

<b>14 July 2021</b>		<b>ITEM: 5</b>
<b>Cleaner, Greener and Safer Overview and Scrutiny Committee</b>		
<b>Parking Enforcement vehicle removals</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Yes	
<b>Report of:</b> Phil Carver, Strategic Lead for Enforcement		
<b>Accountable Assistant Director:</b> David Kleinberg, Assistant Director for Counter Fraud, Investigation and Enforcement		
<b>Accountable Director:</b> Julie Rogers, Director of Public Realm		
<b>This report is</b> Public		

## **Executive Summary**

This report sets out proposals for the council to commence the use of vehicle removal in the council's parking enforcement approach in specific incidents.

The Council is a specified enforcement authority with responsibilities and duties in managing the traffic network with the aim of maintaining traffic flow, improving road safety and meeting the needs of people with disabilities.

The Council have delegated authority for enforcement against vehicles that are parked in contravention of parking regulations through its in-house Parking Enforcement Team. The service has seen traditional enforcement actions against high-risk incidents and persistent evaders being ineffective.

All parking enforcement conducted by the council is delivered in compliance with the statutory provisions of the Traffic Management Act 2004 (as amended) and in accordance with the Operational Guidance to Local Authorities.

This report seeks approval for the Parking Team to remove vehicles parked in contravention with priority removals to those classed as persistent evaders or if a vehicle is parked in a manner that is obstructive or dangerous to other road users, in line with legislative powers and best practice.

### **1. Recommendation(s)**

**Cleaner, Greener and Safer Overview and Scrutiny Committee are requested to:**

- 1.1 **Recommend to Cabinet to approve Thurrock Council's Parking Team to execute enforcement action against vehicles parked in contravention with priority vehicle removal of persistent evaders as suggested by the Department for Transport within its statutory guidance.**
- 1.2 **Recommend to Cabinet to adopt the policy to remove vehicles which are parked in contravention of restrictions where a PCN may be issued if the vehicle is also parked in a manner that is obstructive or dangerous to other road users.**

## **2. Introduction and Background**

- 2.1 Thurrock Council has an established enforcement team which has the regulatory powers to carry out the civil enforcement of parking contraventions by issuing Penalty Charge Notices (PCNs) and approving the removal of vehicles to which a PCN has been issued.
- 2.2 Motorists who receive a PCN for contravening parking restrictions have opportunity to either pay or appeal the charge. The party liable to make payment is the owner of the vehicle and in accordance with relevant regulations enquiries are made with the DVLA to obtain details of the registered keeper (who is legally presumed to be the owner). The keeper would be sent three statutory documents at different stages of the PCN, each of which explains the options available, including how to pay and what will happen if the document is ignored. As a final resort a warrant is obtained for unpaid PCNs and referred to enforcement agents for collection. This can result in the keeper being traced but in many occasions warrants are returned by enforcement agents at this stage as the keeper cannot be found.
- 2.3 The council incurs costs for pursuing unpaid PCNs including an £8 court registration fee for each case that is registered as a debt at the Traffic Enforcement Centre (before a warrant may be issued). Thurrock councils cost to the Traffic Enforcement Centre was £13,420 for the last financial year 20/21.
- 2.4 For some vehicles the DVLA fail to return any current keeper information, for Example if the previous keeper says they sold the vehicle but they do not know full details of the buyer and the new owner then fails to inform DVLA of their details. Parking Services are unable to take further action in such cases currently.

## **3. Issues, Options and Analysis of Options**

- 3.1 Department for Transport statutory guidance defines a 'persistent evader' as having three or more unpaid PCNs per vehicle, which have not had appeals made against them within the timescales allowed by the regulations, or which following the rejection of an appeal have then remained unpaid.

- 3.2 This guidance recommends that local authorities adopt strong enforcement policy against persistent evaders, with the removal of the vehicle as a beneficial option as the keeper of the vehicle then has to provide evidence of where they live at the time of collection.
- 3.3 It is proposed that Thurrock Council adopts the policy to remove the vehicles of persistent evaders to prevent abuse of parking restrictions by drivers who may ignore the restrictions. The vehicles of persistent evaders who have committed a parking contravention in a designated parking place cannot be removed until at least 15 minutes have elapsed following the issue of a PCN.
- 3.4 In circumstances where a parking contravention has occurred outside of a designated parking place, the removal of the vehicle can take place immediately after the issue of a PCN. It is therefore also proposed that Thurrock Council adopts the policy to remove vehicles which are causing the most serious impact on traffic flow or road safety.
- 3.5 The suggested priority for the removal of vehicles is as follows:
- a) Vehicles parked in contravention of a restrictive parking regulation (such as on a yellow line, zig zag lines for a school keep clear marking / a road crossing, or bus stop clearway) in a manner that is causing obstruction to traffic flow or danger to other road users (including pedestrians, or in a restricted cycleway).
  - b) Persistent evaders parked where parking is restricted.
  - c) Persistent evaders parked in a parking place in contravention of a restriction.
  - d) Non permitted vehicles parked in a disabled bay.
- 3.6 In accordance with statutory guidance vehicles displaying a valid Blue Badge or diplomatic vehicles with a registration plate that is personalised or marked with a 'D' would be relocated rather than removed. Diplomatic vehicles with an X plate may be removed if they are a persistent evader.
- 3.7 The intention is to use the successful contractor for Thurrock Councils Vehicle Removal contract following a tender process. The contract would enable this removal activity to be carried out following directives of trained Civil Enforcement staff working for Thurrock Council's Parking Team.
- 3.8 The removal of vehicles which are persistent evaders should contribute to keeping the borough safer. As indicated above such vehicle owners often do not have their vehicle correctly registered at the DVLA. The reasons for the recommendations section, shown later in the report, explains the potential risks associated with such vehicles.
- 3.9 Persistent evaders do not pay PCNs to the local authority and also, depending on locations where the vehicle is left, parking charges (i.e. 'pay and display' charges). Money paid to the council in parking charges and PCN's is used to deliver the parking service and local transport priorities.

Indirectly local economies may be impacted due to other visitors not being able to find parking and not stopping to visit local businesses or facilities.

- 3.10 Spaces being taken up by vehicles which have not paid to park lead to higher utilisation of spaces, increasing the risk of other drivers having to drive round looking for a space. This also results in a negative impact on air quality.
- 3.11 The removal of vehicles which do not belong to persistent evaders but which are parked at locations where traffic flow is blocked will help keep the borough moving reducing congestion for other road users, including public transport.
- 3.12 The police do have powers to enforce against vehicles which are parked obstructively. There will be some circumstances only the police could still take enforcement action. For example where there are not parking restrictions in situ that enable Parking Civil Enforcement Officers (CEOs) to issue a PCN. The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions state local authorities should consult the police on the guidelines for CEOs to remove vehicles. Parking Services will consult with Essex police on the proposals if approved.
- 3.13 The police would be informed as part of standard practice about any individual vehicle removed to the pound following the issue of a PCN and the authorised removal.
- 3.14 Alternative Options Considered
  - 3.14.1 To continue to issue PCNs to persistent evaders rather than to also approve removal of their vehicles. However, this will result in such drivers continuing to use loopholes in the DVLA vehicle registration system to avoid payment of charges and the resulting negative impact on other road users. Not removing persistent evaders creates an unfair position between motorists who do correctly register their vehicles and pay relevant parking fees (and PCNs if they do incur these) and those motorists who evade enforcement.
  - 3.14.2 To continue to only issue PCNs to vehicles parked in contravention of higher level PCN contraventions at locations where they are obstructing or endangering other road users. However, another PCN cannot then be issued for 24 hours and the vehicle would then remain in a position where it is causing issues for other road users.
- 3.15 Equality of Opportunity Implications
  - 3.15.1 Overall there are no significant equalities impacts, positive or negative, from this proposal. There is a beneficial impact on the general public by introducing this policy.

3.15.2 Removing vehicles which are parked on restrictions where they are causing obstruction, creating significant traffic congestion, or a danger to other road users, benefits a cross section of people. For example, young people around schools, cyclists on cycle routes, commuters, public transport users, pedestrians on footways (including those pushing buggies, with visual impairments, or with restricted mobility).

3.15.3 The potential removal of vehicles which repeatedly park in contravention of restrictions in parking bays (including disabled bays) would improve the opportunities for Blue Badge holders to park. Reducing demand on bays from drivers trying to avoid payment of PCNs can also help improve traffic congestion and air quality as people are less likely to need to circulate to find an available space.

3.15.4 However vehicles that are being used by blue badge holders, but are persistent evaders or parked in a manner that is obstructive or dangerous to other road users, may be relocated but not removed (in accordance with Secretary of State guidance).

3.15.5 Parking Penalty Charge Notice income from the collection of tickets issued to persistent evaders (who may otherwise have avoided payment) may help contribute to any highway and environmental improvements to benefit local communities.

3.15.6 Reducing demand on bays from drivers trying to avoid payment of a Penalty Charge Notices can also help improve traffic congestion and air quality as people are less likely to need to circulate to find an available space.

### 3.16 Financial and Commercial Implications

3.16.1 Enforcement will be carried out by existing Civil Enforcement Officers working for Thurrock Councils Parking Team and removal of vehicles carried out by the successful contractor following a tender process for the Vehicle Removal Contract.

3.16.2 The charges for PCNs, vehicle removal, storage are set nationally – currently by the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007.

3.16.3 The current levels are £70 for a higher rate PCN (reduced to £35 if paid within 14 days), £105 for the vehicle removal, £12 per day for vehicle storage or each day / part day during which the vehicle is impounded (from midnight after the first full day the vehicle is stored). There may also be a £50 charge for vehicle disposal. The Council would need to pay the contractor for removal, storage and disposal costs from the Parking Services budget, but would recoup these costs if the vehicle is collected by the motorist, except for the VAT which TBC is liable for. In this circumstance, TBC would also receive the PCN income. If a motorist does not collect their vehicle and the likely trade value of the vehicle exceeds £1500, TBC will receive any income from the sale of these vehicles at auction.

3.16.4 We would anticipate most drivers whose vehicles are removed from locations where they are parked obstructively or dangerously will pay to collect their vehicle.

3.16.5 Out of the persistent evaders there is a risk some will not pay to retrieve their vehicle, but this may be somewhat offset by other costs associated with the vehicle continuing to offend.

3.16.6 If there is no current registered keeper on the DVLA records, the vehicle may be disposed of seven days after the date of removal (excluding weekends and bank holidays). If information is provided by the DVLA, a notice would be issued by recorded delivery to the keeper to advise the vehicle will be disposed of after seven days (excluding weekends and bank holidays) following the owner/keeper being served with the Notice of Disposal. Service of this notice is taken to be two working days after it was posted. This minimises storage costs incurred by TBC.

3.16.7 In other persistent evader cases where the motorist does pay to collect the vehicle, the requirement to provide proof to collect the vehicle opens the opportunity to collect other unpaid PCNs which the local authority would have otherwise been unlikely to recover.

### 3.17 Legal Implications

3.17.1 Section 73 of the Traffic Management Act 2004 ('the 2004 Act') states that there are offences which may be regarded as parking contraventions such that they are subject to civil enforcement. The list of parking contraventions is contained in Part 1 of Schedule 7 to the 2004 Act and includes (but is not limited to) circumstances where a vehicle is parked in contravention of a restriction on parking implemented by a Traffic Regulation Order or where there is a failure to comply with certain traffic signs under section 36 of the Road Traffic Act 1988.

3.17.2 The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 state that PCNs may be issued by civil enforcement officers where a parking contravention is observed. The Removal and Disposal of Vehicles Regulations 1986 ('the 1986 Regulations') further state at regulation 5C that where a PCN has been issued and the parking contravention arises from a failure to:

- a) pay a parking charge with respect to the vehicle;
- b) to properly display a ticket or parking device; or
- c) to remove the vehicle from the parking place by the end of the period for which the appropriate charge was paid

3.17.3 Then the vehicle may then be removed to either another position on the road it was found, another road entirely or to a place which is not a road (e.g. a depot) by a civil enforcement officer or a person acting under their direction.

This cannot occur until 15 minutes have elapsed since the issuing of the PCN where there are 3 or more penalty charges outstanding, 30 minutes in the alternative.

- 3.17.4 Where a PCN has been issued and the parking contravention arises out of any other circumstance (i.e. is not due to any of the matters referred to as a), b) or c) above) then the vehicle may immediately be removed.
- 3.17.5 Section 87 of the 2004 Act states that a local authority must have regard to any statutory guidance when exercising its functions in connection with the civil enforcement of parking contraventions. The aforementioned guidance recommends the proposals contained within this report.
- 3.17.6 There are other alternative powers under the Highways Act 1980 which may be used by the Council to achieve the removal of a vehicle which is causing a danger (including danger by obstruction) however unless the danger is immediate then its removal must be delayed by the giving of notice and the obtaining of a removal and disposal order from a magistrates' court.
- 3.17.7 The use of removal powers under the 1986 Regulations present an appropriate and proportionate response where a parking contravention has also occurred; said powers are exercised pursuant to and in accordance with the duty under section 122 of the Road Traffic Regulation Act 1984 (to secure the expeditious, convenient and safe movement of traffic) as well as enabling the Council to fulfil its network management duty under section 16 of the 2004 Act, which also states that the Council must manage its road network with a view to securing the expeditious movement of traffic.

#### **4. Reasons for Recommendations**

- 4.1 The removal of vehicles which are persistently parked in contravention of restrictions act as a deterrent to motorists. The British Parking Association (BPA) estimated persistent evaders cost local authorities more than £500 million a year <sup>ii</sup>. The BPA report also found that many such vehicles did not have MOTs, were not taxed or insured and in some cases were of interest to the police for other reasons.
- 4.2 Drivers seeking to collect a vehicle from the pound are required to provide proof showing they are the keeper of the vehicle and of their current address. Although under current legislation we cannot make the keeper pay other outstanding PCNs at the time of collection, this information can be used to pursue other unpaid PCNs relating to the same vehicle. The motorist would then still have options to pay or appeal the cases. There are hundreds of vehicles on Thurrock's streets which are classed as persistent evaders.
- 4.3 Warrants on unpaid PCNs expire after 12 months. In cases where the keeper cannot be traced due to keeper information not being up to date these are written off. In these instances as well as the debt being written off, Parking Services incur costs such as obtaining outdated DVLA information, printing and posting statutory documents and registering the debt. There are

also limitations of vehicles that can be seized when a warrant is pursued. For instance a vehicle that is under a finance agreement still with the company it is being purchased from, or is needed for the owner's trade (subject to its value).

- 4.4 Removal of persistent evaders should reduce the occurrence of vehicles being left where parking is not permitted, such as on yellow lines, at locations where vehicles may cause obstruction, negatively impact on traffic flow and / or being a hazard to other road users.
- 4.5 Parking pressure is high in many areas. In other instances the removal of persistent evaders should free up bays which other drivers could legitimately park in, for example resident permit holders, or people who would buy a ticket from an on-street machine. Such vehicles also prevent other visitors to the Borough from utilising spaces to visit local businesses and facilities.
- 4.6 The removal of vehicles that are parked causing a problem for other traffic passing, or in a hazardous manner for other road users, would improve traffic flow and road safety.
- 4.7 An awareness of the risk that vehicles belonging to persistent evaders' and / or parked in contravention of serious priority restrictions may be removed will act as a deterrent to such parking practices.

## **5. Consultation (including Overview and Scrutiny, if applicable)**

5.1 N/A

## **6. Impact on corporate policies, priorities, performance and community impact**

6.1 N/A

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Laura Last**  
**Senior Management Accountant**

There are no direct financial implications arising from this report.

### **7.2 Legal**

Implications verified by: **Tim Hallam**  
**Deputy Head of Legal and Deputy Monitoring Officer**

Given the nature of this report there are no legal implications directly arising from it.

### 7.3 **Diversity and Equality**

Implications verified by: **Rebecca Lee**  
**Team Manager, Community Development and Equalities**

Overall there are no negative equalities impacts from this proposed policy which will be applied fairly and consistently regardless of protected characteristic with reasonable adjustments proposed for Blue Badge holders. There is a beneficial impact on the general public and protected groups through the application of this proposed policy. Positive equalities impacts may be achieved not least in relation to those that use pushchairs and prams as well as users of mobility aids including scooters and wheelchairs and individuals with visual impairments given the nature of some illegal parking behaviours and the disruption to footpaths and walkways this may cause. A full Community Equality Impact Assessment will be completed in relation to the policy prior to implementation

### 7.4 **Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

N/A

### 8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

N/A

### 9. **Appendices to the report**

N/A

### **Report Author:**

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