



Delegated decision report

DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE MONDAY 29 OCTOBER 2018

Title **PERSISTENT EVADERS – VEHICLE REMOVAL POLICY**

Report of **THE CABINET MEMBER FOR INFRASTRUCTURE AND TRANSPORT**

EXECUTIVE SUMMARY

1. This report sets out the current position in relation to persistent evaders of parking penalty charge notices; it explains what a persistent evader is and the impact this has on both income and the reputation of parking services.
2. The report recommends approval of the draft 'Vehicle Removal Policy'.
3. Subject to the approval of the paper and policy a contract will be implemented for the removal, storage and scrapping of the vehicles of persistent evaders.

BACKGROUND

4. A requirement has been identified for the council to take action against persistent evaders - keepers of vehicles that are the subject of multiple unpaid parking penalty charge notices (PCNs).
5. A persistent evader is where the registered keeper of a vehicle has three or more recorded contraventions and the PCN's are not paid, represented or appealed against within the statutory time limits; or their representations and appeals have been rejected but the penalty charge notices remain unpaid despite actions taken by enforcement agents.
6. It is proposed that a persistent evader's vehicle can be removed following the issue of a further penalty charge notice when parked in contravention of the Traffic Management Act 2004.

7. There are currently a small number of vehicles which have many unpaid PCNs some have no registered keeper and continue to be issued with PCNs. This situation causes concern for the safety of other highway users, including pedestrians and it also means that the council's normal debt recovery procedures cannot be implemented. Subsequently alternative measures are justified in an attempt to prevent further unsafe parking activities and to assist in the recovery of the debts.
8. As at September 2018 there are 76 vehicles with more than ten PCNs; collectively this amounts to an average of 35 PCNs per vehicle that have been issued between 2005 and 2018. The original PCN value was £156,510 but £110,558 of this has been written off leaving a potential income of £45,952 to be recovered.
9. The Traffic Management Act (TMA) 2004 legislates for councils to act against such multiple PCN evaders by immobilising or removing the vehicle in an attempt to obtain the identity of the vehicle keeper. The following is an extract from the guidance notes for local authorities:

Persistent evaders

Some vehicle owners contravene parking regulations deliberately and often, and fail to settle the debts they incur. A vehicle owner can be classed as a 'persistent evader' if there are three or more recorded contraventions for the vehicle and the PCNs for these have not been paid, represented against or appealed against within the statutory time limits, or their representations and appeals have been rejected but they have still not paid.

Some vehicles are not registered, or is not correctly registered, on the DVLA database and the owner is confident that they can avoid paying any penalty charges.

Where a vehicle appears to be registered in the UK, but the identity and address is not registered, or is not correctly registered on the DVLA database, authorities should consider making the information available to the police who can, if appropriate, investigate any criminal offence.

When parked in contravention, a persistent evader's vehicle should be subject to the strongest possible enforcement following the issue of the PCN and confirmation of persistent evader status. This is likely to involve immobilisation or removal. The benefit of removal is that it requires proof of ownership and a registered address before release of the vehicle, whereas immobilisation prevents law abiding motorists from using valuable kerb space. If a vehicle of a persistent evader is in a designated parking place, the Traffic Management Act 2004 and regulations made under it prohibit an enforcement authority from immobilisation or removing the vehicle until at least 15 minutes have elapsed following the issue of a PCN.

Currently, under TMA regulations an authority can only obtain payment for the PCN of the contravention for which the vehicle is immobilised or removed and not any other outstanding PCNs.

10. While the policy will enable the removal of vehicles for other reasons it is proposed to effectively trial this for persistent evaders; then, subject to review by officers, extend this to the other categories of vehicles referred to.
11. The council, through the PFI contactor, is in a contract with a third party for the removal of untaxed and abandoned vehicles and it is anticipated that, subject to negotiation, this contract can be utilised to facilitate the removal of persistent evaders and other vehicles.
12. The TMA currently states that a vehicle is the subject of “persistent evader” status when there are three unpaid PCNs for which enquiries to the DVLA have provided no registered keeper.
13. It is intended for this Council to take action when there are 3 outstanding PCNs. This will involve the following course of action:
 - Civil enforcement officer (CEO) identifies persistent evader vehicle parked in contravention when a message is highlighted on the hand – held computer.
 - PCN is issued and the back office team is contacted with details of the vehicle (location, registration number, make, colour, number of outstanding PCNs).
 - In cases where there are three or more unpaid PCNs, and it is confirmed that no contact has been received/made despite enforcement agent actions, the vehicle removal contractor will be instructed to remove the vehicle to the pound. The TMA states that the vehicle cannot be removed until 15 minutes has elapsed from the time the PCN is issued.
 - The vehicle is released upon payment of the appropriate fees.
14. The associated costs for vehicle removal, storage and or disposal of vehicles removed for parking contraventions under the Traffic Management Act 2004; are prescribed by the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (SI 2007/3487); these are as follows:-
 - £105 for vehicle removal.
 - £12 per day vehicle storage or each day or part day during which the vehicle is impounded.
 - £50 vehicle disposal.
15. In addition to the prescribed sums and charges, the owner/keeper will be required to pay the amount due for all of the penalty charge notices issued to that vehicle prior to the date the vehicle was removed.
16. All vehicle removals can attract an appeal from the owner or keeper of the vehicle. These appeals are to be treated the same as a PCN appeal, SI 2007/3482. If an appeal is successful, all monies paid in respect of the removal and storage of the vehicle will be reimbursed in full.

17. It is not intended for the draft vehicle removal policy to be strictly applied in all cases (i.e. disabled vehicles, business vehicles etc.); the parking operations manager will assess each case and give appropriate consideration to all factors prior to action to remove a vehicle.

STRATEGIC CONTEXT

18. The implementation of vehicle removal policy will enable the authority to deliver national and regional policy associated with traffic regulation and acts. It will support the Island's transport plan 2011-2038 and support the strategic asset management plan 2011.

CONSULTATION

19. In accordance with the Traffic Management Act 2004 and its subordinate regulations the council has consulted with Police on the draft 'Vehicle Removal Policy' - which forms appendix 1 to this report.

FINANCIAL / BUDGET IMPLICATIONS

20. At this stage the report has an insignificant impact on financial resources; however it is clear that there is a loss of income associated with non-payment of the PCN's and costs have been incurred with work already undertaken in attempting to prompt payment. If the authority decides to implement the policy then it should see a decrease in the number of persistent evaders and an increase in PCN income.
21. Costs associated with vehicle removal, storage and disposals will either be recharged to the vehicle owner or recovered through the sale of the vehicle.

LEGAL IMPLICATIONS

22. In accordance with the Traffic Management Act 2004 and its subordinate regulations the council has the power to immobilise or remove the vehicles of persistent evaders. In accordance with guidance it is important that an enforcement authority should formulate and publish clear guidelines for CEOs on when it will be appropriate to immobilise or remove. The guidelines should cover the order of priority in which vehicles should be dealt with, based on the nature of the contravention. Powers should not be used randomly and authorities should draw up guidelines in consultation with the police. Immobilisation and removal guidelines should consider the inconvenience that immobilisation causes drivers; potential obstruction or loss of parking space that results; and effect of immobilisation and removal on public perception.

EQUALITY AND DIVERSITY

23. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age,

disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

24. None of the identified groups are likely to be adversely affected by the recommendations of this report.

PROPERTY IMPLICATIONS

25. There are no property implications arising from this report; vehicles are either parked on council land (off street car parks) or on a public highway (on street parking). If removed they will be taken to the contractors compound.

OPTIONS

26. Option 1 – agree the ‘Vehicle Removal Policy’ as drafted.
27. Option 2 – agree an amended version of the draft ‘Vehicle Removal Policy’.
28. Option 3 – not to agree the draft ‘Vehicle Removal Policy’.
29. Option 4 – initiate negotiations with Island Roads contractor to extend their contract to include the removal, storage and disposal of persistent evaders vehicles or if unsuccessful procure a new contractor.
30. Option 5 – not to agree initiate negotiations with Island Roads’ contractor to extend their contract to include the removal, storage and disposal of evaders.

RISK MANAGEMENT

31. There are no significant risks associated with either approving the draft vehicle removal policy or negotiating with Island Roads contractor, or undertaking a procurement exercise for an alternative contractor for removal, storage and disposal of persistent evader’s vehicles.

EVALUATION

32. Options 1 and 4 are recommended so that the council has the ability to take action against persistent evaders and reduce the likelihood of a large number of PCNs being issued to the same vehicle without any prospect of payment. This will in turn increase either parking and/or PCN income.
33. Options 2, 3 and 5 are not proposed for approval as this will not assist the authority in being able to take action against persistent evader’s.

RECOMMENDATION

- 34. Option 1 – agree the ‘Vehicle Removal Policy’ as drafted.
- 35. Option 4 – initiate negotiations with Island Roads contractor to extend their contract to include the removal, storage and disposal of persistent evader’s vehicles or if unsuccessful procure a new contractor.

APPENDICES ATTACHED

- 36. [Appendix 1](#) – Draft ‘Vehicle Removal Policy’

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CLLR IAN WARD
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Decision

Signed

Date
