

BRIEFING REPORT

1. INTRODUCTION

- 1.1. This report sets out a proposal for the Council to enact powers that are already available to the Council to immobilise and remove vehicles.
- 1.2. The proposals within this report will support the Council to keep roads safe, support city events, support the delivery of highway maintenance and discourage accumulation of parking fine debts
- 1.3. The proposals within this report support the Councils Commitments, specifically commitment 73, to step up enforcement through the removal of vehicles with outstanding parking fines.

2. CORPORATE VALUES AND PRIORITIES

- 2.1. The proposals within this report support the Councils values as a **Democratic** Council, ensuring that we respond to residents' concerns over poor parking practices across the city with a transparent legal framework for the enforcement of this area,
- 2.2. The proposals within this report support the Councils values as a **Responsible** Council, ensuring the delivery of Civil Enforcement Powers meets the needs of our city, by removing those vehicles which persistently ignore parking contraventions and create a danger to our highways and also protect revenue with the appropriate collection of unpaid Penalty Charge Notices (PCN's)
- 2.3. The proposals within this report support the Councils values as a **Fair** Council, adopting the powers provides a clear and transparent process, which includes legislative appeal routes.

3. BACKGROUND

- 3.1. The Councils Parking Service is responsible for the delivery of decriminalised parking enforcement, encouraging compliance and supporting the management of Plymouths transport network through the issuing of PCN's to vehicles contravening traffic regulation orders. The Council has the authority of the Secretary of State to immobilise and remove vehicles; however, has not enacted these powers to date.
- 3.2. The Council experiences considerable challenges relating to vehicles committing civil contraventions, specifically the impact of these actions, where the issuing of PCN's has limited ability to address poor behaviours and/or adequately address these challenges, these include:

Persistent Evaders

- 3.3. Department for Transport (DfT) statutory guidance defines a 'persistent evader' as someone who has 3 or more PCNs unpaid and unchallenged.
- 3.4. Whilst being a legal requirement to do so, a vehicle becomes a persistent evader due to the vehicle not being registered correctly or not registered on the DVLA database. It is also possible that the registered keeper simply fails to respond to any of the various legal notices and correspondence.
- 3.5. Persistent evaders present several challenges to the Council: -
- Vehicles can be left in a manner to cause inconvenience to other motorists and/or present a safety concern to other road users.
 - Inability of the Council to recover debts, leading to reduced income, where all surplus from parking fines is reinvested back into maintaining Plymouths highway and in the delivery of transport services.
 - Reputational damage where law-abiding road users observe persistent evader's vehicles receive parking fines, however such fines go unpaid and consequently do not encourage change in poor and illegal behaviours.
- 3.6. The Council is unable to immobilise or remove such vehicles where persistent evaders debts remain unrecovered and poor behaviours continue.

Vehicles Preventing or Restricting Works or Authorised Events

- 3.7. Temporary traffic orders are applied to prohibit parking in order to allow works to take place on the highway, or for an authorised event to be held. Regrettably, some vehicles ignore these prohibitions, parking in a manner to restrict works or impede events. This can lead to additional cost where a road has to be revisited, or works delayed, such as returning to resurface a section of road previously obstructed by a vehicle. The Council can currently issue a PCN to any vehicle contravening a restriction; however, the Council is unable to remove the offending vehicle/s.

Vehicles Causing Hazards or Obstructions

- 3.8. The Council is able to issue a PCN to a vehicle that is causing a hazard or obstruction where a civil parking contravention has occurred. Whilst this may lead to the offending motorist to change future behaviours, this does not address the immediate hazard or obstruction and the Council is unable to remove the vehicle.

4. CURRENT POSITION

Persistent Evaders

- 4.1. As of 28th February 2022, 692 vehicles would have obtained 'persistent evader' status under the DfT's definition. These vehicles currently have 4,702 outstanding PCNs, where 50% of these notices are over a year old.
- 4.2. The Council has appointed enforcement agents (previously known as bailiffs), but there are limitations on the powers that they can use. They are unable to seize a vehicle that, for example, is subject to a hire purchase agreement, parked on another's property (e.g., even within a council car park) or where the vehicle is a 'tool of the trade' (e.g., a taxi, ice cream van or tradesperson's van).
- 4.3. The Council is limited in its ability to seek to recover these debts, but also prevent future motorists from accumulating such debts. The Council incurs a contractual fee for each PCN issued; therefore, where persistent evaders continue to park in contravention and receive fines, this can have an adverse impact to the Council until such fines are paid or debts recovered.

Vehicles Preventing or Restricting Works or Authorised Events

- 4.4. Plymouth Highways will be continuing the delivery of a range of maintenance works on the highway, from gully cleansing through to resurfacing roads. Despite works being subject to traffic orders, prohibiting parking where access is crucial to undertake the work, the Council's inability to remove vehicles contravening such prohibitions, mean risks remain that vehicles doing so may impact the delivery of these works, the costs of works and/or inconvenience to road users. Similarly, as the city prepares to deliver a programme of world class events, risks remain that vehicles parked in contravention to traffic orders for authorised events may adversely affect events and/or cause security concerns.

Vehicles Causing Hazards or Obstructions

- 4.5. The Council has a limited ability to respond to vehicles causing a hazard or obstruction, the limit of the Council's powers is to issue a PCN where a civil contravention has occurred. In such a situation, whilst the issuing of a PCN should encourage compliance, the inability to remove the vehicle does not address the hazard or obstruction. In certain circumstances' enforcement can only be by the police for the offences of causing an unnecessary obstruction of a road or of leaving a vehicle in a dangerous position i.e., where there are no yellow lines or signs prohibiting parking.

5. PROPOSAL

- 5.1. In response to these challenges, it is proposed that the Council enact the powers already available to the Council and as set out within the Road Traffic Regulation Act 1984, to immobilise and remove vehicles. This immobilisation and removal of vehicles would be undertaken in accordance with the Councils 'Immobilisation and removal policy' (appendix A).
- 5.2. In summary, the process would involve the following activity:

Persistent Evaders

- A. Persistent evader identified committing a civil contravention.
- B. Penalty charge notice issued, and check is undertaken to confirm it is a persistent evader.
- C. Vehicle removed to secure compound
- D. Council notifies police of vehicle removal and letter sent to registered keepers' last recorded address.

Vehicles Preventing or Restricting Works or Authorised Events and Vehicles Causing Hazards or Obstructions

- A. Vehicle identified committing a civil contravention
- B. Penalty charge notice issued
- C. Vehicle removed to secure compound
- D. Council notifies police of vehicle removal and letter sent to registered keepers' last recorded address.

- 5.3. Vehicle removals would be undertaken by a contractor, where the existing contract relating to the removal of abandoned vehicles allows for the removal of vehicles.
- 5.4. For a vehicle to be released, the registered keeper is required to pay a recovery fee, a storage fee and the parking fine issued prior to the removal of the vehicle. The registered keeper is also required to provide proof of ownership, proof of identify and proof of address.
- 5.5. The Council is not required to consult on the adoption of these powers; however, the Council is required to introduce signage that informs motorists that Plymouth had adopted such powers.
- 5.6. The adoption of the powers to immobilise and removal vehicles does not impact on a motorist's right to appeal a parking fine.

6. . FINANCIAL IMPLICATIONS

- 6.1. Any financial implications associated with undertaking the immobilisation and removal of vehicles is expected to be favourable, as this is expected to help to reduce future contraventions, improve future recovery rates and reduce future parking debts. Removing a persistent evader vehicle will not generate

additional income, or enable any previous outstanding PCN fees to be recovered. In securing the release of a vehicle, the registered keeper is only required to pay the PCN issued on the day the vehicle was removed.

6.2. Section 9, Traffic Management Act 2004 prescribes the fees associated with the removal, storage or disposal of vehicles that are illegally, dangerously or obstructively parked, or broken down, or abandoned. Under this legislation, the fees charged for the release of a vehicle are set as:

- Release fee of £105.00
- Storage fee of £12 per day

6.3. There is no charge to the Council for the contractor to remove a vehicle; the contractor retains both the recovery fee and storage fees. Should a vehicle not be claimed within 35 days, the contractor is responsible for the disposal of the vehicle, as set out within legislation, which can include the scrapping or sale of the vehicle.

6.4. There are costs of £5,000 associated with the placement of required signage in the city, which will be funded through the Parking On Street Trading Account.

7. RECOMMENDATION

7.1. It is the recommendation of this report for the Council to enact the powers of immobilisation and removal as set out within this report and in accordance with the accompanying policy.

7.2. The adoption of immobilisation and removal will:

- Support the Council to help keep roads safe, providing greater powers to address hazards and obstructions caused by inconsiderate motorists
- Support the Council in the delivery of essential maintenance to the transport network, preventing vehicles from obstructing works that may otherwise cause inconvenience to other road users and added cost in having to revisit or extend works.
- Support the Council in the delivery of world class events, helping to keep routes clear and visitor safe
- Support the Council in seeking to recover unpaid and unchallenged fines where recovery has not been possible due to registered keepers not updating registered keeper records
- Support the Council and motorists in encouraging motorists to either pay fines, or appeal under the statutory appeals process, but not ignore any fine.

- 7.3. It is also the recommendation of this report that these powers become operational from 1st May 2022, following the placement of all statutory signage and mobilisation of vehicle immobilisation and removal services.