

<b>Bath &amp; North East Somerset Council</b>		
<b>DECISION MAKER:</b>	<b>Cllr Charles Gerrish, Cabinet Member for Customer Services</b>	
<b>DECISION DATE:</b>	<b>On or after 8<sup>th</sup> December 2007</b>	<b>PAPER NUMBER 1</b>
<b>TITLE:</b>	<b>Introduction of Clamping and Removal of Illegally Parked Vehicles</b>	<b>EXECUTIVE FORWARD PLAN REFERENCE: E 1692</b>
<b>WARD:</b>	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> None		

## **1. THE ISSUE**

To consider the implementation of the clamping and towing of vehicles powers as granted by the Department of Transport in 2003.

## **2. RECOMMENDATION**

The Cabinet member is asked to agree that:

The Council introduce the powers for the clamping and towing of illegally parked vehicles.

### **3. FINANCIAL IMPLICATIONS**

This scheme will be revenue neutral. There will however be a significant cost saving in reducing the number of persistent offender vehicles attracting Penalty Charge Notices (PCNs) which remain unpaid. There will also be a positive public service benefit by removing vehicles that are unregistered, possibly untaxed, uninsured and unroadworthy.

It may be that in a very few cases vehicles will not be claimed due to the outstanding debt exceeding the value of the vehicle. The Council, together with the contractor, will be responsible for correctly disposing of the vehicles and notifying the relevant agencies. There is an established procedure for this and in most cases the scrap value of the vehicle will offset some of the costs.

Assuming a worst case scenario and every persistent offender vehicle is not claimed and the removal company has to be reimbursed it is estimated that there would be cost of approximately £3,500 to the Council in the first year of operation. This may possibly be a one off cost, or more realistically, a significantly reduced ongoing cost. There is evidence to suggest that the deterrent of knowing a vehicle will be immobilised/removed will persuade the relatively small number of motorists involved to park legally and act more responsibly when accruing PCNs.

In those cases where vehicles have been removed for highway maintenance works or the half marathon every vehicle was subsequently claimed. As the owners are fully liable for all costs before the vehicles are returned there would be no cost to the Council.

### **4. THE REPORT**

#### **Background**

On the 17<sup>th</sup> February 2003 the Council was designated a Special Parking Area by the Dept for Transport (DfT) and granted powers to enforce decriminalised parking restrictions that were once the responsibility of the Police.

The application contained a section relating to the clamping and removal of illegally parked vehicles on the basis that such powers might, at some stage in the future, be required to deal with difficult situations. The Council was granted these powers but never enacted them.

Parking Services have identified three groups of offenders for which clamping and/ or removal could be utilised.

(1) Those whose vehicles have been issued with penalty charge notices for illegal parking, and have failed to either pay the charge or appeal against the issue of it, or failed to register the vehicle with the DVLA preventing enforcement action from commencing.

(2) Those whose vehicles that are parked in defiance of a temporary traffic regulatory order (TRO) imposing restrictions prior to a special event such as the Bath Half Marathon

(3) Those whose vehicles are parked in defiance of a temporary TRO and obstructing essential road maintenance schemes.

Circular 1/95 from the DfT gives mandatory guidelines under which all local authorities undertaking clamping/towing powers must operate. More recent guidance contained in the draft guidelines accompanying the new Traffic Management Act identifies a vehicle with three or more unpaid penalty charge notices as a 'persistent offender'.

In the first category, clamping in compliance with the above guidelines might initially enable the Council to effectively deal with this group of offenders. Clamping vehicles in the latter two categories would only exacerbate the problem and immediate towing is seen as the most effective method of dealing with these vehicles.

This is not a proposal for wholesale immobilisation/removal, it will be specifically targeted at these three categories and in the case of persistent offenders the vehicle must be parked illegally before immobilisation/removal is undertaken. We will not immobilise a vehicle that is legally parked but has unpaid PCNs recorded against it.

### **Clamping**

This could be carried out 'in house' by parking attendant supervisors without resort to engaging an outside contractor who has to be licensed by the Security Industry Authority. Clamping however brings with it inherent problems of resource within the front line services such as the parking shop. If any vehicle is immobilised there is an obligation on the Council to ensure that, subject to certain conditions dictated by the DfT being met, the vehicle's owner must be able to recover it with the minimum of delay. If a vehicle is not claimed within a specified period it will have to be towed to a secure compound for recovery out of hours. It is possible that the council could incur costs for replacement clamps if any are damaged. However it is intended that staff should remain in situ to reduce the possibility of damaged or stolen clamps.

The procedure to be undertaken will be the subject of a separate report if approval is given.

### **Towing**

This is a specialist operation requiring DfT approved methods of lifting/towing of vehicles and a local easily accessible 24hr vehicle pound. In this case contracting out the work is the only viable option.

If a vehicle is removed and later claimed, the owner is liable for all of the costs incurred before the vehicle is released. Having verified the vehicle owner's name

and address, we would then be able to pursue any other outstanding penalty charges where applicable. In effect, particularly where vehicles are removed to facilitate special events or road works, this would be a 'no cost to the Council' operation.

It is estimated that at any one time there is a maximum number of 30 persistent offender vehicles which could be legitimately removed. Some of these vehicles have accumulated in excess of 60 unpaid PCNs. Highway maintenance estimates that there would be a maximum of 10 vehicles per year which would require removal prior to essential works being undertaken.

The procedure to be undertaken will be the subject of a separate report if approval is given.

Hintons of Bath have been identified as the only local company that has the equipment, manpower resources and a local 24hr. secure compound to undertake this work on behalf of the Council. They are a very reputable well established company, already working with the police and other national agencies in the removal of vehicles, and can easily accommodate the number of vehicles likely to be towed. All of their staff has already been subjected to a Criminal Records Bureau enquiry.

An informal but detailed discussion with Ian Walcot, the Operations Manager at Hintons has established that the company can operate to the required standard and within response times required by the Council and the DfT.

Consultation with Legal Services advises that the intention to enact the clamping and towing powers will need to be advertised. The draft enforcement procedures will be reviewed before implementation.

The Council will be dealing with a small number of vehicles on an irregular basis making this an unattractive proposition for many companies.

Hinton is the only local contractor who can meet the strict specifications within the maximum charging levels stipulated by the DfT and give an undertaking to meet response times which are crucial to the success of this operation.

The Council would be prevented from appointing a contractor from elsewhere due to the inconvenience caused to motorists having to travel unreasonable distances, possibly during unsocial hours, to collect their vehicle.

As estimated above the overall costs to the Council will be very small.

## **5. RISK MANAGEMENT**

The report author and Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

## 6. RATIONALE

The Council has adopted the decriminalisation of parking powers and implemented these in part. The Council now needs to consider the introduction of the further clamping and towing powers available to it under the decriminalisation of parking regime so that it can deal more effectively with offending vehicles.

The ability to clamp and tow away illegally parked vehicles would also cut down on the significant waste of Council resources in dealing with serial offenders when all efforts to secure payment of PCNs have failed.

## 7 OTHER OPTIONS CONSIDERED

none

## 8 CONSULTATION

- a. *Cabinet members; Overview & Scrutiny Panel; Staff; Other B&NES Services; Stakeholders/Partners; Section 151 Finance Officer; Monitoring Officer*
- b. Publication in local press to be arranged

## 9 ISSUES TO CONSIDER IN REACHING THE DECISION

- a. *Customer Focus; Equality (age, race, disability, religion/belief, gender, sexual orientation); Corporate; Health & Safety; Other Legal Considerations*

## 10 ADVICE SOUGHT

- a. The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Strategic Director - Support Services) have had the opportunity to input to this report and have cleared it for publication.

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<b>Background papers</b>	
<b>Please contact the report author if you need to access this report in an</b>	

**alternative format**