



SHEFFIELD CITY COUNCIL

Individual Cabinet Member Report

Report of:	Simon Green, Executive Director of Place
Report to:	Cllr Bryan Lodge, Cabinet Member for Environment
Date:	23 August 2016
Subject:	Changes to Waste Management Abandoned Vehicle Enforcement Policy
Author of Report:	Gillian Charters, 20 37528
Key Decision:	YES

Reason Key Decision: affects more than 2 Wards

Summary:

This report sets out the proposed amendments to the existing Waste Management Enforcement Policy relating to the investigation and removal of abandoned vehicles and recommends the Council introduces the use of fixed penalties for the offence of abandonment, where the registered keeper of a vehicle can be identified.

It also recommends that the Council recovers the costs it incurs for the collection, storage and disposal of the vehicle from the registered keeper of a vehicle deemed to be abandoned.

Reasons for Recommendations:

The proposed amendments ensure that the Council's enforcement policy encourages owners to take responsibility for their vehicles, discouraging them from becoming abandoned. It also allows the Council to recover its costs from those who fail to dispose of their vehicles in an appropriate manner at a time when it is under significant financial pressure.

Recommendations:

That the Cabinet Member for Environment approves the amendments to Abandoned Vehicle Enforcement Policy so as to allow:-

- 1) The issuing of a Fixed Penalty for the offence of abandonment as set out Refuse Disposal (Amenity) Act 1978 as amended by the Clean Neighbourhoods and Environment Act 2005, as outlined in table 2 of section 4.1.7
 - 2) The Council to recover its costs for the removal, storage and destruction of abandoned vehicle from the registered keeper as set out in the The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charge) Regulations 2008, as outline in table 3 of section 4.1.8
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Background Papers:

- Waste Collection Service 2012/13 (Cabinet Paper – 13th February 2012)

Category of Report: OPEN/CLOSED*

Statutory and Council Policy Checklist

Financial Implications
YES Cleared by: Alison Chambers
Legal Implications
YES Cleared by: Sarah Bennett
Equality of Opportunity Implications
YES Cleared by: Annemarie Johnson
Tackling Health Inequalities Implications
YES/NO Cleared by:
Human Rights Implications
YES/NO Cleared by:
Environmental and Sustainability implications
YES/NO Cleared by:
Economic Impact
YES/NO Cleared by:
Community Safety Implications
YES/NO Cleared by:
Human Resources Implications
YES/NO Cleared by:
Property Implications
YES/NO Cleared by:
Area(s) Affected
ALL
Relevant Cabinet Portfolio Lead
Councillor Bryan Lodge, Cabinet Member for Environment
Relevant Scrutiny Committee
Economic and Environmental Wellbeing Scrutiny and Policy Development Committee
Is the item a matter which is reserved for approval by the City Council?
NO
Press Release
YES

Report to the Cabinet Member for Environment

Changes to Waste Management Enforcement Policy

1. SUMMARY

- 1.1 The Council has a legal duty to remove vehicles that it has determined to be abandoned. This function is managed by the Waste Management Service with a number of support functions undertaken by Veolia as part of the fully Integrated Waste Management Contract.
- 1.2 The proposed amendments to the enforcement policy will allow the Council to recover its costs for removing abandoned vehicles at a time when it is under significant financial pressure. Currently, the costs are absorbed by the Waste Management budget. It also recommends the use of fixed penalties for the offence of abandonment in response to the increase in both the number of reports being made to the Council and number of vehicles subsequently being deemed as abandoned.

2. WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE?

- 2.1 The changes to the enforcement policy would mean that those who abandoned vehicles will directly responsible for the cost of their removal and destruction.

3. OUTCOME AND SUSTAINABILITY

- 3.1 The proposed changes are intended to ensure that the costs incurred by the Council for the removal of abandoned vehicles are no longer absorbed by the Waste Management budget. Instead the costs will be borne directly by those who choose not to dispose of their vehicle in the correct manner.

4. ABANDONED VEHICLES

4.1 Background

- 4.1.1 The Council's duty in relation to abandoned vehicles is set out in section 3 of the Refuse Disposal (Amenity) Act 1978. The Act places a duty on a local authority for removing vehicles that they deem are abandoned. The term vehicle relates to any means of transportation, such as a car, lorry, caravan, motorbikes or trailer. Any vehicle that is burnt out is referred to the Police, who make arrangements for it to be removed.
- 4.1.2 To be deemed abandoned the Council applies a number of tests to the vehicle, including but not limited to its taxed status (if relevant), condition and length of time it has been stood.
- 4.1.3 Once a vehicle has been determined by an authorised Council officer to be abandoned, the Council has a legal duty to remove it. The removal, storage and destruction is undertaken by Veolia, through an appointed subcontractor, as part of the fully Integrated Waste Management Contract.
- 4.1.4 The Authority incurs a charge for the removal and storage of abandoned vehicles through the Veolia sub-contractor. If the vehicle is unclaimed after 10 days of being removed it is destroyed and a certificate of destruction is provided to the Council.
- 4.1.5 While the number of reports of abandoned vehicles has been increasing since 2010, the number that have been removed and destroyed has increased significantly in the last 18 months, see Table 1, below:-

Table 1.

Year	Reports of abandoned vehicles received	Abandoned vehicles destroyed
2010-11	222	4
2011-12	380	4
2012-13	378	3
2013-14	313	6
2014-15	417	10
2015-16*	645	38

* To January 2016

- 4.1.6 It is a criminal offence under Section 2 of the Refuse Disposal (Amenity) Act 1978, to abandon a vehicle. A person found guilty of such an offence may receive a summary conviction with a fine not exceeding level 4 on the standard scale (currently £2,500) or a term not exceeding three months imprisonment, or both.
- 4.1.7 The Clean Neighbourhoods and Environment Act 2005 inserted a new section into the Refuse Disposal (Amenity) Act 1978, which allows an authorised officer of a local authority to issue a fixed penalty notice as an alternative to prosecution for the offence. If a fixed penalty notice is issued then the Council cannot prosecute the person responsible unless the fixed penalty has not been paid 14 days after it was issued. The fixed penalty permitted by legislation is detailed in the Table 2.

Table 2.

Offence	Default penalty	Minimum discounted penalty for early payment
Abandoning a vehicle	£200 ¹	£120 ²

- 4.1.8 Where an abandoned vehicle is removed the local authority is entitled to recover expenses connected with removing/disposing of that vehicle³.

The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charge) Regulations 2008 then provide further clarity on what charges may be applied for the removal, storage and destruction of abandoned vehicles. These are set out in Table 3. The different charges reflect the condition, size and abandonment location of the vehicle.

Table 3.

Vehicle position and Condition	Vehicle equal to or less than 3.5 tonnes MAM	Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes	Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM	Vehicle exceeding 18 tonnes MAM
Vehicle on road, upright and not substantially damaged or any two wheeled vehicle whatever its condition or position on or off the road	£150	£200	£350	£350

¹ Section 2A(8) Refuse Disposal (Amenity) Act 1978 (as amended)

² Section 2A(10) Refuse Disposal (Amenity) Act 1978 (as amended) and Regulation 3(3) Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007/175

³ Section 5 Refuse Disposal (Amenity) Act 1978 (as amended)

Vehicle, excluding a two wheeled vehicle, on road but either not upright or substantially damaged or both	£250	£650	Unladen - £2000	Unladen-£3000
			Laden - £3000	Laden - £4500
Vehicle, excluding a two wheeled vehicle, off road, upright and not substantially damaged	£200	£400	Unladen- £1000	Unladen-£1500
			Laden-£1500	Laden-£2000
Vehicle, excluding a two wheeled vehicle, off road but either not upright or substantially damaged or both	£300	£850	Unladen-£3000	Unladen-£4500
			Laden-£4500	Laden-£6000

4.1.9 A review has taken place of local authorities in the region as well as Core Cities to establish whether they issue fixed penalties and recover costs for the removal of abandoned vehicles. See Table 4.

Table 4.

Local Authority	Use of Fixed Penalties for the offence of abandonment	Recovery of fees The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charge) Regulations 2008
Barnsley	Yes	Yes
Doncaster	No	No
Rotherham	No	No
Bristol	No	No
Leeds	No	No
Liverpool	Yes	No
Manchester	No	Yes
Newcastle	No	No
Nottingham	Yes	No

4.2 Proposed new enforcement policy

4.2.1 The approach historically taken, due to the low numbers of vehicles, has been for the Council to simply remove vehicles that have been deemed abandoned. Due to the significant budget pressures the Waste Management budget is facing this approach is no longer sustainable.

4.2.2 It is proposed that the maximum penalty is issued as set out in Table 2, with no discounted penalty for early payment. The Council will also seek to recover the maximum costs as set out in Table 3.

4.2.3 There is no requirement to give any prior warning to the registered keeper before vehicles that have been determined by an authorised officer as being abandoned are removed. However, it is proposed that the Council will write to the registered keeper at the address held by the DVLA (Driving and Vehicle Licensing Agency) following a pre-removal assessment undertaken by Veolia. The letter will detail what enforcement action the Council will take, including recovering its costs, if the vehicle is not removed within 10 working days of the letter being sent out. No further warnings will be given and the vehicle

will be removed unless the owner contacts the Council.

- 4.2.4 If there is no registered keeper or the owner cannot be traced through other means then the vehicle will be removed.
- 4.2.5 Once removed, if identified, the registered keeper of the vehicle will be issued with a fixed penalty, along with guidance on how they can reclaim their vehicle. If the vehicle is reclaimed within 10 days the registered keeper will be required to pay the fixed penalty along with the removal and applicable storage costs before it is released.
- 4.2.6 If the vehicle is not reclaimed within 10 days it will be destroyed and where known, the registered keeper invoiced for costs as per Table 3. Where the fixed penalty is not paid the Council will seek to prosecute the registered keeper for the offence of abandonment as well as seeking to recover its costs as per Table 3.
- 4.2.7 The new enforcement policy will hold, where relevant, the registered keeper as recorded on the DVLA database as the responsible person as set out in Refuse Disposal (Amenity) Act 1978 and The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charge) Regulations 2008. This is because when a vehicle is sold the keeper is legally obligated to inform the DVLA of the change in ownership, therefore they remain legally responsible for the vehicle.

4.3 Financial Implications

- 4.3.1 The waste management budget spend on abandoned vehicles has seen a rise of over 400% in 2015/16 when compared to 2014/15.
- 4.3.2 In addition to the increasing costs for the removal, storage and disposal of abandoned vehicles the Waste Management Team is having to absorb the increased administration due to the increase in reports.
- 4.3.3 The proposed amendments to the enforcement policy would allow the Council to recover its costs from those who fail to dispose of their vehicles in an appropriate manner at a time when it is under significant financial pressure. No income target is being set.
- 4.3.4 As the Council is seeking to issue fixed penalty notices for abandonment and to recover its costs, the Council may subsequently be required to take legal action, therefore additional legal support may be required.

4.4 Equality Implications

- 4.4.1 This proposal does not have any significant differential equality implications.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The Council could carry on with its current policy of removing vehicles for free, however the number of reports of abandoned vehicles are increasing and therefore if nothing is done the number will likely increase placing further pressure on the Waste Management budget.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The Council is legally required to remove vehicles that it has determined to be abandoned. Historically the Council has absorbed the costs for their removal and storage. However, due to the increasing number of vehicles being removed as abandoned, combined with the financial pressure the Council is facing this approach is no longer sustainable.

7. REASONS FOR EXEMPTION (if a Closed report)

7.1 N/A

8. RECOMMENDATIONS

8.1 That the Cabinet Member for Environment approves the amendments to the Abandoned Vehicle Enforcement Policy so as to allow:-

- 1) The issuing of a Fixed Penalty for the offence of abandonment as set out in the Refuse Disposal (Amenity) Act 1978 as amended by the Clean Neighbourhoods and Environment Act 2005 and, as outlined in table 2 of section 4.1.7
- 2) The Council to recover its costs for the removal, storage and destruction of abandoned vehicle from the registered keeper as set out in the Refuse Disposal (Amenity) Act 1978 and The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charge) Regulations 2008, as outlined in table 3 of section 4.1.8

Gillian Charters
Head of Waste Management