

DECISION-MAKER:	CABINET		
SUBJECT:	VEHICLE REMOVALS POLICY		
DATE OF DECISION:	15 AUGUST 2023		
REPORT OF:	COUNCILLOR KEOGH CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT		
<u>CONTACT DETAILS</u>			
Executive Director	Title	<u>Executive Director for Growth</u>	
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STATEMENT OF CONFIDENTIALITY			
Not Applicable			
BRIEF SUMMARY			
To approve the report of the Cabinet Member of Environment and Transport recommending the adoption of the Vehicle Removals Policy 2023			
RECOMMENDATIONS:			
	(i)	Adopt the Vehicle Removals Policy 2023	
	(ii)	To delegate authority to the Executive Director Growth following consultation with the Director Legal, Governance and HR to do anything necessary to implement the contents of the Vehicle Removals Policy 2023 including but not limited to entering into contracts for the removal of vehicles and amending Traffic and other Orders as required.	
REASONS FOR REPORT RECOMMENDATIONS			
1.	To enable the Council to resolve sustained obstructions of the public highway		
2.	To enable the Council to address persistent evaders of Penalty Charge Notices		
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED			
3.	To not adopt the Vehicle Removals Policy 2023 – The Council would continue to be able to only address obstructions of the public highway via Penalty Charge Notices which does not resolve an obstruction in of itself. Persistent evaders of Penalty Charge Notices would continue the practice of not resolving PCNs issued to their vehicles to the detriment of the policy objective for implementing the restriction(s) of which they are in contravention		
DETAIL (Including consultation carried out)			
4.	Southampton City Council is the Local Highway Authority for the area within the boundary of Southampton. Following the passing of the Traffic Management Act 2004, Local Highway Authorities became directly		

	<p>responsible for the enforcement of parking restrictions on the public highway. Enforcement is carried out by Civil Enforcement Officers who issue Penalty Charge Notices to vehicles in contravention of parking restrictions which are defined by means of Traffic Regulation Orders.</p>
5.	<p>Within legislation (as set out in the Vehicle Removals Policy 2023), Local Highway Authorities also have powers to remove vehicles in given circumstances. However, the Statutory guidance for local authorities in England on civil enforcement of parking contraventions, stipulates that Local Authorities should have a policy in place which outlines the practices and procedures by which these powers will be used.</p>
6.	<p>The Council is seeking to make use of powers to remove vehicles to address the following issues;</p> <ul style="list-style-type: none"> - Resolve instances where vehicles are parked in contravention of a restriction and are causing an obstruction of the public highway for a period in which it is determined would significantly inhibit highway access and / or cause a likely road safety issue - Enable the Council to address persistent evaders of Penalty Charge Notices whereby 3 or more Penalty Charge Notices have been issued to a vehicle and these have been left unresolved
7.	<p>The Council already carries out the removal of vehicles from the Stadium Tow Away Zone on Stadium Event Days (e.g. football matches, concerts etc). The Vehicle Removals Policy 2023 would extend this practice to the rest of the Local Authority area and enable the Council to address vehicles parked in an obstructive and/or hazardous manner. It is not anticipated that the Council would make use of this practice on a frequent basis, as vehicles parked in this way typically only do so for a short period of time. However, there are occasions where vehicles are left for longer periods and the Council would need to take action to resolve the obstruction by means of removing the vehicle. The period at which the Council would intervene would depend on the nature of the obstruction / type of parking restriction and this is set out in the Vehicle Removals Policy 2023. While actions for some contraventions is given as immediate, in practical terms the vehicle may have moved before the vehicle removal contractor can attend the site. In such instance, a Penalty Charge Notice would be deemed sufficient penalty for the vehicle in contravention.</p>
8.	<p>Persistent evaders are categorised as vehicles which have received 3 or more Penalty Charge Notices that have been left unresolved i.e. The PCNs have not been paid, nor is there an open appeal lodged against them. While the Penalty Charge Notice process is followed to its conclusion for all Penalty Charge Notices, there are some cases which are returned by the DVLA as keeper not known or the driver has not registered the vehicle to their current address. In cases, where the keeper has been identified, the enforcement agent may still not be able to recoup the outstanding debt. There are several reasons why this may occur, including the debtor declaring bankruptcy, or the</p>

	<p>enforcement agent is not able seize goods of sufficient value to cover the debt. The practice as outlined in the policy will enable the Council to address persistent evaders of Penalty Charge Notices, by removing the vehicle when it is next recorded as being in contravention of a restriction. The recipient of the Penalty Charge Notice would then be required to pay the Penalty Charge Notice that they have just received and the tow away charge before the vehicle is returned. If the vehicle is not collected, a daily storage fee is also due. All fees are set as a national standard within the legislation. The Council would make it clear to the registered keeper of the vehicle when they have been categorised as a persistent evader to encourage them to a) resolve the outstanding cases and b) deter them from continuing to parking in contravention of parking restrictions.</p>
<p>9.</p>	<p>The policy also makes provision for the removal of;</p> <ul style="list-style-type: none"> - Vehicles fraudulently displaying a Blue Badge - Vehicles displaying a fraudulent parking device <p>It is not anticipated that the Council would adopt this practice of vehicle removal on a regular basis within these categories. In most cases, these offences will be resolved by means of an investigation by the Parking Fraud Investigation Officer. However, if the Council identifies persistent offenders (e.g. a vehicle is found displaying a fraudulent parking permit on a frequent basis) and the driver has not responded to enquiries made by the relevant Council Officer, then the Council may look to remove the vehicle.</p> <p>There is also scope within the policy to remove wheeled structures e.g. trailers, from the public highway, where the individual responsible for the structure does not respond to instruction by the Council to do so.</p>
<p>10.</p>	<p>The Council has carried out a public consultation on the introduction of the proposed practices as outlined in the Vehicle Removals Policy 2023. The consultation took place between 07/12/2022 and 28/02/2023. The report on the findings of the consultation is attached as Appendix 2. A summary of the findings is as follows;</p> <ul style="list-style-type: none"> - There were 249 respondents - 96% agreed with the proposed vehicle removal practice to resolve hazardous or obstructive parking. 3% disagreed. - 95% agreed with the proposed vehicle removal practice to address persistent evaders of Penalty Charge Notices. 4% disagreed - 94% agreed with the proposed vehicle removal practice to address vehicle fraudulently displaying a Blue Badge. 3% disagreed. - 94% agreed with the proposed vehicle removal practice to address vehicles displaying a fraudulent parking device. 4% disagreed <p>Therefore, the findings of the consultation was that there was strong support from the respondents for the proposed vehicle removal practices to be introduced.</p>

11.	If the adoption of the Vehicle Removals Policy 2023 is approved, the Council will then need to formally propose making provision within the Traffic Regulation Orders for the removal of vehicles. Such provision is currently only made with the Traffic Regulation Order for the Stadium Tow Away Zone.
12.	The Council will subsequently need to formally contract an approved Vehicle Removal agent that can be contacted to remove vehicles as needed and also store the vehicles until they are collected by the driver / keeper of the vehicle.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
13.	Removal of vehicles under these processes should be partly self-funding as the driver would be required to pay the removal / storage fees. It is however noted that the removal fee is refundable if any associated Penalty Charge Notice is overturned on appeal.
14.	If a tow truck is called out, but the vehicle moves or is claimed before all four wheels are on the tow truck, the Council would be liable for any call out fee levied by the contractor. This would be determined during the tender process, but is typically in the region of £100.
15.	Lastly, if the vehicle is left unclaimed the Council would be liable for any removal / storage fees. <ul style="list-style-type: none"> - Removal Fee - £105 - Storage Fee - £12 per day
16.	It is not expected that the Council will remove many vehicles due to obstructive parking. However, the Council has many persistent evader cases and these removals may in the region of 100 per annum. On the basis of expected volumes, the likely cost of removal fees is £0.01M, and storage costs based on 35 days storage of up to £0.04M. However it is expected that the majority of these costs would be reclaimed with the relevant fees paid or income from disposal of unclaimed vehicles.
17.	Any fees related to unclaimed vehicles would be paid out of ring fenced on street revenue budgets for which there is adequate provision. Spend will be monitored to ensure that there is not a significant draw on the budget for this purpose and that measures are in place to recover funds where possible.
<u>Property/Other</u>	
18.	None
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
19.	Traffic Management Act 2004
20.	Road Traffic Regulation Act 1984
21.	The Removal and Disposal of Vehicle Regulations 1986 (SI1986/183)
22.	Removal, Storage, and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 (SI2008/2095)

23.	The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions (England) Regulations 2022 (SI2022/71)
24.	The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007
25.	Statutory Guidance for Local Authorities in England on Civil Enforcement of Parking Contraventions
<u>Other Legal Implications:</u>	
26.	Equalities Act 2010, Human Rights Act 1998
RISK MANAGEMENT IMPLICATIONS	
27.	Removal of personal property, particularly that which has a relatively high value may result in claims against the Council for damage to vehicles or loss property contained within the vehicle. Where a decision is made to remove a vehicle, clear evidence would be gathered to demonstrate condition of vehicle and its location before removal. The removals process does not result in contents being tampered with unless the vehicle is subsequently disposed of. It is noted that the Council already removes vehicles from the Stadium Tow Away Zone on event days. Where a complaint is received, the Service Manager works to resolve the complaint in line with the Council's corporate complaints process. Any claims are passed to the Risk and Insurance team to assess.
28.	Officers have not yet been able to identify the relevant statutory instrument for disposal of vehicles removed for obstructive/hazardous parking or having been categorised as a persistent evader. The Council would ensure that it has written to the registered keeper to inform them before a vehicle is disposed of to ensure that the owner had a clear opportunity to claim the vehicle. However, this is a risk that needs to be declared at this stage.
29.	Drivers may seek to claim their vehicle after it has been disposed of. This may occur if the driver was indisposed (e.g. in hospital or prison) when the vehicle was removed, or did not know the vehicle was removed by the Council e.g. assumed it had been stolen. In the case of vehicles removed because they were parked causing a hazard/obstruction or vehicles removed because they were displaying a fraudulent parking device, the Council would have written to the registered keeper of the vehicle before it is disposed of. In the case of persistent evaders, the Council would have made clear to the registered keeper in correspondence prior to removal that this option may be taken and would also do so after the vehicle was removed if the vehicle was not collected. Any claims would be passed to the Risk and Insurance team to assess.
30.	Affected individuals may report the instances of their vehicle being removed to the media with risk of reputational damage to the Council. It is noted that the Council considers it preferable not to discuss individual Penalty Charge Notice or Vehicle Removal cases with the media due to the risk of personal data being disclosed, but it can highlight the general policy and reasons why action may be taken. The Council can also highlight that there was respondents to the consultation on the Vehicle Removals Policy was predominantly in favour of the practices being adopted.

POLICY FRAMEWORK IMPLICATIONS	
31.	<p>The proposed policy supports the following policy objectives as outlined in the Local Transport Plan – Connected Southampton Transport Strategy 2040</p> <ul style="list-style-type: none"> - Policy R1 – Well Managed Highway - Policy S1 – Improving Road Safety <p>And the following policy objectives as outlined in the Bus Service Improvement Plan</p> <ul style="list-style-type: none"> - Ambition 2 – Buses are an attractive alternative – Fast, reliable and attractive
KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	All Wards
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Vehicle Removals Policy 2023
2.	Vehicle Removals Policy Consultation Report
3.	Equality and Safety Impact Assessment (ESIA)
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None