

**EXETER CITY COUNCIL****SCRUTINY COMMITTEE – ECONOMY  
11 MARCH 2010****EXECUTIVE  
23 MARCH 2010****PARKING ENFORCEMENT AT THE ROYAL DEVON AND EXETER HOSPITAL****1.0 PURPOSE OF REPORT**

- 1.1 This is to advise Members of a number of issues regarding the enforcement of parking restrictions at the Royal Devon and Exeter hospital.

**2.0 INFORMATION**

- 2.1 Since January 1995 the City Council has provided an enforcement service on behalf of the Royal Devon and Exeter hospital for a range of car parks around the hospital campus. The powers under which enforcement was undertaken arise from the Road Traffic Regulation Act 1984 and the specific enforcement regime was approved by Members in the City of Exeter Parking Places Order 1994. As Members are aware, from May 2008 all on and off street parking enforcement, other than at the Royal Devon and Exeter hospital, has been provided under the powers of the Traffic Management Act 2004. During preparations for the introduction of civil enforcement in the previous year, the City and County Councils considered whether the Royal Devon and Exeter hospital enforcement should be pursued under different powers, but the advice received from the Department for Transport was that the Traffic Management Act was not the appropriate framework as the hospital was considered to be private land and so we have continued to use the Road Traffic Regulation Act powers.
- 2.2 In October 2009, the City Council was in receipt of a comprehensive challenge to the use of these powers submitted by Mr Neil Herron of Parking Appeals Limited, who argued that the use of the Road Traffic Regulation Act powers was ultra vires and sought the Council's response on a range of issues relating to that. The Council has taken external legal advice and concluded that the use of the Road Traffic Regulation Act powers were no longer lawful after the new Civil Enforcement regime was brought in after May 2008. During the last three months we have been in discussion with the Royal Devon and Exeter hospital and have agreed two key changes. The first, is that the City Council cease to provide the enforcement contract from 31 May, given that this non standard enforcement regime requires a disproportionate amount of staff time to oversee it. Second, to facilitate the Royal Devon and Exeter hospital making alternative arrangements, the Council has agreed to provide a service in the interim until that date, using its trading powers.
- 2.3 The City Council is publicising the fact that Standard Charges which had been imposed between May 2008 and October 2009 (when the issuing of Standard Charges was suspended as a precautionary measure in order to limit any further financial risk) will be reimbursed on production of satisfactory evidence that those Standard Charges have been paid. The total cost of this reimbursement cannot be accurately estimated, but could be up to £35,000.

- 2.4 The situation is very regrettable but arose from a situation where we were advised by the Department for Transport that the Royal Devon and Exeter hospital car parks would not be included in the proposed Civil Enforcement Area. An initial legal review of the issues suggested that continued use of the Road Traffic Regulation Act would, on balance, be appropriate but further legal advice has now confirmed that this was not the case.
- 2.5 New enforcement arrangements are now in place and The City of Exeter Parking Places Order 1994 must now be revoked. This is a formal process which requires a consultation period with interested parties before it can take effect. Members are therefore requested to approve revocation of the Order and authorise the necessary process.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 The likely cost of this error is in the region of £35,000 and will need to be met from the Council's Reserves.

### **4.0 RECOMMENDATIONS**

- (i) It is recommended that Members note the contents of this report.
- (ii) It is further recommended that Executive approve the revocation of The City of Exeter Hospital Parking Places Order 1994 and the process necessary to achieve this.

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**ECONOMY & DEVELOPMENT DIRECTORATE**

**Local Government (Access to Information) Act 1972 (as amended)**

***Background papers used in compiling this report:-***

None