

## Summary of Legal Advice

1. The Council has power in the Road Traffic Regulation Act 1984 (sections 45 and 46) to create, by way of a traffic regulation order, designated parking places on the highway for vehicles, or vehicles of any class, specified in the order. The authority may make charges (as provided for in section 46) for vehicles left in such parking places. The Traffic Regulation Order in this case is known as a 'designation order' and the parking place(s) created by it is/are 'designated parking place(s)'. This is a basic statement of the essentials for present purposes and there is considerable ancillary detail in the Act.

2. The legislation that controls receipts from on-street parking charges in designated parking places is section 55 of the Road Traffic Regulation Act 1984, as modified.

It says in summary -

(1) An enforcement authority (meaning here the County Council, although the County requires the Boroughs/District acting as its agents to maintain such an account) shall keep an account of their income and expenditure in respect of designated parking places whether such parking places are in a civil enforcement area for parking contraventions or not, and also in relation to a number of other parking contraventions as set out in the Traffic Management Act 2004.

(2) At the end of each financial year any deficit in the account shall be made good out of the general fund, and (subject to (3) below) any surplus applied for all or any of the purposes specified in (4) below. Insofar as such surplus is not so applied, it shall be appropriated to the carrying out of some specific project falling within the purposes in (4) below and carried forward until applied to carrying it out.

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

(4) The purposes for which surpluses can then be applied are -

(a) the making good to the general fund of any amount charged to that fund under (2) above 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 facilities for, public passenger transport services.

(ii) the purposes of a highway improvement project in local authority's area. A highway improvement project is defined to mean a project connected with the carrying out by the appropriate highway authority (whether the local authority or not) of any operation that constitutes the improvement (within the meaning of the Highways Act 1980) of a highway in the area of a local authority in England and Wales.

(iii) not relevant in Surrey.

(iv) the purposes of environmental improvement in the local authority's area. 'Environmental Improvement' includes (a) the reduction of environmental pollution (as defined in the Pollution Prevention and Control Act 1999) and (b) improving or maintaining the appearance or amenity of (i) a road or land in the vicinity of a road or (ii) 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.

(v) in the case of such local authorities as may be prescribed, any other purposes for which the authority may lawfully incur expenditure (as far as is known, SCC is not one of these authorities).

The footnotes to section 55 say 'this is not a revenue raising Act, and accordingly in determining charges to be made in pursuance of the designation of parking places, local authorities should not have regard to the manner in which section 55(4) of the Act would permit any resulting surplus to be spent'.

On-street parking is now enforced in Surrey under the civil enforcement legislation with the Borough and District Councils acting as the County's agents for this purpose. The individual Boroughs and Districts are designated as civil enforcement areas by reference to the those Councils' administrative boundaries.

The other parking contraventions, as set out in the TMA 2004 and referred to above, are, for example, stopping vehicles on or near pedestrian crossings, parking in loading areas, contravening a prohibition on waiting/loading or unloading of vehicles etc.