

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT, CULTURE & SPORT

TO:	TRAFFIC MANAGEMENT ADVISORY PANEL		
DATE:	24 MARCH 2009	AGENDA ITEM:	9
TITLE:	TRAFFIC MANAGEMENT ACT 2004 - IMMOBILISATION AND LIFTING OF VEHICLES		
LEAD COUNCILLOR:	COUNCILLOR T PAGE	PORTFOLIO:	PLANNING AND TRANSPORT
SERVICE:	TRANSPORT	WARDS:	BOROUGH WIDE
LEAD OFFICER:	SIMON BEASLEY	TEL:	0118 939 0228
JOB TITLE:	NETWORK MANAGER	E-MAIL:	simon.beasley@reading.gov.uk

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to seek approval for a trial period of targeted immobilisation and lifting of illegally parked vehicles within the public highway. The Traffic Management Act 2004 allows local highway authorities to carry out these activities so no further legislation or local traffic regulation orders are required. However, there are a number of requirements that the council must comply with particularly when it comes to lifting (removal) of vehicles. Therefore members are asked to endorse this trial period using existing council services and facilities to enable officers to explore what is required and what the council may need to put in place to fully meet compliance.

2. RECOMMENDED ACTION

- 2.1 That the Panel note the report.
- 2.2 That the following recommendation be made to Cabinet:
- 2.2.1 That members embrace the Traffic Management Act 2004 powers enabling the Council to carry out targeted immobilisation and lifting of vehicles for a trial period of one year. That on completion of the trial officers report back to members their findings (scale of operation required) and how much it would cost the council for a more permanent arrangement.

3. POLICY CONTEXT

- 3.1 The improvement of the public highway is specified within existing Traffic Management Policies and Standards. Powers of immobilisation and

lifting of vehicles is granted to local authorities under statute law through the Traffic Management Act 2004.

4. THE PROPOSAL

- 4.1 The aim of the Traffic Management Act 2004 is to promote legislation that enables highway authorities to better manage the road network (as reported previously, TMAP March 2008). Effective management of the road network includes enforcement particularly of waiting restrictions where traffic flow may be affected or residents only parking areas are abused.
- 4.2 Civil enforcement of waiting restrictions has been the responsibility of the council since 2000. Enforcement involves identifying contraventions of traffic regulation orders as displayed on the road by signs and/or yellow and white lines. When a penalty charge notice (PCN) is issued a process is started that tracks either the payment of the penalty and/or any challenge that may be made by the vehicle owner. Where no payment is received (and no challenge made) the council will pursue the owner of the vehicle for payment. If left unpaid this will result in the debt being passed to a collection agency. In the main the current system works well and enforcement of waiting restrictions is broadly effective.
- 4.3 However, there are cases where the owner cannot be traced rendering it difficult for the council to pursue any non-payment of a PCN. The inability to trace an owner is mainly due to the vehicle not being registered with the DVLA or registration at an untraceable address. Enforcement of non-registration of a vehicle with the DVLA is ultimately the responsibility of the DVLA. However there are local situations that the council will become aware of before it comes to the attention of the DVLA. For example, a repeat offender of a parking restriction will come to the attention of the council before the DVLA. It is worth pointing out that the council does work very closely with the DVLA although their resources are required UK wide and it is not always possible to get them to act within Reading when needed most.
- 4.4 Persistent offenders of parking restrictions by drivers who have not registered with the DVLA think that they can evade payment for some time before the authorities catch up with them. It is often the case that these offenders know the system and sell or scrap the vehicle before action is taken therefore they are never caught. With advancements in technology (such as automatic number plate recognition) the likelihood of being caught (by the police and DVLA) whilst driving an unregistered vehicle is significantly increased.

IMMOBILISATION (Clamping)

- 4.5 However, for the first 6 months of being in the UK foreign registered vehicles are not required to register with the DVLA. Most foreign drivers

do register with the council is some form within this period (council tax or residents parking), however there are a number that do not and remain untraceable by the council. There are a number of cases where foreign registered vehicles have taken up valuable space within residents permit areas without the required permit and despite receiving PCNs continue to offend and do not pay the penalty charge. These problems are not exclusive to residents parking areas and it is often the case that offenders contravene yellow line restrictions across the borough.

- 4.6 Also, for those vehicles that remain parked on the public highway most of the time the likelihood of non-registration with DVLA being detected is reduced. Again, these vehicles generate PCNs but it is currently not possible for the council to pursue payment or any further action. In these cases the council propose to immobilise the vehicle commanding a release fee to maintain the integrity of the parking restriction.
- 4.7 Immobilising vehicles enables the council to take action, inconveniences the user/owner, maintains the integrity of the restriction and may enable further action by another authority (such as DVLA). The proposal is for targeted use of immobilisation by pursuing those vehicles that have received in excess of 10 PCNs without any way of tracing the owner. The Traffic Management Act 2004 classifies persistent evaders as: three or more recorded contraventions where PCNs have not been paid, there has been no representation or appeal within statutory times limits or where an appeal is unsuccessful and payment is still not received. The Traffic Management Act 2004 also states that 'When parked in contravention, a persistent evader's vehicle should be subject to the strongest possible enforcement following the issue of a PCN and confirmation of persistent evader status'. If the council finds that immobilisation is successful and persistent evaders start to comply then the Traffic Management Act 2004 definition of persistent evader shall be applied.

LIFTING (Removal)

- 4.8 The council already lifts and removes vehicles from the public highway in a very limited way. This current operation deals with abandoned (untaxed) vehicles that appear to have been abandoned or dumped on the public highway where the council cannot trace the owner. Lifting of vehicles under the Traffic Management Act 2004 is intended for use where an obstruction occurs.
- 4.9 Obstruction of the road (by vehicles in contravention of a waiting restriction) is quite rare within Reading but when it has occurred the council have had support of the police. Within the last eight years there have been two occasions relating to the Reading Festival where the council has requested police help. On both occasions the police have assisted and removed a number of vehicles but as the festival is a planned event the council should be able to deal with this itself.

- 4.10 In addition, the Traffic Management Act 2004 makes it clear that dealing with parking that is in contravention of a traffic regulation order and causing obstruction is the responsibility of the highway authority. Therefore the council shall investigate removal of vehicles under the Traffic Management Act 2004 through this trial period within existing resources, contracts and services already provided.
- 4.11 Removal of vehicles is to be used in exceptional circumstances only and where congestion and delay are identified on the core road network. This trial is not a call to deal with individual localised issues such as driveway blocking and footway/verge parking.

CHARGES

- 4.12 The council is bound to charges set out in the Traffic Management Act 2004 these are:

Immobilisation PCN plus Release of device	£40.00
Removal PCN plus Vehicle removal charge	£105.00
Vehicle storage charge	£12 for each day, or part of day, during which the vehicle is impounded
Vehicle disposal charge	£50.00

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 To develop Reading as a Green City with a sustainable environment and economy at the heart of the Thames Valley.
- 5.2 To promote equality, social inclusion and a safe and healthy environment for all.
- 5.3 Sustainable Community Strategy, Transport & Accessible Places.

To improve bus punctuality and reliability to improve non-car access to all areas.

Promote cycling and walking for shorter local journeys to improve non-car access to district centres.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 None required from this report.

7. LEGAL IMPLICATIONS

7.1 The Traffic Management Act is an enacted piece of legislation with which as Highway Authority Reading Borough Council is required to comply.

8. FINANCIAL IMPLICATIONS

8.1 The cost of the implementation of the TMA will be met from existing Transport budgets. For the purpose of this targeted trial existing resources will be utilised minimising extra costs that should be met from the collection of penalty fines.

9. BACKGROUND PAPERS

None.