

CABINET MEMBER DECISION RECORD

Decision Ref. No:
Responsible Officer: Gary Powell - Head of Traffic, Engineering and Major Projects
Subject: DVLA Devolved Powers for Untaxed Vehicles
Decision taken: To apply for the devolved powers and administer them on behalf of the DVLA within the Borough, under an initial 12-month pilot scheme.
Reasons for the decision: <ol style="list-style-type: none">1. The Council receives over a thousand reports of an abandoned vehicle on the highways, or Council-owned land from members of the public, the police and other agencies each year. Officers investigate visiting the reported location, assessing the vehicle and carrying out background checks, but currently have no powers to remove untaxed vehicles, if they are not abandoned.2. With the devolved powers, Council officers would have greater jurisdiction to resolve complaints and remove nuisance vehicles.3. The registered keeper would be required to pay a release fee and the appropriate tax for the vehicle. As a result, the Council may generate an income of between £10-20k.4. Increasing concern of local residents that vehicles are being allowed to park on the street without appropriate tax.5. The Nuisance Parking Task and Finish Group and Environment & Transport Overview & Scrutiny Panel support the application to the DVLA for devolved powers to enforce untaxed vehicles.
Call-in and Urgency: The decision is subject to the Council's call-in procedure.
Background: In 2016, the Council has received over a thousand reports of an abandoned vehicle on the highways, or Council-owned land from members of the public, the police and other agencies. In such cases, officers investigate the report by visiting the reported location, assessing the vehicle and carrying out background checks. Many of the vehicles reported are untaxed, parked on the highway or Council land, but fail to meet the abandon vehicle criteria set out in current legislation. A large proportion of vehicles are also claimed by the owners during the investigation. In both these scenarios, Council officers have no further powers under abandoned vehicles legislation and can take no further action. In many cases, these vehicles remain on the highway causing a nuisance, waiting on DVLA take the necessary enforcement action in relation to tax evasion. The DVLA can, however, authorise a local authority to enforce against untaxed vehicles under devolved powers to use the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997. This would allow the Council to monitor, report and with the permission of the DVLA,

either to clamp or remove untaxed vehicles from the highway or Council-owned land. It should be noted that the DVLA only allow this enforcement action against vehicles on which the tax has expired for more than two months and one day.

As with the police, the Council will continue to carry out DVLA checks via its Web Enabled Enquiry (WEE) System, ensuring any enforcement action carried out, is effective, appropriate and correct.

With the devolved powers, Council officers would have greater powers to resolve complaints of nuisance vehicles. Untaxed vehicles would be removed from the highway and stored. If the owner wanted to reclaim the vehicle, a removal and storage fee must be paid, as well as the tax renewal fee. The Council is entitled to retain all revenue from DVLA impounded vehicles

Once impounded, the DVLA contact the registered keeper and authorise disposal if not claimed.

Options - and reasons for rejection:

Maintain the status quo and deal with abandoned vehicles under current powers, reporting untaxed vehicle to the DVLA for them to enforce as and when their resources allow.

Consultations undertaken:

Consultation involved the immediate and wider project team consisting of:

Executive Director Environment & Economy, Director of Environment, Head of Traffic, Engineering and Major Projects, Major Project, Strategy & Commissioning Manager, Senior Environmental Compliance Officer, Environmental Compliance Officers, Senior Accountant for Environment, Risk Manager

The Nuisance Parking Task & Finish Group - Councillor Gill Seymour (Lead Member of the Group), Councillor Pat Oakley, Councillor Nigel Hedges

Councillor Mike Greene, Portfolio Holder for Transport

Environment & Transport Overview & Scrutiny Panel - Councillor Mark Anderson (Chair)

Portsmouth City Council, who have been utilising the DVLA devolved powers since 2008.

Finance/Resource Implications:

Purchase of Wheel Clamps- Ten Home Office approved wheel clamps, (including high security padlock and keys) would be needed for clamping priced at £82.64 each - **£826.40**

Vehicle release fees

To release the vehicle, the registered keeper will be required to pay to the Council:

- £100 plus tax specific to the vehicle or surety of £160 (within 24hrs of vehicle being removed)
- £200 plus tax specific to the vehicle or surety of £160, plus £21 storage per day (after 24hrs of removal).

The surety (release in lieu of licensing) of £160 applies to light passenger vehicles, light goods and motorcycles. For buses, haulage and goods vehicles, the surety increases to £330.

The Council is entitled to keep all revenue from DVLA impounded vehicles, including any fees paid to release the vehicle, vehicles sold as scrap if its 'book' value is less than £5,000 or auctioned if its value is greater. Conversations with the DVLA to lower this threshold have been successful in other local authorities, and will be considered here.

The Council will introduce a 1 year contract to cover the pilot scheme period, based on the current Abandon Vehicle arrangement with W&S Recycling Ltd, to remove vehicles upon request without any damage and provide a secure storage facility.

The City of Portsmouth have been exercising these devolved powers since 2008, removing on average 225 untaxed cars and generating on average £17,500 of surplus (after contractor expenses, recovery, storage costs) each year.

It is difficult to estimate the likely number of vehicles that would be untaxed and removed in Bournemouth, however using Portsmouth's average, the Council could generate an income of between £10-20k, whilst removing nuisance vehicles from the streets.

Staff Resources

The proposal is to use current resources to carry out the pilot scheme. These works will be carried out by the three Environmental Compliance Officers alongside their current workload, based at Southcote Road, where the Web Based Enquiry system (WEE) is installed. The Data Protection Act 1998 must be adhered to at all times.

The team currently deal with abandoned vehicles enquiries and it would become part of their duties to also deal with untaxed vehicles. An increase in workload is expected, but will be dependent on how successful the enforcement campaign is, and its impact on other duties will be monitored very closely throughout the pilot period.

Contractor to Remove of Vehicles

At present, Abandoned Vehicles are removed by W & S Recycling. They have the capacity to remove vehicles on a soft lift basis (without damage), store and dispose of, if required. They also have access to auction off vehicles through their owned auction house.

Due to the potential value of the income generation from this arrangement, procurement advice has been sought. A waiver will be needed to proceed with the one-year pilot, which would be reviewed after a six-month to consider the pilot's effectiveness, before a full procurement exercise is completed.

Name:

A. Richards

Signature: (of Chief Finance Officer)

Date:

10/5/17

Legal implications:

Removal of untaxed vehicles by the Local Authority is carried out on behalf of the DVLA under Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulation 1997 - known as Devolved Powers.

With these powers, under authorisation from the DVLA, trained officers can take enforcement action against untaxed vehicles located within Bournemouth Borough Council boundaries.

There is no formal contract between the DVLA and the Council, however only named, authorised officers who have received the appropriate training can take enforcement action.

All training is carried out by the DVLA, and the DVLA Code of Practice and guidance must be adhered to at all times. Failure to comply will result in these powers being removed.

Authorisation will be effective when the Memorandum of Understanding is signed and dated. The DVLA retains authorisation to remove the vehicle, which are then stored until claimed by the registered keeper or the DVLA authorises the disposal.

Enforcement of national legislation is already carried out in the Borough by the DVLA. Although authority to carry out the work is devolved to the Council, no responsibility or statutory duty is obligated.

The DVLA has expressed the view that agreeing to take on devolved powers does not mean entering into a contractual arrangement with them. There are no fixed targets, the powers can be used as and when the Council deems necessary.

There is no expectation from the DVLA, nor is it a legal requirement, that the powers must be used. The DVLA will continue to monitor the area for untaxed vehicles when resources allow.

Name: *T. Coward*

Signature: (of Monitoring Officer)

Date: *10/5/17*

Risk assessment:

In collaboration with officers from Risk and Insurance departments, a comprehensive Risk Register has been produced and will be developed further in accordance with pilot's progression.

Potential risks associated with the pilot include:

- Residents, businesses and visitors are unhappy about the enforcement activities or about vehicle removal
- Members of the public continue to park untaxed vehicles on the highway, regardless of enforcement and associated fines
- Environmental Compliance Officers cannot keep up with the demand for visits to untaxed vehicles
- Greater public expectation to remove nuisance vehicles and frustrations when all nuisance vehicles can't be removed
- Possible non-compliance with DVLA Code of Practice and Guidance
- Possible damage to vehicles/property during removal or storage

The following mitigation has been implemented:

- Full training for all Council officers involved will be given by DVLA. All removals will be carried out in line with the DVLA's Code of Practice and guidance. DVLA approval is required before any vehicle can be removed.
- Public engagement will be carried out via BH Life, local media, website and community forums, Pilot feedback will also be reported via these channels, which may generate media coverage and further public awareness.
- Workload of Environmental Compliance Officers will be closely monitored during Pilot
- Public expectation need to be carefully managed and clear advice about the legal powers of the Council needs to be communicated via our website and by the customer team when nuisance vehicles are reported.
- W&S agreed to pilot on basis of Abandoned Vehicle arrangement which sets out insurance and indemnity requirements. Close engagement with W&S Recycling Ltd and monitoring throughout Pilot. Advice sought from Council insurance team

Name: Georgina Fry

Signature: (of Officer completing assessment)

Date: 06.03.17

Impact Assessments:

A Full Equality Needs Impact Assessment has been completed.

Residents, visitors and local business may benefit from an improved environment, with fewer nuisance vehicles. Law-abiding residents, visitors and local business will witness consequences for those who choose to ignore the law and commit vehicle offences.

A financial penalty will only be incurred if a vehicle offence is committed. Due care and consideration will be given to vulnerable people, where identified i.e. exemptions for any vehicle that displays or is registered as disabled from enforcement action.

The Council may revoke vehicle release charges if evidence of mitigating circumstances such as a contributory medical condition or other factor are provided.

Language barriers may be mitigated by warning notices using plain English left on vehicles. Options will be explored for pictorial or translated notice letters if the need arises. Compliance officers will use plain English when issuing notices or arranging vehicle removal.

Information for/not for publication:

Information for Publication

Background papers:

DVLA Code of Practice for enforcing untaxed vehicles

DVLA Devolved Power - Briefing Paper

Environment & Transport Overview & Scrutiny Panel Report – DVLA Devolved Powers for Untaxed Vehicles

<http://www.bournemouth.gov.uk/councildemocratic/CouncilMeetings/CommitteeMeetings/EnvironmentTransportOverviewScrutinyPanel/2017/02/02/environmentandtransportoverviewandscrutinypanel02-feb-2017.aspx>

Equality Impact Needs Assessment

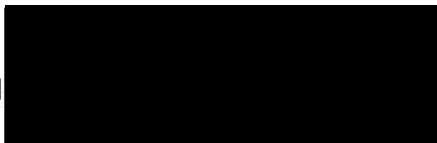
Any conflict of interest declared by a Cabinet Member who is consulted by the Member taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
Yes/No* (*Delete as appropriate)			

Decision taken by:

Councillor MIKE GREENE (Print name)

Cabinet Portfolio TRANSPORT, CLEANSING AND WASTE

Signed



Date of decision:

11/5/17

Date of publication of record of decision: (to be inserted by Democratic Services)

12 May 2017

Date decision effective – that is 5 working days after the date of publication of the record of decision unless the decision is called-in for consideration by the relevant Overview and Scrutiny Panel:

22 May 2017

-insert date-

