



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 26TH JUNE 2018

SUBJECT: DECriminalisation of Parking – Stage 2 Report

REPORT BY: Interim Corporate Director – Communities

1. PURPOSE OF REPORT

- 1.1 To update Members on the progress with pursuing Civil Parking Enforcement Powers, and to seek the views of Members on the proposals for implementation and issues to be considered prior to presenting recommendations to Cabinet.

2. SUMMARY

- 2.1 In light of the feasibility study of creating a Civil Enforcement Area and Special Enforcement Area across the Council's administrative area, Cabinet resolved on 28 February 2018 to adopt an implementation model for Civil Parking Enforcement (CPE) where on street enforcement is undertaken in house and to collaborate with another, or other, local authorities for the back office notice processing and administration.
- 2.2 The decision also included an instruction to undertake the Traffic Regulation Order review necessary to prepare the application to Welsh Government to secure the CPE powers. The current planned 'Go live' date for CPE is April 2019. This report sets out the proposals and recommendations to be undertaken to implement the decision and the issues requiring further consideration that will assist in achieving this implementation date.

3. LINKS TO STRATEGY

- 3.1 Road safety delivery which includes CPE contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:
- A prosperous Wales
 - A healthier Wales
 - A more equal Wales
 - A Wales of cohesive communities
 - A globally responsible Wales
- 3.2 Engineering Services Division Objective: To work towards a safer environment through positive measures to reduce road accidents and particularly by protecting and providing for vulnerable road users.
- 3.3 CPE will contribute to the Authority's Well Being Objective 4: Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.

4. THE REPORT

4.1 The findings of the feasibility study of creating a Civil Enforcement Area and Special Enforcement Area (CEA/SEA) across the Council's administrative area was presented to the Regeneration and Environment Scrutiny Committee on the 17 December 2017. Subsequently Cabinet resolved on 28 February 2018 to adopt an implementation model for Civil Parking Enforcement (CPE) where on street enforcement is undertaken in house and to collaborate with another, or other, local authorities for the back office notice processing and administration (Model B2 as referenced in the Stage 1 report). The decision also included an instruction to undertake the Traffic Regulation Order (TRO) review necessary to prepare the application to Welsh Government (WG) to secure the CPE powers.

4.2 CPE Implementation Timescale

4.2.1 Following discussions with Gwent Police their latest position is to withdraw from parking enforcement duties at the end of December 2018. The current planned 'Go live' date for CPE is April 2019. This will be extremely challenging to meet given the statutory process to be followed and the preparation necessary for successful implementation. Further discussions will be held with Gwent Police to try and negotiate an extension to their withdrawal that allows the Council to have everything in place before the actual go live date and to ensure there is a smooth transition of responsibilities.

4.2.2 The situation is common to all five local authorities in the Gwent Police service area, all of whom have now decided to pursue CPE powers.

4.3 Key Actions for CPE Implementation

4.3.1 The following key actions are in hand or planned in order to prepare for implementation by the go live date:

- Undertake the TRO review and identify what remedial actions are necessary for CPE implementation (May – October 2018)
- Prepare and submit CPE application to WG including statutory consultation - as per the Stage 1 report section 4.6 (May 2018 – December 2018)
- Undertake remedial works to TRO lining and signing (September – December 2018)
- Prepare and process TRO consolidation order (September – December 2018)
- Negotiate back office and set up in house service (April 2018 – January 2019)
- 'Go live' (April 2019)

4.4 Issues

4.4.1 TRO review & CPE application: following a competitive tendering process the services of RTA Associates have been commissioned to undertake the work and provide specialist technical advice. As RTA undertook the initial feasibility study, there will be an element of continuity that assists with meeting the challenging delivery timescale.

4.4.2 TRO lining and signing remedial works: this will be the subject of a separate commissioning exercise the extent and scope of which will be determined by the findings and outcome of the TRO review. All TRO lines and signs must be in an acceptable condition for enforcement to enable CPE powers to be secured and implemented. This work can be phased if necessary with the main towns and settlements given priority.

4.4.3 TRO consolidation order: this is necessary to ensure that the current TRO and the lines and signs on the ground match. This is to avoid any ambiguity for road users, have confidence that Penalty Charge Notices (PCNs) issued are correct and valid and minimise the number of appeals received with valid grounds. Whilst this exercise is ongoing Officers will be unable to process any changes to parking restriction related TROs during 2018/19. Consideration of all outstanding, and any new, requests for changes to parking restrictions will be deferred until 2019/20 after CPE is implemented.

- 4.4.4 Notice processing and administration: Cabinet agreed that the functions necessary for notice processing and administration (including the appeals process) be managed by an external back office. Within Wales the main existing back offices that service the 17 local authorities that currently enforce CPE are Cardiff, Neath Port Talbot and Rhondda Cynon Taff (RCT) councils and the Wales Penalty Processing Partnership (WPPP). The largest and most established, WPPP, is operated by Denbighshire County Council on behalf of 10 Welsh local authorities. Whichever back office is eventually secured, there will be a need to invest in new IT equipment to ensure compatibility of systems and provision of an effective service.
- 4.4.5 Each back office charges a fixed fee per PCN for their services which range from £4.90 to over £10.00 with £5.25 considered to be a reasonable average. Initial discussions have been held with RCT who provide a service for Merthyr County Borough Council as well as themselves under the guise of the South Wales Parking Group (SWPG). They have indicated that they have sufficient capacity to accommodate CCBC's anticipated level of PCNs (approximately 11,200 per annum) at a fixed cost of around £4.90 - £5.20 per PCN. This represents good value for money when compared to the average for Wales and it is proposed that Caerphilly reaches a formal agreement with RCT for them to manage the back office on CCBC's behalf. Should an acceptable agreement not be achievable then alternative arrangements would be negotiated and approved under the delegations sought (see 5.1).
- 4.4.6 Uniformity – Highway owned, Countryside and Tourism car parks: the CEA/SEA must include any off-street car parks currently enforced by CCBC under the 1984 Road Traffic Regulation Act, in order to provide a uniform enforcement capability in all CCBC parking areas. This would include the pay and display car parks in the Council's country parks and Cwmcarn visitor centre that are currently managed and enforced by the Countryside and Tourism sections. This means that the countryside car parks (at Parc Cwm Darren, Penyfan, Sirhowy Valley, Parc Penallta and Bargoed) and tourism car park at Cwmcarn visitor centre will need to be included in the CPE application. At present enforcement is undertaken by Countryside and Tourism staff however, it is proposed for consistency that responsibility for enforcement of these car parks be transferred to the Civil Enforcement Team. The current level of enforcement undertaken by the Countryside and Tourism staff in these car parks is minimal and limited by the availability of staff resources. This transfer of enforcement responsibility would strengthen the monitoring and provide a consistent approach across the authority.
- 4.4.7 Parking Enforcement Operational Policy: it will be necessary for CCBC's enforcement protocol to be revised such that it aligns with national operational guidance for CPE, in order to maintain a consistent approach and compliance with this national framework, and also to ensure that the lowest number of PCNs are raised and cancelled. This will not only affect the way in which PCNs are issued, but also the way in which appeals are considered and determined. Examples of how this could affect the current service are provided below:
- At present no period of grace is allowed for vehicles parked in a free limited waiting car park, however under CPE national guidance it is recommended that 10 minutes be given.
 - At present all ECNs (Excess Charge Notices) issued for failure to display a ticket or blue badge in the Council's Highway owned off street car parks are waived/cancelled if a valid ticket / blue badge is subsequently produced. This would need to change such that, for example, PCNs are only cancelled for first time offenders.
- 4.4.8 The formation of an SEA would grant CCBC the powers to enforce on road parking such as double yellow lines, double parking, and parking over dropped footways (driveways), however careful consideration needs to be given as to how these powers would be enacted because of the range of localised sensitivities that exist e.g. a neighbouring authority has taken the decision to enforce dropped kerbs in town centres but not driveways in residential areas as they have found that this is too contentious/difficult to resolve in a consistent manner. As such, obstructions of this nature are referred to the police for them to deal with using their existing powers of enforcement. It should also be noted that the formation of a CEA/SEA would not grant CCBC the powers to deal with obstructive parking on footways and this responsibility would remain with Gwent Police.

- 4.4.9 Displacement: unless enforcement is applied in a uniform manner across a geographic area, there is a risk of displacement of parked vehicles, causing other, more serious problems.
- 4.4.10 Resident Permit Parking Policy: the Policy has been in existence since the beginning of this Authority in 1996 but was last reviewed in 2012 via a report to the Regeneration and Environment Scrutiny (on the 17th July 2012) (see background papers). The recommendations were endorsed by the Committee and subsequently approved by the Council's Cabinet on the 31st July 2012. The existing schemes in Abercarn, Blackwood, Cwmcarn, Risca, Newbridge, and Rhymney operate within the agreed limits. Amendments to the times of operation and number of permits issued would be needed in Caerphilly, Bargoed, Ystrad Mynach and Nelson. The agreed policy requires a £30 charge be made for the issue of permits to cover administration and maintenance costs. No charges are payable by residents at present for any existing schemes within the borough because the TROs predate the introduction of the current resident permit parking policy. It is proposed that all existing resident permit parking schemes within the borough will be consolidated (as part of the TRO consolidation order) to bring them in line with the policy and ensure consistency across the borough.
- 4.4.11 Clamping and Removals: it is not envisaged that measures for clamping and removals will be necessary for parking contraventions. However, it is proposed that the powers to undertake clamping and removals be sought in the CPE application to WG, so they can be brought into use at any time in the future should a policy on the use of clamping and removals be developed.
- 4.4.12 Bus Lane Enforcement: At present there is very little bus lane provision within the county borough so compliance and enforcement has not been a concern. However, it is possible that additional bus lanes may be considered as part of future public transport infrastructure improvements. Therefore it is proposed to seek the powers for bus lane enforcement to retain the option for the Council to undertake such enforcement in the future if deemed necessary.
- 4.4.13 Cashless payment: With the procurement of a new or upgrading of the existing IT system or back office service provider, it is proposed that CCBC should adopt the introduction of cashless parking and virtual permits in relation to CPE. Cashless parking is most commonly thought of as pay by phone but there are an increased number of methods to pay for parking electronically within the parking industry. Virtual permits that can be applied for and paid for on line also have an impact on staff input and help to eliminate human error when processing applications. It is normal for the cashless pay by phone system to stand alone from any CPE IT system and simply interface with the CEOs handhelds in real time via the IT system. This also allows flexibility when wishing to re tender the cashless parking contract as new technology comes on line in the future. It is recommended that any cashless parking system be procured remote and separate to a CPE IT service provider. Real time information for the CEOs to link into while on patrol is the way forward.
- 4.4.14 PCN targets: It is illegal to set targets for the issue of parking tickets, and the resulting enforcement would have a significant adverse impact on the Council's reputation. This will be made clear in the formal publicity and public information.
- 4.4.15 Event management: The issue of special events in the County is of particular significance for discussion with Gwent Police. On such occasions, the nature of the responsibilities of both Gwent Police and CCBC as the Highway Authority would change, with Gwent Police losing aspects of their powers to enforce parking, yet the Civil Enforcement Officers (CEOs) having no powers to get involved in the direction of traffic. This new relationship will be discussed, and the need for parking enforcement understood between the organisations, with agreement reached as to how the resources would be best deployed in future, after CPE.
- 4.4.16 Community Safety Wardens: various Members have expressed a clear wish that the CEOs have a dual role in that they enforce other aspects of street management such as litter dropping and dog fouling. Whilst the legislation governing the CEO does not preclude this

dual enforcement role, the reality of achieving this is not straight forward because the Public Protection Environmental Health Enforcement Officer and Community Safety Warden roles are covered by both criminal and civil legislation, whereas the CEO role is only covered by civil legislation.

- 4.4.17 The financial forecasts in the feasibility study are based on CEOs spending 100% of their time on enforcement. Should their time be split undertaking other enforcement duties, this would have a direct adverse impact on the level of PCNs issued and income received, and possibly result in an annual operating deficit. Officers will look to maximise the use of dual roles where practical but it is proposed to implement the CEO role initially under CPE to avoid any delays to its implementation. In parallel work on combining the roles will be progressed and implemented at the earliest opportunity, and this will require the existing scheme of delegations under the Council's constitution to be reviewed and amended accordingly. It is proposed that a six month trial period is undertaken to evaluate the effectiveness of utilising a dual role for CSW/CEO. The outcomes will be considered by officers to conclude whether a combined role is viable for future service delivery.
- 4.4.18 Public expectation/demand: it is anticipated that CPE will generate a significant level of public interest and demand which is currently being received and managed by Gwent Police. In order to be able to deal with this increased number of service requests it will be necessary to develop new customer relation protocols and/or systems via the Customer Services team.
- 4.4.19 Publicity: it is proposed to widely publicise the change in enforcement regime and introduction of CPE powers via a variety of media in advance of the 'Go live' date to give road users plenty of forewarning before enforcement begins. A communications strategy will be developed and implemented to ensure a clear and concise message is conveyed to the public on the approach that will be implemented and the timeframes involved,
- 4.4.20 Collaboration: is proposed to utilise RCT (or other local authority provider if agreement is not reached with RCT) for the notice processing and administration of the back office, however, the possibility of future collaboration with other local authorities for CEO enforcement has not been discounted. Should any opportunities for further collaboration in the future be given serious consideration, the proposals would be put before Members for discussion.
- 4.4.21 Officers will be progressing all of the above issues between now and the 'Go live' date as part of the actions and implementation plan, not all of which may be fully resolved given the challenging timescale. This requires formal resolutions and delegations to enable officers to successfully take this forward as set out below.

5. FORMAL RESOLUTIONS / DELEGATIONS

- 5.1 In order to submit the formal application for Civil Parking Enforcement (CPE) powers to Welsh Government (WG) and progress the actions necessary for implementation, Cabinet will be asked to endorse the following recommendations:
- 1) To resolve to undertake CPE within the administrative boundary of CCBC and to support an application to the WG for a Civil Enforcement Area (CEA), Special Enforcement Area (SEA), and Bus Lane Enforcement powers under the provisions of the Traffic Management Act 2004 (the 2004 Act).
 - 2) To nominate and resolve that the Deputy Leader and Cabinet Member for Economy, Infrastructure, Sustainability and Well-being of Future Generations be the Representative and Substitute Representative appointed to stand on the Joint Committee of England and Wales for the Civil Enforcement of Parking and Traffic Regulations outside London, which oversees the adjudication service known as the Traffic Penalty Tribunal (TPT).

- 3) To nominate and resolve that the Deputy Leader and Cabinet Member for Economy, Infrastructure, Sustainability and Well-being of Future Generations be the Representative and Substitute Representative appointed to stand on the Joint Committee.
- 4) To adopt, for the purposes of consultation (see 4.3.1), penalty charge band Level 2 - £70/£50 in accordance with the national framework (and as used for the financial assessment in the feasibility study model B2).
- 5) To resolve that the powers to clamp and remove vehicles, parked in contravention of restrictions, be obtained as part of the application for CPE to the WG.
- 6) To approve the appointment of 'enforcement agents' to collect parking debts, should this approval be necessary.
- 7) To approve that the financial model for CPE is submitted to the WG (model B2 as referenced to in the Stage 1 report), as the required business case.
- 8) To delegate to the Corporate Director - Communities, in consultation with the Cabinet Member, the powers to:
 - a. Agree the details of the final CPE application and submit it to the WG for the adoption of CPE powers.
 - b. Agree, after appropriate consultation on the formal CPE application, the penalty charge band level.
 - c. Agree the terms, in conjunction with the Council's Head of Legal Services and Monitoring Officer, of any legal agreements that need to be entered into between the Council and the TPT, the Traffic Enforcement Centre and the DVLA in order to implement CPE.
 - d. Make any changes considered necessary in order to meet the requirements of the Traffic Management Act 2004, in light of current and future Statutory Guidance.
 - e. Take all steps necessary to introduce appropriate 'Civil Enforcement Off-Street Parking Places Orders' in order to implement CPE in the Council's off street car parks and to meet the requirements of the 2004 Act.
 - f. Take all steps necessary to introduce appropriate 'Civil Enforcement On-street Traffic Regulation Orders' in order to implement CPE on the Council's highways and to meet the requirements of the 2004 Act.
 - g. Agree the extent and terms of the implementation of CPE, including the adoption of such further powers as may be expected by the WG and to take such other steps as are considered appropriate for the application and implementation of CPE to be successful.
 - h. Approve a communications strategy that will clearly set out when and how CPE will be introduced along with the enforcement approach that will be taken.

6. WELL-BEING OF FUTURE GENERATIONS

- 6.1 This proposal contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that:
 - 6.1.1 Long term resourcing of operation and management solutions of this specialised service provision allows for more effective and predictable resource/ financial commitments going forward.

- 6.1.2 Taking direct control of CPE enables CCBC to increase prevention of parking disruption and congestion in conurbations contributing to well-being of its communities.
- 6.1.3 It forms part of an overall strategy integrating the traffic management of local roads to regional transport systems on which public transport, private users, cyclists and walking networks can operate.
- 6.1.4 Collaboration with other organisations and local authorities enables a more effective and efficient service delivery.

7. EQUALITIES IMPLICATIONS

- 7.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential for unlawful discrimination and/or low level or minor negative impact has been identified therefore a full EIA has not been carried out.

8. FINANCIAL IMPLICATIONS

- 8.1 As set out in the Stage 1 report, the estimated cost for implementing the model approved under the Cabinet resolution (Model B2) is £487,000. This includes the TRO review (£115,000 – updated tender figure), signs and lines remedial works of £300,000 and set up costs of £72,000. There is also an additional £24,000 for the purchase of the specialist Parkmap mapping software for managing TROs and the notice processing. This brings the overall estimated total for implementation to £511,000.
- 8.2 Funding of £80,000 has previously been approved from Sirhowy Enterprise Way (SEW) reserves for the TRO review. It is proposed that the additional funding required totalling £431k should be provided from a further call on the SEW reserve (£291k) with the remaining balance of £140k being funded from Communities Directorate reserves. The Scrutiny Committee is asked to support this proposal prior to consideration by Cabinet.
- 8.3 The feasibility study (Stage 1 report) identified that the estimated income from ECNs would result in an operational deficit of approximately £17,000 for the first year and an annual operational surplus from year two that would cover all operational costs for CPE. After five years the cumulative operational surplus generated would be approximately £58,000. This assessment calculates the annual operational costs over the first five years of operation to vary between £215-245k with the number of PCNs issued annually varying between 10,000 and 11,250. Any surpluses are to be ring fenced to reinvest in CPE activities and other provisions in accordance with the requirements detailed within Section 55 (as amended) of the Road Traffic Regulation Act 1984.
- 8.4 Note this is based on the CEOs undertaking enforcement for 100% of their time. Should this be reduced because of other enforcement duties being undertaken (e.g. dog fouling), then it would probably result in a direct adverse impact on the level of PCNs issued and income received, and possibly result in an annual operating deficit.

9. PERSONNEL IMPLICATIONS

- 9.1 With CCBC directly managing enforcement, a slightly enlarged parking management structure will be required, including an additional 5.5 full time equivalent (FTE) CEOs. The job descriptions of the CEOs and management staff would need to be reviewed but all staff costs have been built in to the operating costs identified above. The existing scheme of delegations under the Council's constitution will also need to be reviewed and amended accordingly.
- 9.2 There is the potential for TUPE of Gwent Police staff to CCBC however, from initial discussions with Gwent Police this is not considered likely, especially since the role of Police Community Support Officers was expanded following the withdrawal of Traffic Wardens. This will be confirmed with Gwent Police as part of the future discussions.

10. CONSULTATIONS

- 10.1 All responses from consultations have been incorporated in the report.
- 10.2 A Member's seminar was held on the 6th June 2018 and a verbal summary of the issues discussed /raised will be given at the Scrutiny Committee meeting.

11. RECOMMENDATIONS

- 11.1 Members are asked to consider the report and give their views, particularly in respect of the issues identified in paras 4.4.1 – 4.4.21 and on the following recommendations proposed to be presented to Cabinet for approval:
 - 11.1.1 It is proposed that CCBC reaches a formal agreement with RCTCBC for them to manage the back office on CCBC's behalf.
 - 11.1.2 It is proposed, for consistency, that responsibility for enforcement of all Countryside and Tourism car parks be transferred to the Civil Enforcement team.
 - 11.1.3 It is proposed that all existing resident permit parking schemes within the borough need to be consolidated (as part of the TRO consolidation order) to bring them in line with the policy and ensure consistency across the borough.
 - 11.1.4 It will be necessary to develop new customer relation protocols and/or systems via the Customer Services team.
 - 11.1.5 It is recommended that any cashless parking system be procured remotely and separate to a CPE IT service provider.
 - 11.1.6 It is proposed to implement the CEO role initially under CPE to avoid any delays to its implementation. In parallel work on combining the role with CSWs will be progressed and implemented at the earliest possibility, if viable.
 - 11.1.7 Any financial surpluses from the operation are to be ring fenced to CPE activities and provisions in accordance with the requirements detailed within Section 55 (as amended) of the Road Traffic Regulation Act 1984.
 - 11.1.8 Seek the recommendations and delegations in 5.1 to facilitate the CPE application to WG and subsequent implementation.
 - 11.1.9 It is proposed to fund the additional costs of £431k for the TRO review and CPE set up costs from SEW and Communities Directorate reserves (i.e. £291k from SEW reserve and £140k from Communities Directorate reserve).

12. REASONS FOR THE RECOMMENDATIONS

- 12.1 To allow Officers to progress the transfer of powers for CPE and to ensure its implementation at the earliest opportunity in 2019.

13. STATUTORY POWER

- 13.1 The following enabling statutory powers apply for the decision under consideration.
 - 13.1.1 Traffic Management Act 2004.

- 13.1.2 The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013.
- 13.1.3 The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013.
- 13.1.4 The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013.
- 13.1.5 The Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013.
- 13.1.6 The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013.

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Consultees: Cllr. Sean Morgan – Deputy Leader and Cabinet Member for Economy, Infrastructure, Sustainability and Well-being of Future Generations
 Cllr. Tudor Davies – Chair of Regeneration and Environment Scrutiny Committee
 Cllr. Christine Forehead – Vice Chair of Regeneration and Environment Scrutiny Committee
 Cllr. Eluned Stenner – Cabinet Member for Environment and Public Protection
 Cllr. Nigel George – Cabinet Member for Neighbourhood Services
 Christina HARRY – Interim Chief Executive
 Mark S Williams – Interim Corporate Director of Communities
 Nicole Scammell – Head of Corporate Finance and S151 Officer
 Stephen Harris – Interim Head of Corporate Finance
 Marcus Lloyd – Head of Infrastructure
 Rhian Kyte – Head of Planning and Regeneration
 Robert Hartshorn – Head of Public Protection
 Lisa Lane – Interim Monitoring Officer
 Richard Crane – Principal Solicitor
 Dean Smith – Principal Engineer (Traffic Management)
 Phil Griffiths – Green Space Strategy and Cemeteries Manager
 Paul Hudson – Marketing and Events Manager
 Mike Eedy – Finance Manager
 Shaun Watkins – Principal Personnel Officer
 Anwen Cullinane – Senior Policy Officer – Equalities and Welsh Language
 Kathryn Peters - Corporate Policy Manager
 Ceri Edwards – Environmental Health Manager
 Mike Headington - Green Spaces & Transport Services Manager

Background Papers:

Decriminalisation of Parking – Stage 1 report to Regeneration and Environment Scrutiny committee – 12 December 2017
 Scoping of the countywide review of the operation and management of Highway owned Council car parks report to Regeneration and Environment Scrutiny committee – 29 March 2016
 Management and enforcement of Highway owned public car parks report to Regeneration and Environment Scrutiny committee – 17 September 2013
 Review of the resident permit parking policy report to Regeneration and Environment Scrutiny committee – 17 July 2012