

## **Appendix1: Parking Strategy Proposals - Charging rules and guidance on use of car parking income**

1. The authority is not able to introduce different methods of charging until they have been consulted on, agreed by Cabinet and adopted into the strategy. It is necessary for the Council to introduce its proposals in accordance with policies and failure to do so could result in a legal challenge.
2. Car parking charges cannot be used for any purposes outside the objectives of the Road Traffic Regulation Act 1984 (RTRA 1984). Furthermore this statute cannot be used to raise revenue effectively through taxation. RTRA is not a fiscal or taxing statute and using funds for purposes outside the statute is not lawful. This also applies to off-street parking in the Council's car parks as these powers to charge are also derived through the RTRA 1984.
3. It is therefore not possible under the provisions of the RTRA 1984 to fund other services outside of the remit of the RTRA 1984 using income from car parking fees and charges whether this is on or off street or to set charges with the specific aim of generating income to fund services or projects .
4. There is some discretion to budget for a surplus depending on where it is reasonable and to allow for fluctuations in costings year by year. However a surplus is not allowed for purposes outside of the RTRA 1984.
5. Section 55 RTRA 1984 provides for the creation of a ring fenced account (the Special Parking Area (SPA) into which the monies raised under sections 45 and 46 must be placed and for dealing with any surplus funds which includes expenditure for other transport purposes.
6. Section 122 imposes a general duty on local authorities exercising functions under RTRA 1984 to "*secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking on and off the highway...*".

**Notes on Section 55, RTRA 1984: Financial provisions relating to designation orders.**

.A local authority shall keep an account of their income and expenditure in respect of parking places for which they are the local authority and which are designated parking places.

At the end of each financial year any deficit in the account shall be made good out of the general fund, and any surplus shall be applied for all or any of the purposes specified below and, in so far as it is not so applied, shall be appropriated to the carrying out of some specific project falling within those purposes and carried forward until applied to carrying it out.

If the local authority so determine, any amount not applied in any financial year, instead of being or remaining so appropriated, may be carried forward in the account to the next financial year.

The purposes referred to) above are the following, that is to say—

- (a) the making good to the general fund of any amount charged to that fund under in the 4 years immediately preceding the financial year in question;
- (b) meeting all or any part of the cost of the provision and maintenance by the local authority of off-street parking accommodation, whether in the open or under cover
- (c) the making to other local authorities or to other persons of contributions towards the cost of the provision and maintenance by them, in the area of the local authority or elsewhere, of off-street parking accommodation, whether in the open or under cover;]
- (d) if it appears to the local authority that the provision in their area of further off-street parking accommodation is unnecessary or undesirable, the following purposes—
  - (i) meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services,
  - (ii) the purposes of a highway or road improvement project in the local authority's area,
  - (iii) the purposes of environmental improvement in the local authority's area,

- (iv) in the case of such local authorities as may be prescribed, any other purposes for which the authority may lawfully incur expenditure;

For the purposes of (ii) above a highway improvement project means a project connected with the carrying out by the highway authority of any operation which constitutes the improvement (within the meaning of the Highways Act 1980) of a highway in the area of a local authority in England or Wales; and

For the purposes of (iii) above, “environmental improvement” includes—

- (a) the reduction of environmental pollution (as defined in the Pollution Prevention and Control Act 1999 (c. 24); see section 1(2) and (3) of that Act);
- (b) improving or maintaining the appearance or amenity of a road or land in the vicinity of a road, or open land or water to which the general public has access; and
- (c) the provision of outdoor recreational facilities available to the general public without charge.