.

9.3 As regards the financing of local authorities' civil parking enforcement operations, the guidance provides that enforcement authorities should run their civil parking enforcement operations (both on- and off-street) efficiently, effectively and economically. The purpose of penalty charges is to dissuade motorists from breaking parking restrictions. The objective of civil parking enforcement should be 100 per cent compliance, with no penalty charges. Parking charges and penalty charges should be proportionate, so authorities should not set them at unreasonable levels. Any penalty charge payments received (whether for on-street or off-street enforcement) must only be used in accordance with section 55 (financial provisions relating to designation orders) of the Road Traffic Regulation Act 1984.

9.4 The guidance also provides that local authority parking enforcement should be self-financing as soon as practicable. However, compliant applications for civil parking enforcement will be granted without the scheme being immediately self-financing. Local authorities are reminded that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies. This instrument does not impose additional parking controls; it simply allows the local authority to enforce existing controls instead of the police.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 It will be for Wokingham Borough Council to keep the civil enforcement of parking in their area under review. They will prepare an annual Parking Report to assess performance against their own targets, and standards achieved by neighbouring authorities.

12.2 In accordance with the Statutory Guidance, Wokingham Borough Council will report statistics annually to the Department for Transport.

13. Contact

13.1 Mary Maxwell at the Department for Transport, Telephone: 020 7944 3155 or email: Mary.Maxwell@dft.gsi.gov.uk can answer any queries regarding the instrument.