

Report of Chief Executive

Subject: Public Convenience Funding

Purpose of the Report

The report provides an update to Members on discussions with Pembrokeshire County Council on their request for funding to support the management of public conveniences and to seeks the views of Members on the next steps.

Introduction

The Chief Executive has received a letter from the Chief Executive of Pembrokeshire County Council (PCC) asking the Authority to provide a contribution to the management of public conveniences near National Park Authority run car parks through increasing car parking charges and ring fencing the additional income and transferring that income to Pembrokeshire County Council. This was discussed by Members at the National Park Authority meeting held on 15th June where it was resolved that:

“ the Authority open preliminary talks with PCC at officer level or as an Officer / Member working group and use those as an opportunity to negotiate on issues to the benefit of the Authority including the provision of ‘changing places’ toilets which provided improved facilities for disabled users.”

A letter was sent to the Chief Executive on 4th July (see Annex A). The matter was discussed briefly at a meeting between the Chief Executives of the two Authorities on 26th September and a response to the letter was received on 28th September (see Annex B).

It should be noted that the request from PCC has increased to £205,582 with the inclusion of 5 additional toilets which are within non-charging car parks managed by the Authority.

Summary of Response

The following provides a summary of the response from PCC to our requests

<u>Request from PCNPA</u>	<u>Response from PCC</u>	<u>Comment</u>
PCC's existing 'parking in Pembrokeshire website' does not appear to offer any cause or link between their parking	Copy of Cabinet report making the decision provided.	Information in public domain, however, public not notified at site

Request from PCNPA	Response from PCC	Comment
income revenue and their current funding of public toilet provision: o Can you confirm which public document provides that clarification to the motorist?		
Provide the most recently published Annual Civil Parking Enforcement accounts showing your off-street P&D income stream and confirming how much of it is specifically ring fence to support the provision of public toilets.	Accounts are not currently available	
Include a trial period and provision that it will automatically come to an end if a Tourism Levy is introduced in Pembrokeshire;	Suggested trial period of 2 years As we are both unaware of any details surrounding an introduction of a visitor levy I think it is premature to agree on any impact at this stage and agree that further discussions can be had once any progress on this has been made.	
provide an undertaking by PCC to meet any reasonably incurred professional fees that we may incur in giving further consideration / due diligence to this approach.	Please be advised that we will not meet your professional fees associated with obtaining this advice.	
The increase in Changing Places toilet facilities in Pembrokeshire	Recommend we conduct an analysis to determine the appropriate laydown across the County and including the Park and then review how best to implement.	
A partial re-negotiation of the Delegation Agreement on Rights of Way, with a specific focus on locations that are better managed from a Shoreline management	This is a separate issue to the toilets	A letter has been received from PCC on this issue.

<u>Request from PCNPA</u>	<u>Response from PCC</u>	<u>Comment</u>
perspective than a Rights of Way perspective		
Regularising PCC toilets on National Park Authority land at Manorbier, Poppit and Newport Sands	Should the proposals above to financially support these facilities be agreed, we will work with your authority to correctly formalise these arrangements.	
A review of the cost basis that PCC currently charge for an enforcement service across National Park Authority car parks	I have reviewed the costs we currently charge for enforcement, which I believe are entirely reasonable and appropriate. I am also informed that as a direct result of the enforcement activity provided the behaviour of car park customers has changed significantly resulting in a substantial increase in car park revenue at about 10-fold the cost of the enforcement.	Over recent years the Authority has made significant changes to its car parks and its operations, such as delivering over £2m of capital upgrades, led by our Buildings Maintenance Manager, repairs undertaken by our Warden Teams, the handling of Season Ticket requests by our reception staff and the excellent day to day management of the car park operations by the Car Park team. While the introduction of more effective car park enforcement has contributed to this it is responsible for a small part of the increased revenue and efficiency.

Issues to consider

Legal Considerations

The Authority has sought legal advice on the issue, and this can be summarised as follows:

While Pembrokeshire County Council has based their use of car parking income to fund the cleaning of toilets on Road Traffic Act, 1984 (Part 4), a National Park Authority is not defined as a local authority in terms of this act and the Order that set up the Authority does not reference the Road Traffic Act, 1984. Therefore, the Authority would not be able to use the same legal basis as PCC for this decision. The

advice has considered other legal options and considers that the Authority can consider this issue under the provisions of Section 65(5) of the Environment Act 1995 provided that the Authority can satisfy itself that supporting the provision of clean and well-maintained toilet facilities are conducive or incidental to the exercise of its functions.

Provision of Public Conveniences

Public conveniences are used by both residents and visitors. They are particularly beneficial for groups such as the elderly, families with young children and individuals and groups with special requirements. The absence of public conveniences can lead to individuals seeking alternative options which can have a detrimental impact on the local environment.

PCC have indicated that if additional sources of funding are not secured then they will need to consider closing some of the network. However, this is an issue for PCC and not one that PCNPA can influence.

There is a suggestion that one of the toilets that could be closed is the toilet in the car park in St Davids near to Oriel y Parc. However, our lease with PCC contains a 'contractual 'keep open clause' under para 28.4 which obligates the tenant (currently PCC) to keep it open and operational every day between 8am and 8pm so they would be in breach of their lease term if they shut the site without our express prior consent.

Financial Considerations

For the current financial year, the Authority budgets for an income of £500K from car parks, therefore, to meet this request it would need to increase its charges by 41%. The Authority generally charges £1 an hour to park up to a maximum of £5 per day, Therefore, this would increase to £1.50 per hour up to a maximum of £7.50 per day.

However, with the costs of this service being subject to CPI increases, it may be more prudent to increase the charge by more than this to avoid needing to increase charges on an annual basis and avoiding the need to change the Off-Street Parking Order annually. However, we would need to give due consideration to the impact of any increase on users of the National Park at this time of significant increase in the cost of living.

It should also be noted that the Authority provides a very competitive and highly popular annual season ticket offer comprising a roving ticket priced at £70 and valid for use in any of our 14 charging car parks and a £25 version which is valid for use in a single nominated car park only

The proposal from PCC would be cost neutral for the Authority with the additional costs being paid by users of the car parks.

However, the Authority along with other public organisations is facing significant additional cost pressures and is facing a significant deficit as it budgets for the next two years. Unlike other public authorities like County Councils, we do not have the option of generating additional income through increasing Council Tax or a levy.

Funding Services provided by other organisations

If Members were to approve this proposal it would set up a new type of arrangement. The Authority has no precedent for this type of arrangement. While we contribute to the work of other organisations we have not previously generated additional income and ring fenced the money for use by another organisation. PCNPA would need to protect itself from future requests for contributions for services that could be considered to benefit the National Park such as Highways or waste management.

Members should also be aware that since 1996 PCNPA has managed the public rights of way in the National Park. The legal responsibility for managing public rights of way is with the Highway Authority, i.e. Pembrokeshire Country Council, however, on its formation in 1996 PCNPA entered into a delegation agreement with PCC to manage around 1,000km of public rights of way, for which we receive no financial contribution. The total annual cost of this work is around £800k per year.

Governance Issues

When the Authority provides a financial contribution to another organisation it would normally impose some conditions and controls on the use of the funding, therefore if Members approve this contribution then consideration needs to be given to what controls should be introduced to ensure that the money provided is appropriately allocated. Some possible issues to consider include:

- A written contract outlining how the money is used and expectations on PCC to report on the use of the money;
- The setting up of a joint group between PCNPA and PCC to agree how any funding provided is allocated;
- The length of any agreement including provision for PCNPA (or PCC) to break the agreement if either is not happy with the arrangement;
- Despite the content of the letter, a consultation has now been issued on a “Discretionary Visitor Levy for Local Authorities” and it is likely that PCC will have the opportunity of introducing a levy in the future. Under the current proposals all income derived from a levy will go the County Council. Therefore, Members may wish to make the termination of any contribution automatic if a levy is introduced.
- With PCC benefiting from the arrangement Members may wish to require agreement that PCC cover the cost of any changes to the PCNPA Off-Street Parking Order.

Conclusion

Members are asked whether they will agree, in principle, to the Authority increasing its car parking charges and ring fencing the amount raised to fund public conveniences managed by Pembrokeshire County Council. If members agree to proceed with this then the final agreement and amendments to the Off-Street Parking Order will be brought back to Members at future meetings. The time taken to amend an Off-Street Parking Order would indicate that the earliest this change could occur is March 2023, although it will be challenging to meet this timescale.

RECOMMENDATION:

Members are asked to discuss the paper and indicate whether they would agree, in principle, to the Authority increasing its car parking charges and ring fencing the amount raised to fund public conveniences managed by Pembrokeshire County Council.

Background papers:

(For further information, please contact Tegryn Jones, Chief Executive on 01646 624803, or by e-mailing tegrynj@pembrokeshirecoast.org.uk)

4th July 2022



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Mr Will Bramble,
Chief Executive,
Pembrokeshire County Council,
County Hall,
Haverfordwest,
Pembrokeshire

Dear Will

Public Conveniences

Thank you for your letter and conversations regarding the provision of public conveniences near National Park run car parks. Members of the National Park Authority discussed the proposal at a recent meeting. There was a mixed response from Members to the proposal and they have tasked me with further work on the issue.

The Members asked me to clarify:

- the statutory provision/legal precedent which supports your opinion that their suggested funding approach would be *intra vires* from Pembrokeshire County Council (PCC) as recipient and the Pembrokeshire Coast National Park Authority (PCNPA) as provider. National Park Authorities have a different legal structure to County Council's, and while we will take legal advice on this issue, it would assist us to understand the legal basis for the Council's decision;
- PCC's existing 'parking in Pembrokeshire website' does not appear to offer any cause or link between their parking income revenue and their current funding of public toilet provision:
 - Can you confirm which public document provides that clarification to the motorist?
 - Provide the most recently published Annual Civil Parking Enforcement accounts showing your off-street P&D income stream and confirming how much of it is specifically ring fence to support the provision of public toilets.

During the discussion our Members indicated that any agreement should:

- include a trial period and provision that it will automatically come to an end if a Tourism Levy is introduced in Pembrokeshire;
- provide an undertaking by PCC to meet any reasonably incurred professional fees that we may incur in giving further consideration / due diligence to this approach.

Members also expressed a wish for me to enter into negotiation on the following:



Rydym yn croesawu cael
gohebiaeth yn Gymraeg, a
byddwn yn ateb gohebiaeth yn
Gymraeg. Na fydd gohebu yn
Gymraeg yn arwain at oedi.

We welcome receiving
correspondence in Welsh, and will
respond to any correspondence in
Welsh. Responding in Welsh
will not lead to delay.

- The increase in Changing Places toilet facilities in Pembrokeshire;
- A partial re-negotiation of the Delegation Agreement on Rights of Way, with a specific focus on locations that are better managed from a Shoreline management perspective than a Rights of Way perspective;
- Regularising PCC toilets on National Park Authority land at Manorbier, Poppit and Newport Sands; and
- A review of the cost basis that PCC currently charge for an enforcement service across National Park Authority car parks.

It may be preferable to arrange a meeting to discuss the above areas, however, it would be useful to receive the request information prior to any meeting.

Yours Sincerely



Tegryn Jones
Chief Executive

Date · Dyddiad 23/09/22
Your ref · Eich cyfeimod
My ref · Fy nghyfeimod Public Convenience Funding 2022
Telephone · Ffôn
Email · Epost
www.pembrokeshire.gov.uk / www.sir-benfro.gov.uk



Pembrokeshire County Council
Cyngor Sir Penfro

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Please ask for
Os gwelwch yn dda gofynnwch am
Will Bramble

Dear Tegryn

Thank you for your letter dated 04/07/22 in which you advised us that Members of the National Park Authority have discussed the proposal surrounding the use of car park income to support maintaining associated public conveniences. I appreciate you have been tasked by your Members with some further work on the issue and I trust this response will assist you with the queries raised in your letter.

The legal basis we have used which allows us to utilise car park income for public conveniences is: Road Traffic Act 1984, Part 4 – Parking Places section 32 (3).

(3)Any power conferred by this section to provide a parking place includes power to maintain it (if below ground) and to maintain buildings comprised in it, and to provide and maintain any cloakroom or other convenience for use in connection with it; and references in other provisions of this section to parking places shall accordingly be construed as including references to any such conveniences.

We believe PCNPA share the ability to use car parking income to support buildings, including toilets within car parks, as a primary use of the funds however it will be necessary for you to instruct your legal officers to advise further on your individual situation and interpretation of the above. Please be advised that we will not meet your professional fees associated with obtaining this advice.

With regard to how motorists are informed of this financial arrangement, the below Cabinet report provides the publically accessible information on the decision, in addition to this the information will be publically available within our annual report. I

We welcome correspondence in Welsh and English, and will respond within a maximum of 15 working days. We will respond in the language in which the correspondence is received (unless you ask us to do otherwise). / Rydym yn croesawu gohebiaeth yn Gymraeg a Saesneg a byddwn yn ymateb cyn pen 15 diwrnod gwaith fan bellaf. Byddwn yn ymateb yn yr un iaith â'r ohebiaeth a dderbyniwyd (oni bai eich bod yn gofyn i ni wneud yn wahanol).

For a copy in large print, easy-read, Braille, audio, or an alternative language, please contact Pembrokeshire County Council on the number above. / Os am gopi mewn print mawr, fformat hawdd ei ddarllen, Braille, sain neu mewn iaith arall, cysylltwch â Chyngor Sir Penfro ar y nif uchod.

note you have asked for a copy of the most recent report, please be advised that the previous financial year is currently being finalised and will be available shortly.

[CABINET \(pembrokeshire.gov.uk\)](http://pembrokeshire.gov.uk)

[Civil Enforcement Reports - Pembrokeshire County Council](#)

You have advised that Members are requesting a trial period and an automatic end to the agreement should a visitor/tourism levy be introduced in Pembrokeshire. I am agreeable to a trial period but would request that this is a minimum of 2 years in order to allow for our own financial planning and to allow time for any necessary consultation if the agreement was to come to an end. As we are both unaware of any details surrounding an introduction of a visitor levy I think it is premature to agree on any impact at this stage and agree that further discussions can be had once any progress on this has been made.

In the letter dated 17/03/22 from Cllr. David Simpson to Cllr. Paul Harries we provided figures for 13 public conveniences within PCNPA charged-for car parks and stated that the costs were subject to an annual CPI increase in August 2022. Below I have provided a revision of those figures based on the actual CPI that has now been added. In addition, due to severe and dynamic financial pressures being faced by Pembrokeshire County Council, I am extending the original request to also include 5 facilities within your non-charged-for car parks. Whilst I appreciate you cannot raise income directly from these specific car parks, you are able to utilise income from other charged-for car parks to cover the costs associated with these. Please note that PCC also take this approach.

PCNPA car parks with toilets within or in connection with.	Contract cost to PCC. Aug 2022 Figures
Angle	£ 5,725.02
Broad Haven North	£ 7,239.39
Freshwater East	£ 10,064.01
Little Haven	£ 9,360.00
Manorbier (facility registered to PCNPA)	£ 13,894.55
Newgale South	£ 6,100.25
Newport Sands (facility registered to PCNPA)	£ 14,689.01
Nolton	£ 6,727.27
Penally	£ 8,022.85
Poppit Sands (facility in PCNPA ownership)	£ 19,028.00
Solva	£ 12,055.06
Saundersfoot (contract cost minus estimated income)	£ 11,515.68
St Davids (Oriol Y Parc) <i>(Potential closure opportunity here due to close proximity to facilities at Oriol Y Parc)</i>	£ 6,629.49
Moylegrove <i>(PCC would consider a closure of this facility due to usage numbers which would reduce costs)</i>	£ 4,942.78
Newport Parrog	£ 11,206.82
Pwllgwaelod	£ 9,361.22
St Brides	£ 7,399.51
Porthgain	£ 5,621.13

Total (18) toilets	£ 169,582.05
£2,000 per toilet (for future improvements/upgrades that fall outside of the maintenance contract)	£ 36,000.00
Total request	£ 205,582.05

In addition to these facilities, I would like to highlight that there are 7 other facilities that fall within the National Park boundary area which we are not seeking support for, the total cost of which is £65K which is covered solely by PCC.

Should your Members be agreeable to the proposal and costings indicated above, we would request that an agreement is in place for commencement 1st April 2023. This will allow time for the required legal requirements to be met and our Parking Manager Marc Owen is happy to assist with this process.

With regard to the other requests within your letter:

Changing Places Toilet facilities – we understand the importance of these facilities and are actively looking at how we can increase the numbers available in Pembrokeshire. We are currently reviewing those within our Leisure Centres to allow these to be made publically accessible and we have several facilities currently in development stage including Whitesands Beach, Haverfordwest Multi Storey and Western Quayside. You will appreciate that these facilities are expensive to provide and I would be interested in hearing your views on how we can jointly support additional facilities in the future. May I recommend we conduct an analysis to determine the appropriate laydown across the County and including the Park and then review how best to implement.

Regularising the toilets on PCNPA land – should the proposals above to financially support these facilities be agreed, we will work with your authority to correctly formalise these arrangements.

Re-negotiation of the Delegation Agreement on Rights of Way – this is a separate issue to the toilets and I would kindly request that your officers review this with the Head of Service (Darren Thomas) in the first instance.

Review of the costs basis PCC currently charge for enforcement of National Park car parks. I have reviewed the costs we currently charge for enforcement, which I believe are entirely reasonable and appropriate. I am also informed that as a direct result of the enforcement activity provided the behaviour of car park customers has changed significantly resulting in a substantial increase in car park revenue at about 10 fold the cost of the enforcement.

We are committed to doing all that we can to secure as many public conveniences as possible in order to provide the best offering and service in Pembrokeshire, both to our residents and our visitors. Unfortunately with the unprecedented financial situation we are facing I suspect we will be unable to continue to fund as many as we do without a different financial model based on the proposals above. I will be proposing a series of measures to our Council over the course of the next few months in order to find the necessary headroom to deal with the current projected deficit of circa £26M in next year's budget. With that in mind would you please confirm your acceptance of these proposals as soon as possible so that we have sufficient time to implement the necessary by 1st April 2023.

I hope we can work together to try and maximise availability.

Yours sincerely



William Bramble
Chief Executive
Pembrokeshire County Council