

EXPLANATORY MEMORANDUM TO
THE WORKPLACE PARKING LEVY (ENGLAND) REGULATIONS 2009
2009 No. 2085

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 These Regulations make provision in relation to licensing schemes under Chapter II of Part III of the Transport Act 2000 (the workplace parking levy). They make provision about general issues concerning schemes and charges and for the recovery of charges imposed under licensing schemes.

2.2 In particular they provide for:

- exemptions from the requirement to have a scheme order confirmed;
- liability to pay licence charges;
- the setting of penalty charge rates;
- notification of penalty charges to the person liable;
- the adjudication of appeals.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

Chapter II of Part III of the Transport Act 2000 confers powers on local traffic authorities to introduce workplace parking levy “licensing schemes”, but leaves certain matters to be dealt with in regulations.

5. Territorial Extent and Application

This instrument applies to England, except Greater London.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Government first consulted on the idea of a workplace parking levy (WPL) in December 1998.

7.2 The most serious congestion problems in most towns and cities are associated with peak commuting, and car use is influenced by the availability of free or relatively cheap workplace parking. The principal aim of the levy is to provide an incentive to employers and educational establishments to discourage car commuting and use alternative modes of transport (including car-sharing). This would be achieved by imposing a levy on employers and educational establishments relating to the amount of workplace car parking they provide. Schedule 12 of the Transport Act 2000, as amended by the Local Transport Act 2008, requires that revenues from WPL schemes must be used for the achievement of local transport policies.

7.3 Since the Transport Act 2000 came into force the Government has been encouraging local authorities to consider the use of road pricing, which we believe is likely to be more effective in tackling congestion. But the Government does not wish to rule out the use of WPL.

7.4 The Local Transport Act 2008 also amended the Transport Act 2000 to enable local authorities to introduce road user charging schemes without having to submit their scheme orders for confirmation by the Secretary of State. But the requirement for WPL scheme orders to be confirmed has been retained.

7.5 Decisions about whether to introduce a WPL scheme and details of how it will operate are the responsibility of local authorities in England and Wales. The only local authority so far to have developed detailed proposals for a WPL scheme, and to have submitted an order for confirmation, is Nottingham City Council. The levy is intended to provide a revenue stream for the Council's local contribution to proposed tramway extensions and for other projects set out in their local transport plans and policies. But without detailed legislative provision for certain matters, especially liability to pay licence charges and enforcement of such payments through the imposition of penalty charges, the scheme could not work.

7.6 The Transport Act 2000 provides for regulations to be made by the Secretary of State (SoS) for various purposes, including specifying the procedures for making a scheme order, specifying who is liable to pay WPL charges and penalty charges and making provision for the imposition, payment and level of penalty charges. There is also provision for the SoS to make regulations to require licensing schemes to provide for exemptions from licensing, set reduced rates and set limits on charges, and to disapply in specified circumstances the need to submit a WPL order for confirmation by the Secretary of State. It also empowers the Lord Chancellor to make regulations providing for the notification, adjudication and enforcement of penalty charges, for appeals against decisions relating to licences, determination of disputes relating to licensing schemes, appeals against such determinations and the appointment of persons to hear any such appeals.

7.7 The Department for Transport therefore consulted on the making of WPL regulations so that there would be an appropriate regulatory framework for consideration of Nottingham City Council's scheme order. However the consultation and these Regulations cover the operation of WPL schemes generally throughout England outside London.

8 Consultation outcome

8.1 There were no statutory consultees. The Department specifically sought views from all local authorities in England (except Parish and Community Councils) and from organisations representing businesses, road users and hauliers, disabled people educational establishments, emergency services, employees and transport planners. The consultation lasted 12 weeks, from 11 December 2008 until 5 March 2009.

8.2 The Department sought views on a number of matters including:

- who should be liable for charges and penalty charges if one organisation makes arrangements with another for use of parking places for its employees;
- whether exemptions and discounts should be specified in national regulations or left to the decision of the local authority making a scheme;
- whether the Government has a role, through regulations or otherwise, in addressing concerns about the impact of WPL schemes on small businesses;
- what provision should be made in the regulations for specifying contraventions attracting penalty charges;
- whether the amount of penalty charges should be determined by local schemes or specified in national regulations;
- what the procedures should be for serving notice of penalty charges and for considering representations and appeals

8.3 It was decided not to specify the form of scheme orders, or procedures for making them, nor do the Regulations specify charging levels, exemptions and discounts. The Department considers that these issues are best left to the local authority making the scheme in the light of local circumstances. As part of its planning process we would expect a local authority to consult appropriately on a proposed scheme and assess the impacts on those affected (and we would not confirm a scheme order if the authority had not done so). Therefore these matters were not dealt with in the Regulations consulted on, although views were invited on whether they should be.

8.4 The majority of responses to the consultation concerned the principle of workplace parking levy and the potential and hypothetical impacts of schemes that might be developed in the future, rather than the contents of the proposed Regulations. Many respondents refused to comment on the issues raised in the consultation questionnaire because they were opposed to the introduction of any regulations. The British Chambers of Commerce estimated that the costs to business could be £3.4 billion a year if every local authority in England outside London were to introduce a WPL scheme, but did not estimate how many local authorities were likely to develop a scheme for approval by the Secretary of State. The comments received repeated arguments made when the Bill that became the Transport Act 2000 was completing its passage through Parliament.

8.5 Of 157 representations received, 37 addressed the matters on which views had been sought in the consultation paper and questionnaire. Of the others, 12 were representations specifically against the scheme proposed for Nottingham, from people working there who expect to be affected by that scheme. 61 were from business centres and made the same points as the response from the Business Centres Association (of the 61, 16 were from business centres in London, where the Regulations would not apply).

A table summarising the representations received on the consultation questions, and of the Government's response to them, is attached to this memorandum.

8.6 None of the representations has identified significant issues that require substantial changes to the text on which we consulted, but we have made changes in the following areas to take account of issues raised:

- Clarified the provision allowing transfer of liability to pay the levy where arrangements are made by one organisation to use parking spaces at the premises of another organisation.
- Included provision for notices to be served by hand and clarified some aspects of the provisions about the service of notices.
- Clarified the scope of appeal decisions.
- Removed the regulation (taken from civil parking enforcement regulations) dealing with invalid notices and statutory declarations.

9. Guidance

The Regulations are being made now to enable a decision to be made on the Workplace Parking Levy Order made by Nottingham City Council. They will only apply to other local authorities if other local authorities decide to develop WPL schemes. The Department will be preparing guidance on the issues to be taken into consideration by authorities developing WPL schemes, including the provisions of the Regulations.

10. Impact

10.1 The Regulations do not, of themselves, have an impact on business, charities or voluntary bodies. The Regulations enable schemes, if introduced, to be enforced, but do not, of themselves, introduce any schemes.

10.2 The Regulations do not, of themselves, have an impact on the public sector. The costs of appeals to the County Court will be met by the council or the appellant depending on whether the appeal succeeds or fails.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation does not apply to small business. The impacts of schemes made by local authorities will depend on how they design their schemes.

11.2 To minimise the impact on firms employing up to 20 people, the Nottingham scheme gives 100% discount to firms providing 10 or fewer workplace parking places. This means that the 500 largest firms will be liable to pay the levy but not 3,000 smaller ones.

12. Monitoring and review

12.1 The objective is that any WPL schemes that are introduced are implemented smoothly and effectively and that few appeals need to be referred to a court.

12.2 No WPL schemes are expected to come into operation until 2011 and no levy is expected to be collected before April 2012. The impacts will be reviewed two years after that.

13. Contact

Kitty Vernon at the Department for Transport Tel: 020 7944 3855 or e-mail: kitty.vernon@dft.gsi.gov.uk can answer any queries regarding the instrument.

TABLE OF RESPONSES TO CONSULTATION QUESTIONNAIRE

| No. | Question |
|----------------------|--|
| Q1 | Are you content with the proposal for determining who is liable to apply for a WPL licence and pay charges (and penalty charges) where arrangements are made between the owner of car park premises and another person or firm for the use, say, of part of that car park? (see paragraph 3.16 in the detailed proposals and draft regulations 4 and 7 in Annex A). |
| Yes | 22 respondents indicated that they were content with the provisions in the draft regulations, including 15 local authorities, 3 large businesses (Sainsbury's, BAE and Zurich Financial Services, though all opposed to the introduction of WPL schemes in general, particularly at this time) a transport planning consultancy (TPI), the British Parking Association (BPA), the RAC Foundation and ACPO (though ACPO does not believe regulations should be introduced at this time). |
| No | 13 respondents voiced concerns about the proposal for determining who is liable to pay WPL charges – 8 local authorities, the Institute of Directors (IoD), 2 businesses and a member of the public who are opposed to the introduction of WPL in principle and someone formerly employed in developing Nottingham's proposed scheme, who suggested various alternative options for assigning liability for payment depending on how car parks were used and managed. The IoD suggested that the default option should be the owner of the land as on the Land Registry. 4 local authority respondents suggested it should be the owner of the businesses premises, or parking management company, rather than the occupier of the premises where the parking place is provided. Another suggested that the meaning of "occupier" was unclear. 3 local authority respondents suggested there is a need to clarify what is meant by "evidence of arrangements" between the owner of the car park premises and another person or firm for use of part of that car park; another suggested that the arrangement for transferring liability would be administratively burdensome. 3 respondents expressed concerns about identifying liable spaces in car parks used by more than one organisation if not clearly allocated to one particular organisation. One local authority suggested the vehicle owner should pay rather than the provider of the parking place; ACPO expressed the view that emergency services should not be liable to pay WPL charges. |
| Govt response | The principle of a Workplace Parking Levy is that it should be paid by the organisation that makes parking places available to staff who commute to work by car, and is in a position to influence their travel to work choices – it is not simply a revenue-raising measure. Local authorities proposing a WPL scheme will need to engage with local employers and vice versa to assist reappraisal of workplace parking provision and encourage travel to work planning as appropriate. In most cases the employer and occupier will be the same organisation. Where an employer makes arrangements for workplace parking to be provided at other premises, regulation 4 enables the licensing authority to charge the employer direct if the occupier of the premises where the workplace parking is provided can provide evidence of those arrangements. We have modified regulation 4 to clarify that liability for payment is transferred only where the occupier provides the licensing authority with "such evidence of those arrangements as that authority may reasonably require". |

| No. | Question |
|------------|---|
| Q2 | Do you agree that decisions about WPL exemptions, discounts and the level of charges should be the responsibility of the local authority making the scheme (see paragraphs 3.19 and 20 in the detailed proposals)? |
| Yes | 24 respondents agreed that these decisions should generally be the responsibility of the local authority making the scheme – 20 local authorities, Sainsbury's, the RAC Foundation, the BPA and the former Nottingham City Council employee. Sainsbury's suggested that there should be some national exemptions – eg for disabled drivers, car-sharers, people working at times or locations without public transport being available. One local authority suggested an exemption for small businesses providing 10 or fewer parking places. 3 respondents suggested there should be some national framework in guidance, or that the regulations should set upper and lower parameters for charges. 3 local authorities wanted a requirement to consult neighbouring or other affected local authorities or the ITA on the proposed scale of charges or exemptions to them. |

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| | It was also suggested by one respondent that the regulations should clarify that parking for retail customers is not liable for WPL charges. |
| No | 13 respondents did not agree that these decisions should be left to the local authority making the scheme – 3 local authorities, the CBI, 5 businesses (including BAE and IBM), ACPO, North Yorkshire Police, one member of the public who is opposed to WPL schemes in principle and another who was concerned about the position of disabled employees. 5 expressed the view that exemptions should be specified in national regulations for consistency, and another 4 proposed exemptions for specific groups – disabled drivers, SMEs and emergency services. 2 respondents expressed opposition to local authorities being allowed to implement WPL charges generally. DPTAC suggested that leaving decisions on exemptions for disabled drivers to the local authority would be an abrogation of the duty on Ministers and the Department for Transport in terms of the Disability Equality Duty introduced under the Disability Discrimination Act 2005. |
| Govt response | Local authorities are better placed than central Government to assess what the impacts of a local scheme will be on specific organisations in their area. The Government proposes to develop guidance for local authorities on factors to be taken into account in developing scheme details, but does not consider it appropriate for WPL exemptions, discounts and levels of charges to be specified in national regulations. Local authorities developing WPL schemes will be expected to comply with the requirements of the DDA2005 (and any other relevant general legislation) in framing the detailed provisions of their schemes. The requirement for WPL orders to be confirmed by the Secretary of State means that schemes can be modified if they contain provisions that do not appear to be justified by local circumstances. |

| No. | Question |
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| Q3 | There are concerns about the impact of WPL schemes on small businesses (see paragraph 3.20 of the detailed proposals). Is there a role for the Government in addressing these through regulations? If yes, how should this be done? If no, what other approaches could be adopted? (Please use the comment column to specify and explain your proposals.) |
| Yes | 22 respondents ticked the Yes column – 15 local authorities, 5 businesses, the BPA and North Yorkshire Police. Of these, 6 local authorities and 2 businesses believed that the regulations should specify a minimum threshold for applying WPL charges, while 4 local authorities saw a role for Government in encouraging local authorities to waive or reduce charges for small businesses through guidance (though the BPA believed that a requirement in regulations was needed because guidance would be insufficient). However, responses from 2 large organisations operating across the country (Sainsbury’s and IBM) considered that local authorities developing WPL schemes should not just target large businesses but should consider the impacts on businesses and congestion generally of proposed schemes. One respondent’s comments related to arrangements for businesses to pass charges on to employees, and suggested that small businesses should waive charges, but it wasn’t clear whether this was proposed for regulations or guidance. |
| No | 13 respondents ticked the No column. Of these, 10 considered that it should be left to the local authority to consider how to address impacts on small businesses – of these 8 were local authorities, one a former employee of Nottingham City Council and the other was the RAC Foundation. Zurich Financial Services International expressed opposition to the introduction of WPL schemes generally, and ACPO queried the appropriateness of introducing WPL to tackle congestion in the present economic circumstances. One respondent ticked the No column but suggested that central Government should limit WPL charges generally, not just for small businesses. |
| Govt response | As with question 2, the Government believes that local authorities are best placed to assess what the impacts of a proposed scheme would be on different-sized businesses in their area, and what impact different levels of charging would have on congestion in their area. We have therefore concluded that it would not be appropriate to specify minimum thresholds in regulations for applying WPL charges, but that we should develop guidance for local authorities to address the concerns of businesses generally about WPL schemes. |

| No. | Question |
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| Q4 | Do you agree that national regulations should specify the contraventions proposed in paragraph 3.22 of the detailed proposals and draft regulation 5? |
| Yes | 34 respondents ticked the “Yes” column, of whom 21 were local authorities, 5 were business organisations, including the CBI, 5 were other organisations – ACPO, North Yorkshire Police, TPI, the RAC Foundation and BPA – and 3 were individual members of the public. 8 – 5 local authorities, 2 businesses and the BPA - mentioned the need for national consistency. 2 local authority respondents suggested there might need to be flexibility to specify additional contraventions in the light of specific scheme proposals – see also Q5. |
| No | One business respondent ticked the “No” column because of a general objection to the introduction of WPL schemes. |
| Govt response | Three classes of contraventions were specified in the draft regulations - providing workplace parking without a licence (in an area where there is a WPL scheme); providing a number of workplace parking places that exceeds the number covered by a licence; contravening a condition of a licence other than the number of workplace parking places covered by the licence. We have modified the wording slightly to correspond more closely with wording used in the Transport Act 2000 about the provision of workplace parking places. |

| No. | Question |
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| Q5 | Are there other contraventions that you consider need to be included? (Please use the comment column to specify and explain these other contraventions.) |
| Yes | 10 respondents, including 6 local authorities, TPI, Sainsbury’s and the RAC Foundation, ticked the “Yes” column. Of these 3 (including Sainsbury’s which opposes WPL in principle) suggested failure to provide satisfactory information to the licensing authority. 4 suggested failure to declare workplace parking or allowing more liable vehicles to park than are covered by a licence. One (from a local authority) suggested that individual schemes might need bespoke contraventions, eg for highway safety reasons. One suggested that permitting misuse by others of bays designated for disabled drivers should be a contravention, and another that unauthorised use by another occupier should be a contravention. |
| No | 20 respondents ticked the “No” column, including 15 local authorities, though one commented that there might need to be provision for penalising employers who provided false information about the number of workplace parking places provided. The other 5 were ACPO, North Yorkshire Police, Sainsbury’s, the RAC Foundation and a former employee of Nottingham City Council. |
| Govt response | We consider that the contraventions proposed by respondents are covered by the contraventions already included, depending what conditions are attached to the issuing of workplace parking licences under a particular scheme. The provision of false or misleading information in connection with an application for a workplace parking licence is a criminal offence under section 188(4) of the Transport Act 2000. |

| No. | Question |
|------------|---|
| Q6 | Do you agree that it should be for the licensing authority to set the rates of penalty charges? |
| Yes | 21 respondents ticked the “Yes” column (of whom 17 had also answered “Yes” to Q2). 16 were local authorities, and the others were ACPO, North Yorkshire Police, Sainsbury’s, the RAC Foundation and a former employee of Nottingham City Council. But in one case the accompanying comment, “Having an Independent authority setting penalty charges is important for fairness and consistency reasons” implied that the wrong column had been ticked. 3 respondents suggested that the regulations should set out limits or parameters for penalty charges, 2 that penalty charges should be linked to the rates for civil parking enforcement charges. 4 considered that there would be a need for central guidance on appropriate levels of penalty charges. |
| No | 15 respondents ticked the “No” column – 7 local authorities, 5 business organisations including the CBI, BPA, TPI and a member of the public who is opposed to WPL schemes in principle. 11, including 6 local authorities, considered that rates or ranges of rates should be set centrally. BPA suggested that rates should be similar to those for civil parking enforcement. |

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| Govt response | <p>This is a different situation from parking contraventions under road traffic legislation, because it involves the application of penalties to organisations rather than to individual members of the public.</p> <p>WPL penalty charges are payable by the organisations that provide workplace parking without a valid licence, or in contravention of the conditions of a licence – individual users of the vehicles parked are not liable to pay penalty charges. Different schemes may apply different licensing conditions, and it should be for the licensing authority to determine penalties that are appropriate to the seriousness of the contravention, in the light of local circumstances. The regulations require that rates of penalty charges must be specified in the local authority’s scheme, but leave the method for determining penalty rates to the decision of the licensing authority.</p> |
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| No. | Question |
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| Q7 | Are you content with the procedures proposed for considering representations, and appeals and for appeals to be referred to a County Court (see paragraphs 3.31 – 3.34 of the detailed proposals)? |
| Yes | 20 respondents ticked the “Yes” column, including 13 local authorities, 2 businesses and the RAC Foundation. 3 including 2 local authorities and the BPA suggested consideration be given to the establishment of an independent adjudication body, or extension of the remit of the Traffic Penalty Tribunal to consider appeals in lesser cases. Nottingham City Council indicated in a letter that they were generally content with the proposed procedures but suggested some modifications to take account of differences between enforcement against individuals of a parking contravention on a particular date and enforcement against organisations of contraventions of licensing requirements occurring over a period of time. In particular they expressed concerns about draft regulation 16 (invalid notices), because the statutory declaration procedure has been susceptible to abuse in civil parking enforcement cases. |
| No | 14 respondents ticked the “No” column, of whom 9 were local authorities who thought County Court procedures would be too expensive or time-consuming. 5 others were generally against WPL schemes and also thought it would be excessively expensive to resolve disputes and appeals through a County Court. 9 suggested that appeals should be considered by extending the remit of the Traffic Penalty Tribunal or (in one case) by a Magistrates Court. |
| Govt response | <p>As explained in the consultation document, the procedures in draft regulations 8-16 for enforcing WPL contraventions are not intended or expected to be applied on the same basis as contraventions of parking controls by individual motorists. Under WPL schemes the employer is liable to pay penalties so the number of potential offenders is much smaller than under civil parking enforcement.</p> <p>The regulations provide for representations and appeals to be considered initially by the licensing authority. It is not currently expected that there will be many appeals, but the issues could be complex and involve large businesses and relatively large sums of money. For the time being, it is considered appropriate that appeals against a licensing authority’s decision should be dealt with by a County Court that is familiar with local circumstances in the area of the licensing authority. If WPL schemes were to become more widespread in future it might become appropriate to consider a national adjudication body to deal with appeals.</p> <p>We have modified and split regulation 8(3)(c) to make it consistent with regulation 5(2), and we have amended regulations 9 and 12 to make it clear that a licensing authority and a court may accept all or part of an appellant’s grounds of appeal. We have removed the proposed regulation dealing with invalid notices, which was based on the civil parking enforcement procedure, because on further consideration it appears not to be necessary. We do not expect that a court order will be made against a provider of workplace parking without that person having had the opportunity to make representations.</p> |

| No. | Question |
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| Q8 | Are you content with the procedures proposed in regulation 17 for serving notices? |
| Yes | 18 respondents, including 13 local authorities, RAC Foundation and BPA, ticked the “Yes” box. One (Sainsbury’s) suggested the use of site notices. 2 suggested using similar procedures and timings as for civil parking enforcement. |
| No | 13 respondents ticked the “No” box, including 9 local authorities. 2 respondents were generally opposed to the introduction of WPL schemes. 3 (all local authority organisations) suggested that authorities should have the option of serving notices by hand as the primary legislation provides a power of entry for this. One large industrial organisation (BAE) suggested the use of site notices. One local authority suggested that 1 st class post and e-mail should both be required. 4 respondents suggested that notice should be effected by use of registered post or recorded delivery. One suggested that the procedure should be as for civil parking enforcement. |
| Govt response | We have modified the regulations to provide for service “personally” (ie by hand, but using the terminology of the Civil Procedure Rules). We have not included site notices, because we expect the licensing authority to identify and serve notice on the provider of the workplace parking. Provision for service by notice affixed to premises is normally reserved for cases where the person served may not be contactable. |

| No. | Question |
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| Q9 | Are there issues not covered by the draft regulations that you think need to be covered? |
| Yes | 20 respondents ticked the “Yes” column, although one, from a local authority, could not suggest any additional issues. 3 respondents disputed that WPL schemes would change travel behaviour (or that they would do so to the benefit of road safety) or achieve other benefits suggested in the consultation documents. 3 commented that the draft regulations did not deal with the displacement parking that might result from WPL schemes. 2 considered that the regulations should specify requirements for application of revenues and that these be reinvested in local transport. 3 suggested there was a need to revise regulation 3(1)(b) to cover situations where the retail prices index fell, although one local authority suggested that there should be greater flexibility for local authorities to raise charges above the level of inflation without having to submit a variation order. Other issues, suggested in each case by one respondent were, the impacts of not including a national exemption for SMEs; the need for a national exemption for emergency services; that London ought to be included in the scope of the regulations; that there should be provision for a regional approach with one lead authority; the need for procedural regulations and criteria to establish whether a scheme is desirable; a need to specify requirements to mark out workplace parking places; concern that the identification of workplace parking vehicles would create security problems; conflict with planning requirements for minimum parking provision; concern that the provision in regulation 10 (to agree not to enforce a PCN if the chargee pays a mutually agreed sum) would be subject to abuse. |
| No | 11 respondents ticked the “No” column. |
| Govt response | Most of the issues raised would be more appropriately dealt with in guidance than in regulations. The Government proposes to develop guidance for local authorities considering future WPL schemes. Regulation 3 has been modified to refer to “alterations” rather than “increases” in the retail price index. The regulations have not specified requirements for application of revenues because these are already specified in the Transport Act 2000 (as amended by the Local Transport Act 2008). Revenues from a WPL scheme must be applied to the achievement of the licensing authority’s local transport policies throughout the duration of the WPL scheme. |

Summary: Intervention & Options

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| Department/Agency: Department for Transport | Title: Impact Assessment of Workplace Parking Levy Regulations | |
| Stage: Making regulations | Version: 2 | Date: 29 May 2009 |

Available to view or download at:

<http://www.dft.gov.uk/consultations>

Contact for enquiries: Kitty Vernon

Telephone: 020 7944 3855

What is the problem under consideration? Why is government intervention necessary?

Workplace parking levy (WPL) schemes have been identified as measures which could contribute to local strategies to reduce the substantial costs of congestion in urban areas, and therefore to help the local economy and quality of life. The Transport Act 2000 (TA 2000) did not set out all the detailed provisions that would be necessary to provide the full legal framework for a WPL scheme. These regulations are designed to complete the statutory framework to enable local authorities to implement WPL

What are the policy objectives and the intended effects?

The objective is to enable appropriate WPL schemes to be implemented that facilitate the achievement of policies in local authorities' transport plans and policies (consistent with the wording in s179(2) of the TA 2000), in order to deliver packages of interventions which can improve transport and reduce congestion levels and environmental impacts.

What policy options have been considered? Please justify any preferred option.

The main policy choices were:

- (i) whether to make regulations on wider issues, such as the form of Scheme Orders and the consultation process for WPL schemes. We have decided to make regulations only where they are essential to the operation of a scheme;
- (ii) which approach to adopt in respect of definition of offences, penalties, enforcement and appeals. We have opted to keep the approach as simple as possible. Further details are provided in the 'Evidence Base' section.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

After a local WPL scheme has been implemented (not expected before 2012) and operated for a couple of years

Ministerial Sign-off For final stage/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Paul Clark

Date: 22nd July 2009

Summary: Analysis & Evidence

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| Policy Option: 1 | Description: Implement Workplace Parking Levy Regulations to enable the introduction of such schemes by local authorities. |
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| COSTS | ANNUAL COSTS | | Description and scale of key monetised costs by 'main affected groups' It is not possible to attribute costs and benefits to these Regulations in isolation. Individual schemes will entail costs which would be quantifiable on an individual basis. Regulations are intended to be light touch and will enable WPL schemes to be enforced more cost-effectively than with other approaches. Local authorities will incur administration costs and receive revenues. |
| | One-off (Transition) | Yrs | |
| | £ | | |
| | Average Annual Cost (excluding one-off) | | |
| | £ | | Total Cost (PV) £ |
| Other key non-monetised costs by 'main affected groups' Local businesses and employees will incur costs in paying levies and employees may face increased transport costs; such costs will vary from scheme to scheme. | | | |

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| BENEFITS | ANNUAL BENEFITS | | Description and scale of key monetised benefits by 'main affected groups' It is not possible to attribute costs and benefits to these Regulations in isolation. The merits of WPL schemes would be quantifiable on an individual basis. |
| | One-off | Yrs | |
| | £ | | |
| | Average Annual Benefit (excluding one-off) | | |
| | £ | | Total Benefit (PV) £ |
| Other key non-monetised benefits by 'main affected groups' Discouragement of workplace parking may reduce congestion and pollution caused by commuter trips, to the benefit of employers, other transport users and people in the urban area. The schemes are designed to reinvest revenues in a package of wider transport improvements, to the benefit of employees and others in the area. | | | |

Key Assumptions/Sensitivities/Risks The benefits of reduced congestion and environmental improvements rely on the assumption that firms and employees do not relocate to areas which are not covered by the levy, to the detriment of transport elsewhere. The benefits are likely to be greatest where the scheme forms part of an effective package of interventions.

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|--------------------|----------------------|------------------------------|--------------------------------------|
| Price Base Year | Time Period Years | Net Benefit Range (NPV) £ | NET BENEFIT (NPV Best estimate) £ |
|--------------------|----------------------|------------------------------|--------------------------------------|

| | | | | | |
|---|--|-----------------------|----------------------|----------------|-----------------|
| What is the geographic coverage of the policy/option? | | | England (not London) | | |
| On what date will the policy be implemented? | | | 1 October 2009 | | |
| Which organisation(s) will enforce the policy? | | | Local authorities | | |
| What is the total annual cost of enforcement for these organisations? | | | £ N/A | | |
| Does enforcement comply with Hampton principles? | | | Yes | | |
| Will implementation go beyond minimum EU requirements? | | | N/A | | |
| What is the value of the proposed offsetting measure per year? | | | £ | | |
| What is the value of changes in greenhouse gas emissions? | | | £ | | |
| Will the proposal have a significant impact on competition? | | | No | | |
| Annual cost (£-£) per organisation (excluding one-off) | | Micro £200 (admin) | Small £200 | Medium £300 | Large £500 + |
| Are any of these organisations exempt? | | N/A | N/A | N/A | N/A |

| | | | | |
|---|---|-------------|---|-----------------------|
| Impact on Admin Burdens Baseline (2005 Prices) | | | | (Increase - Decrease) |
| Increase of | £ | Decrease of | £ | Net Impact £ |

Key: Annual costs and benefits: Constant Prices

(Net) Present Value

Context

The Eddington Transport Study (published in 2006) confirmed that delays and unreliability increased business costs, affected productivity and inhibited innovation. It is estimated that 89 per cent of current delay caused by road congestion is in urban areas.

Local authorities are best placed to tackle their local congestion problems and they have the ability to create innovative packages that bring together initiatives to manage demand, manage traffic flow and invest (for example in public transport, the promotion of walking and cycling) to give people real choices on how they travel. It is within this context that Nottingham City Council have brought forward their proposals for a workplace parking levy as part of a package to tackle congestion and put the funds raised back into the improvement of their local transport network.

The background to the workplace parking levy is set out in the main part of the consultation document.

Options Considered

The provisions for WPL schemes in the Transport Act cannot meaningfully be brought into force without regulations giving local authorities appropriate enforcement powers. Without an enforcement capability for a workplace parking levy an authority would have no powers to ensure compliance with the scheme.

The main policy choices were therefore -

- (i) whether to make regulations where this was not essential. Details are given below but we have decided to make regulations only where they are essential
- (ii) which approach to adopt in respect of definition of offences, penalties, enforcement and appeals.

On the first of these points, the Government does not intend to make regulations -

- specifying the form of Scheme Orders, how proposed Orders should be published, and objections considered, and how the final Order itself should be published, on the grounds that this is a matter for the local authority. The Order will need to be approved by the Secretary of State who also has powers to consult other people or require the authority to consult other people before he confirms the scheme order.
- specifying charging levels, exemptions and discounts. The regulations do not exercise this regulation making power, but the consultation document sought views on whether they should.

On the second of these policy choices options are limited but we have tried to keep the approach as simple as possible. The main choice was whether disputes and appeals should be heard by the County Court rather than a body such as the parking adjudicator. We have provided for a two stage approach -

- businesses are able to make representations about alleged contraventions and penalty charge notices and have them considered by the local authority;
- if the dispute is not resolved by that process, businesses will be able to appeal to the County Court.

We decided against a specially created adjudication system or relying on the parking adjudicator service because of the nature and low number of appeals expected. It is not currently expected that there will be very many disputes and appeals.

Unlike parking or road user charging, where enforcement would be against individuals, under WPL schemes the employer is liable so the number of potential offenders is much smaller. However, if there are disputes or appeals the issues could be complex and involve large businesses (and we would assume relatively large amounts of money). For these reasons, we believe that a County Court would be the appropriate body to hear appeals.

Costs and benefits

The key policy objective of these regulations is to enable any local authority who wishes to implement a workplace parking levy to be able to do so by giving them the necessary powers to enforce a scheme. The regulations themselves set out the overall framework for a workplace parking levy and so it is not possible to assign costs and benefits of each individual proposal.

It will be possible to assess the costs and benefits when a particular scheme is designed and we would expect local authorities to do so when considering a scheme for their area. Overall the types of benefits we would expect a scheme to achieve include tackling congestion, environmental improvements, public transport improvements delivered through use of levy revenues and health and safety improvements.

In terms of costs, employers who provide parking spaces for their employees are the ones liable to pay the levy. Again, each scheme will be different and as such costs can not be quantified at this stage. The workplace parking levy is as yet untested as a policy, and the costs and benefits will depend on the design of schemes. Local authorities proposing schemes will be expected to have assessed the costs and benefits of their proposed schemes.

Tackling Congestion and improving journeys

The Eddington Transport Study suggested that, if left unchecked, by 2025 there will be a 30 per cent increase in congestion, losing an extra £22 billion worth of time in England alone. It also highlighted that currently 55 per cent of commuter journeys are to large urban areas and 89 per cent of delay caused by congestion is in urban areas.

The aim of a workplace parking levy is to provide local authorities with a tool to tackle congestion. The levy provides an incentive to employers to reduce car commuting and use alternative modes of transport (including car-sharing). The revenue from such a scheme has to be spent on achieving the local authority's transport policies, for example by investing in improvements to public transport.

Tackling congestion can bring benefits to a wide range of people. For instance freight and delivery companies operating in the area should experience benefits if journey times are reduced. Similarly, businesses and trades people providing services to customers in their homes should benefit from reduced travel time and hence have a greater proportion of their working day available to meet customers' needs. Individuals using transport networks for leisure and education trips also stand to benefit.

There is some uncertainty attached to these decongestion benefits. The reaction of businesses and their employees will be important in determining the overall effect on traffic levels. Should employers fail to encourage public transport use among employees, there is a risk that they will continue to drive, but use public car parks as an alternative. To the extent that this happens, it would compromise efforts to reduce urban congestion. Another unintended consequence could involve the relocation of businesses or employees to other urban centres. Such risks should be considered in analysing the effectiveness of individual schemes.

The money from any workplace parking levy scheme has to be reinvested in a local authority's transport policies. Local authorities wishing to implement a workplace parking levy could therefore ensure that a viable alternative for car users was available. Therefore, employees could be offered a better choice of how to get to work. For example, Nottingham City Council has indicated that they intend to spend the revenues from a workplace parking levy mainly on extensions to their tram system.

Health and Safety

Depending on the design of the scheme, it could have benefits for health and safety. Through effective workplace travel planning more people may be encouraged to walk or cycle to work. Employers could help by introducing or enhancing facilities for their employees to cycle to work. Both of these activities can have positive health benefits, as evidence suggests that regular exercise of this sort can improve health outcomes¹.

There may also be an impact on accident risks. Depending on local circumstances, and the number of vehicles involved, transferring car trips to cycling can reduce the number of traffic accidents. However, in some cases an increase in cyclists can increase the number of road users at risk from serious injury. The net impact will depend upon local traffic conditions and cycling provision, which could be influenced by other measures forming part of an integrated package of improvements.

Environmental Benefits

A reduction in congestion would be associated with decreases in the environmental costs of car use, including noise pollution, air quality impacts and greenhouse gas emissions. It would only be possible to quantify this effect on a scheme by scheme basis.

Costs

Administrative Costs

Local authorities will need to consider a workplace parking levy in the context of their overall package of transport measures, but the establishment of a scheme would incur administrative costs in the employment of extra staff to manage and enforce the scheme.

The immediate cost for businesses would involve paying the levy itself, though this cost would depend on the price set by the local authority. There will also be administrative burdens where firms have to demonstrate compliance and make payments in respect of the levy. The cost of complying with a scheme can be minimised if schemes are structured transparently and with careful consideration of this burden.

Effects of levy charges and penalties

Firms will incur costs where they are required to make payments in respect of car parking for their employees. A key principle underpinning the workplace parking levy is that it should encourage the employer to provide incentives for their employees to choose different ways of travelling to work. The more effective employers are at doing this, the more their levy costs will reduce.

It is important for local authorities to consider the impact on particular sectors and businesses, including small businesses, as part of their overall assessment of the costs and benefits of implementing a pricing scheme in their areas. We encourage local authorities to work with businesses and to discuss these issues during the development of the proposals and consultation on a levy.

¹ See http://www.webtag.org.uk/webdocuments/3_Expert/3_Environment_Objective/3.3.12.htm for evidence on health impacts

The individual employee is not liable to pay the charge. It will be for the employer to decide whether costs should be passed on to employees, but they may be constrained in their ability to do so. If the levy is set high enough, parking spaces may be reduced or firms may relocate to areas free from the levy.

In the former case, if employees are not provided with suitable alternatives for transport, either through other interventions in a transport package or through the actions of their employers, they may incur additional transport costs through having to use more expensive or time consuming modes of transport, or parking further away from their place of work. This may then place pressure on future wage demands.

The employer may also attempt to pass on costs to consumers. The extent to which a firm can do this will depend upon the level of competition in their product markets, and in particular whether their competitors are based locally and therefore subject to the same costs.

The costs of non-compliance will vary depending on the scheme but we have clearly set out that an authority is able to set and enforce penalties that reflect the seriousness of the contravention. For example, if the business provides workplace parking places without a licence they could be liable for a higher penalty charge than if they already had a licence but provided more workplace parking places than the maximum covered by the licence.

The net impact on employers and workers will depend upon the level of charges, local circumstances, and the package of transport improvements designed to complement the levy.

Beyond the immediate transport and levy costs that firms and employees may experience, there might also be wider economic costs. A restriction in parking spaces may reduce the available pool of labour for firms to those living in close proximity or with good access to public transport, preventing the labour market from effectively matching jobs to workers' skills. If a restriction in parking restricts the ability of employees to meet with clients and other firms, there may also be a reduction in economic interaction and knowledge exchange. These impacts would have an impact on productivity, beyond the costs immediately associated with transport and levy charges. It also brings a risk of cutting off those living in more isolated areas from employment opportunities, with associated social impacts.

Specific Interest Tests

(a) Small firms

The extent to which smaller businesses are affected by workplace parking levy would depend on the composition of the scheme. It will be important for local authorities to consult with small businesses in their areas and to assess the potential impacts a scheme might have on those businesses.

As an example of the way in which these issues can be dealt with, Nottingham City Council have decided in their scheme that organisations providing 10 or fewer liable workplace parking places in the City would need to be licensed but would receive a 100% discount.

(b) Sustainable development

A workplace parking levy is consistent with the Government's principles of sustainable development. In particular enabling local authorities to use this tool to tackle congestion and invest in local transport can help to promote greater choice for the road user and could result in the use of more

environmentally sustainable forms of transport. As already stated, congestion affects the economic performance of the country and tackling this problem should help to sustain future economic growth.

(c) Carbon assessment and other environmental impacts

A workplace parking levy has the potential to deliver carbon savings. The amounts of savings will depend on how local authorities make use of the enabling powers set out in the Transport Act 2000 and the regulations set out here. Encouraging modal shift and tackling congestion can produce carbon savings. The carbon impact would therefore depend on the complementary transport measures which local authorities choose to fund with the revenue and how far employers provide incentives for their employees to use alternative, lower carbon, modes of transport.

Similarly, reducing congestion and improving public transport could have significant impacts on local air quality and to a lesser extent noise pollution. The exact benefits would be dependent on the scheme design.

(d) Health

A workplace parking levy could have a positive impact on physical activity. There are well known health benefits arising from increased activity such as walking and cycling. The extent of such benefits will depend on how and where an authority invests the revenue from the levy and the extent to which employers encourage their staff to change the way they travel to work. There may also be an impact on accident rates, although this would be heavily influenced by local factors.

If there is investment in public transport from the revenues of a scheme, it would help improve access to health and social care facilities, particularly for more vulnerable members of society.

(e) Equality and accessibility

Transport improvements funded from WPL could help support government objectives for race, disability and gender equality. Ethnic minority groups, disabled people, women and low-income households tend, on average, to have lower rates of car ownership and to use public transport more than other social groups. Revenue from local schemes could be invested in local transport, promoting better access to essential goods and services, education and employment for such groups.

(f) Rural Proofing

The opportunity to set up a workplace parking levy exists across the country. The one authority that has developed detailed proposals for such a scheme is focussing on tackling congestion and investing in public transport in its urban area. However, the legal powers in the Act and those contained in these regulations are not restricted to urban local areas.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment | No | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | No | No |
| Sustainable Development | Yes | No |
| Carbon Assessment | Yes | No |
| Other Environment | Yes | No |
| Health Impact Assessment | Yes | No |
| Race Equality | Yes | No |
| Disability Equality | Yes | No |
| Gender Equality | Yes | No |
| Human Rights | No | No |
| Rural Proofing | Yes | No |