

## **NPAS CIRCULAR**

### **SETTING OF ADDITIONAL PARKING CHARGES**

Whereas S74 of the Road Traffic Act 1991 (“RTA 1991”) makes the setting of additional parking charges the duty of the Joint Committee of London Authorities, no such parallel exists in respect of local authorities in England and Wales outside London. Accordingly, a local authority must follow the Secretary of State’s guidance when setting the charges as required by their individual Special and Permitted Parking Area (“SPA”) Order, which grants them powers to undertake decriminalised parking enforcement and varies S74 thus:

**74.-** (1) It shall be the duty of the parking authority to set the levels of additional parking charges to apply in the parking area.

The “parking authority” is defined in Schedule 3 of the RTA 1991. “Additional parking charges” means penalty charges, charges for the removal, storage and disposal of vehicles and charges for the release of clamped vehicles.

The practical implications are that unless and until such charges have been set in accordance with guidance issued by the Secretary of State and agreed by the Council and advertised thereafter for a period of at least 14 days before the date on which the charges are to apply, the local authority has no power to impose these charges upon the recipient of a penalty charge notice or a motorist whose vehicle has been clamped or removed under the terms of the RTA 1991.

In most cases the setting of additional charges is undertaken by an Executive Member as a key decision or by Members in committee and thus will be fully minuted at the following Council meeting. However, it is accepted that in some cases councils delegate the power to set charges to senior officers. Should this be the case then it will be necessary for the authority to demonstrate that this delegated power has been formally granted to named officers and that this officer has exercised the power so delegated.

Councils must also ensure that the correct penalty charge, or proportion thereof is stated on the various council notices (including the Penalty Charge Notice). If the penalty charge stated in these documents is inconsistent or simply wrong this will normally cause the appeal to succeed, irrespective of the merits of the case itself.