

**CLAMPING AND REMOVAL OF ILLEGALLY PARKED VEHICLES
AND UNTAXED VEHICLES FROM HIGHWAY AND PUBLIC
LAND**

**STRATEGIC PLANNING & TRANSPORT (COUNCILLOR CARO
WILD)**

AGENDA ITEM: 15

Appendix B of this report is exempt from publication because it contains information of the kind described in paragraphs 14 and 21 of parts 4 and 5 of Schedule 12A of the Local Government Act 1972.

Reason for this Report

1. To consider the introduction of a new policy for the clamping and removal of the following vehicles:
 - (i) Vehicles owned by persistent offenders and evaders of parking and traffic tickets.
 - (ii) Vehicles causing an immediate obstruction and / or parked contrary to parking regulations creating a significant safety concern or delaying work on the highway.
 - (iii) Vehicles with no registered keeper on DVLA records.
 - (iv) Vehicles that are not taxed in accordance with the Vehicle Excise and Registration Act 1994.

(i) to (iii) shall be referred to as “illegally parked vehicles” and (iv) shall be referred to as “untaxed vehicles”.

Background

Illegally Parked Vehicles

2. The Council is dedicated to Keeping Cardiff Moving. Since 2010 and 2014 respectively, Cardiff has undertaken parking and moving traffic offence enforcement in accordance with the Traffic Management Act 2004.
3. Illegally parked vehicles can cause an obstruction and a danger to pedestrians and other road users and there are many instances where

enforcement action is either not possible or not a significant deterrent to owners of vehicles.

4. Vehicles not registered with the DVLA, including foreign vehicles for example, are unable to be enforced, as there are no details held by the DVLA for the service to utilise to send the penalty notice. In these circumstances, such vehicles create nuisance parking whereby removal is the only option to resolve the danger caused by the obstruction.
5. Some people regularly or deliberately contravene parking and traffic regulations and fail to settle the debts they incur. These are known as “persistent evaders”. Welsh Government guidance to Local Authorities states that ‘the strongest possible enforcement action following the issue of a PCN and confirmation of persistent evader status’. Currently there are 9,183 PCNS issued to persistent evaders equating to a potential loss of £381,397.67.

Untaxed vehicles

6. The DVLA partnership initiative, although related to Street Scene Enforcement, is separate from Civil Parking Enforcement.
7. There is a public perception of the existence of a link between untaxed vehicles, crime and anti-social behaviour. Untaxed vehicles may also cause safety concerns to highway users.
8. The adoption of devolved powers from the DVLA will allow the Council to take action on vehicles that are untaxed as well as abandoned and nuisance vehicles where the Council is able to use its own powers.
9. In 2017, the Council received over 1000 reports of abandoned vehicles on the highway or Council-owned land from members of the public, the police and other agencies. In such cases, officers investigate the report by visiting the location, assessing the vehicle and carrying out background checks. Only 28 vehicles, representing 2.8% of those reported were removed as abandoned vehicles.
10. By having the DVLA devolved powers, the Council is able to remove untaxed vehicles from the public highway. It is anticipated that the powers will help to reduce the number of abandoned vehicles, incidents of crime, vandalism and uninsured drivers and improve highway and community safety.
11. The Council receives reports from residents of vehicles which are untaxed rather than abandoned. In these cases, under existing powers the Council cannot undertake any action. With the use of devolved DVLA powers, the Council will be able to deal with complaints from residents regarding both abandoned and untaxed vehicles, thereby providing a unified service.

12. Other local authorities who have adopted the devolved powers have reported a reduction in vehicle licence evasion and a reduction in number of vehicles reported as abandoned.
13. Currently officers report untaxed vehicles direct to the DVLA and this is then passed to a third party contracts, however it is not cost effective for them to follow up individual reports. In many cases, these vehicles remain on the highway causing a nuisance, whilst awaiting the necessary enforcement action in relation to tax evasion to be taken by the DVLA. This results in repeated enquiries by Local Members and citizens of Cardiff which leads to frustration due to inaction and also incurs costs to the Council in managing such enquiries.
14. Since 1997, the DVLA have been able to authorise Local Authorities to enforce against untaxed vehicles under devolved powers to use the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997. This allows the Council to monitor, report and with the permission of the DVLA, either to clamp or/and remove untaxed vehicles from the highway, Council-owned land or public land such as car parks.
15. There are 37.9 million licensed vehicles in the UK. Vehicle Excise Duty evasion has risen from 0.6% to 1.8% in a 6-year period and equates to a potential loss of £107M to the Exchequer representing over 700,000 untaxed vehicles. The DVLA have been actively seeking partnerships with Local Authorities since 2014 when they moved to digital road tax and car owners no longer had to display a physical tax disc.
16. The DVLA only allows enforcement action to be taken against vehicles on which the tax has expired for more than two months and one day. Like the Police, the Council can undertake DVLA checks via its Web Enabled Enquiry System, ensuring any enforcement action carried out, is lawful, effective and appropriate.
17. Following the intention of Cardiff Council to work with the DVLA to manage untaxed vehicles in Cardiff the DVLA undertook a sample audit across the city using one vehicle with Automatic Number Plate Recognition and their Web Enabled Enquiry system. The audit conducted on principal routes, where vehicles are parked on the highway was conducted over the course of one day. This identified the following levels of untaxed vehicles in Cardiff:
 - i. CF3 – 1,365 untaxed vehicles
 - ii. CF5 – 1,445 untaxed vehicles
 - iii. CF10 – 470 untaxed vehicles
 - iv. CF11 – 1,403 untaxed vehicles
 - v. CF14 – 1,141 untaxed vehicles
 - vi. CF15 – 382 untaxed vehicles
 - vii. CF23 – 871 untaxed vehicles
 - viii. CF24 – 1,449 untaxed vehicles
18. The process for dealing with untaxed vehicles is that firstly the vehicle is clamped and then, if the keeper/driver does not pay for removal of the

clamp and the surety fee within 24 hours, the vehicle is subsequently removed from the highway and stored. If the owner wants to reclaim the vehicle, a removal and storage fee plus the surety fee must be paid. 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.

Issues

19. The Council has the powers to clamp and remove illegally parked vehicles under the Traffic Management Act 2004 and the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013. However, currently there is no policy to utilise these powers in Cardiff.
20. The devolved powers to use the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 would provide the Council with powers to resolve complaints of nuisance untaxed vehicles.
21. Whilst enforcement actions could lead to adverse publicity full training will be provided to relevant officers by the relevant agencies, including the DVLA. A robust policy will be put in place for the public to understand the processes and rationale behind the scheme (Wheel clamping and vehicle removal Policy) attached at appendix A to this report.
22. Registered disabled vehicles and those displaying a valid disabled badge will be treated as indicated in the DVLA Code of Practice and will not be clamped. Vehicle removal will only take place if the vehicle is causing a health and safety concern as indicated in Cardiff Council for clamping and removal of nuisance vehicles from highway and public land.
23. The service area will monitor and review complaints and compliments and the associated impact upon local communities.
24. A recent fundamental service review of Civil Parking Enforcement identified opportunities for improvements in efficiency and effectiveness of service delivery. By working in partnership with the DVLA there is an opportunity to improve effectiveness and efficiency of the service within current resourcing levels.
25. The financial support to deliver the new policy comes from the financial revenue from managing untaxed vehicles. Therefore, the service needs to enforce untaxed vehicles to support the cost of managing and enforcing illegally parked vehicles. The financial appraisal for delivering the service is attached at Appendix B.
26. The adoption of devolved powers involves the Council signing a Public Service Agreement with the DVLA. Enforcement will be in accordance with the regulations set out in the Vehicles & Excise Duty (Immobilisation, Removal & Disposal of Vehicles) Regulations 1997 (as amended). A code of practice produced by DVLA defines the responsibilities of both parties. This letter of agreement (attached at Appendix C) between DVLA

and Cardiff Council (Devolved Powers Partner) for the purpose of identifying Vehicle Excise Duty (VED) offences for enforcement of untaxed vehicles will need to be approved and signed prior to commencing.

27. A key risk is the Council's contractor and / or Cardiff Council Officers responsible for the service is not correctly operating the devolved powers. To mitigate this risk, the DVLA Code of Practice will form part of the detailed specification and the contract for the removal contractor. An induction course and full training will be provided by the DVLA to all officers and contractors before commencement of the use of the powers.
28. It is anticipated that the introduction of the new policy will create greater citizen expectation and increase officer workload. However, Cardiff Council's existing enforcement vehicles have Automatic Number Plate Recognition and therefore can be utilised to support identifying untaxed vehicles when supported by the DVLA Web Enabled Enquiry System.
29. Cardiff Council could utilise an external contractor to undertake the work on their behalf as undertaken by Redcorn in London. This model provides the Local Authority with £20 for each untaxed vehicle processed whilst having no direct involvement in the process. In Manchester the Authority employs a third party contractor to enforce on their behalf. The Local Authority retain all the fees, provide the facilities and pay the contractor an hourly rate.
30. Cardiff Council has a current contract with a company to remove abandoned vehicles but due to low numbers the cost of the removing individual vehicles is high charge. It is proposed that this function is tendered to provide best value to the Council.
31. Due to the potential value of the income generation from this arrangement, procurement advice has been sought. It has been proposed that a 12 month tender is issued with the potential to extend for a further 12 months after review to consider effectiveness.

Resources

32. The identification of vehicles and clamping is anticipated to be undertaken by the equivalent of three Civil Enforcement Officers working 20 hours a week alongside their current workload utilising an enforcement vehicle with an ANPR Camera. A breakdown of costs are shown in Appendix B.
33. There will be no anticipated additional cost to the Council in taking forward the devolved powers. The expected income based upon enforcement figures obtained from other Core Cities demonstrates the service will provide a surplus to the Council.
34. The service will require a minimum of twenty Home Office approved wheel clamps, (including high security padlock and keys). The cost of these clamps are £1,800 (£90 each). Additional clamps may be required.

35. Case Studies demonstrate that over 60% of vehicles are claimed and the wheel clamp removed within the first 24hrs. However, a contract will be required for a provider to remove vehicles upon request (after 24hrs) without any damage and provide a secure storage facility.
36. Estimates provided by local companies and other Councils shows that once the contractor has claimed their removal fee, the Council would receive an £80 income for each untaxed vehicle removed plus the surety fee of £160. The contractor will claim the daily storage fee, the cost of which is dependent on the size of the vehicle.
37. In order to release a clamped illegally parked vehicle the person in charge of the vehicle will be required to pay to the Council both of the following before release is arranged:
 - £40 release fee &;
 - The total of the outstanding fine of either £25 or £35.
38. If an illegally parked vehicle has been removed (impounded) then the registered keeper will be required to pay to the Council:
 - £105 release fee &;
 - The total of outstanding fines of either £25 or £35 plus £12 storage per day (after 24hrs of being clamped or after impounded).
39. To release an untaxed vehicle, the registered keeper will be required to pay to the Council:
 - £100 plus the surety fee or provide evidence of the paid vehicle tax (within 24hrs of vehicle being clamped).
 - £200 plus the surety fee or provide evidence of the paid vehicle tax, plus £21 storage per day (after 24hrs of being clamped or after impounded).
40. 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 offender can claim back the surety fee with the first 15 days on production of evidence of paid vehicle tax.
41. The Council is entitled to keep all revenue from DVLA impounded vehicles. This includes
 - any fees paid to release the vehicle (including the surety fee if not reclaimed),
 - income received from vehicles sold as scrap if its 'book' value is less than £500 or
 - income received from auction if the vehicle value is greater than £500. Conversations with the DVLA to lower the £500 scrappage

threshold have been successful in other local authorities and this would be a future consideration.

42. There is an expectation of an increase in workload but there is support for this workload by improvements in the use of technology within the Civil Parking Enforcement service. There is currently no intention to increase number of Officers within the Civil Enforcement Team. The increase in workload will be dependent on the success of the enforcement campaign with monthly monitoring allowing informed decision-making.
43. There is no right of appeal under The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997. Any enquiries or complaints will be covered by the current back office staff utilising existing resources.

Reason for Recommendations

44. To respond to Local Member and citizen concerns about nuisance vehicles relating to illegally parked and untaxed vehicles.
45. To work in partnership with the DVLA to support reducing tax evasion.

Financial Implications

46. The report sets out several assumptions in respect to volume of vehicles and the respective penalties that can be charged to the owners. Consideration needs to be given in order to provide assurance that the cost of enforcement is at least covered by the revenue generated by the enforcement action. The report indicates the possibility that companies and contractors may be used in the enforcement action and these will need to be procured for along with the Council's financial procedure rules.

Legal Implications

47. The legal powers for the DVLA and subsequently the Council to remove untaxed vehicles is contained in the following legislation:
 - i. s.29 Vehicle Excise & Registration Act 1994
 - ii. Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997
 - iii. Regulation 27 Road Vehicles (Registration and Licensing) Regulations 2002
48. There would be a Letter of Agreement between DVLA and the Council together with the DVLA Code of Practice and guidance notes for those authorised by the DVLA to deal with vehicles that are not taxed "Code of Practice" setting out the relationship between the parties.(both attached at Appendix C)

49. Any procurement exercise would need to comply with the Council's Contract Standing Orders
50. In considering this matter the decision maker must also have regard to the Council's duties under the Equality Act 2010.
51. The decision maker should also have regard when making its decision to the Council's wider obligations under the Wellbeing of Future Generations (Wales) Act 2015, the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

HR Implications

52. There are no HR implications to this report regarding changes to current staffing levels. However, it is expected that there will need to be changes to ways of working and technology which will be consulted on with trade unions and affected employees.

RECOMMENDATIONS

Cabinet is recommended to:

1. approve the new policy for the clamping and removal of nuisance vehicles relating to illegally parked vehicles and untaxed vehicles (appendix 1)
2. agree that the Council will accept devolved powers relating to use the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997.
3. delegate authority to the Assistant Director Street Scene to sign the letter of agreement between DVLA and Cardiff Council (Devolved Powers Partner).

SENIOR RESPONSIBLE OFFICER	ANDREW GREGORY DIRECTOR TRANSPORT, PLANNING & ENVIRONMENT 9 November 2018
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The following appendices are attached:

- Appendix A – Policy for clamping and removal of nuisance vehicles from highway and public land.
- Appendix B – Financial Business Case **Exempt from publication because it contains information of the kind described in paragraphs 14 and 21 of parts 4 and 5 of Schedule 12A of the Local Government Act 1972**
- Appendix C – Draft agreement between DVLA and Local Authorities.
- Appendix D – Draft of Public Information to be available on the website and on the leaflets on the clamped vehicles.
- Appendix E – DVLA Code of Practice Guidance Notes

The following background papers have been taken into account:

The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997