

Formal Adoption of Policy to Remove Vehicles which are Unlawfully Parked and Interfering with Highway Works

Forward Plan reference number: Not Applicable

Report title: Formal Adoption of Policy to Remove Vehicles which are Unlawfully Parked and Interfering with Highway Works	
Report to: Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	
Report author: Andrew Cook, Director for Highways and Transport	
Date: 24 May 2019	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To review the pilot vehicle removal policy which relates to Essex County Councils (the Council) management and removal of vehicles which were unlawfully parked and interfering with highway works during 2018.
- 1.2 To approve the procedure for vehicle removal as set out in Appendix 2 to reduce the risk of parked vehicles obstructing the annual capital maintenance programmes and highways works.

2. Recommendations

- 2.1 To approve the removal of procedure for removal of vehicles, as set out in Appendix 2 to reduce the risk of parked vehicles obstructing the annual capital maintenance programmes and to prevent disruption to highways works.
- 2.2 Agree that Essex Highways may use existing delegated powers to appoint Civil Enforcement Officers.
- 2.3 To determine that the uniform to be worn by ECC Civil Enforcement Officers when on duty acting as an ECC Civil Enforcement Officer will consist of a high visibility jacket bearing the words “Essex Highways Civil Enforcement Officer”
- 2.4 To adopt the Parking Partnerships’ vehicle removal policy (the Policy) as ECC’s countywide policy for this purpose.

3. Summary of issue

- 3.1 Across Essex parked vehicles have presented as a significant risk to capital maintenance programme delivery carried out by Essex Highways. Delays caused whilst on site or the need for works teams to return to site to finish works have resulted in additional delivery costs. If the Council have to return to site to complete surfacing work because there is a gap caused by parked vehicles, this has an impact on the quality of surfacing work undertaken, due to the additional joins in the surface arising from patching in that section previously obstructed. These issues are arising on local surfacing schemes but also on major schemes and is becoming more and more of an issue.
- 3.2 In 2016 Essex Highways monitored 20 resurfacing sites and in 2016 the Council incurred £88,000 of additional costs caused by the presence of parked vehicles which hindered the completion of the proposed works. Since that time ECC has worked with the two parking partnerships in Essex to establish a solution. Following a decision taken by the Cabinet Member for Highways ECC piloted the removal of vehicles which are unlawfully parked and interfering with the highway work, in January 2018. ECC ran the pilot between March 2018 – March 2019. During that time the vehicle removal policy was piloted on 98 high risk urban resurfacing sites of which 16 vehicles were moved from 8 sites at a cost of £9,095 to ECC.
- 3.3 The pilot set out that vehicles would be removed where:
- a. ECC make temporary traffic regulation orders including a clearway to prevent vehicles from waiting in a location which disrupts proposed highways works.
 - b. put up appropriate signage.
 - c. Issue a Penalty Charge Notice (PCN) of £75 to vehicles parked in contravention of the order apply which are in a location which is interfering with the Council's ability to do the work
 - d. ask Civil Enforcement Officers to take action to remove vehicles after a PCN has been issued.
 - e. To remove vehicles to a nearby location on the highway using a contractor.
 - f. To have effective communications in place to minimise the risk to vehicles and the disruption to motorists.
- 3.4 The issues observed in 2016 have been largely avoided by implementing the Policy and procedure for removing obstructively parked vehicles. The Civil Enforcement Officers (CEO) (which the Council has the statutory power to appoint) can carry out the procedure if a vehicle is parked in contravention of a traffic regulation order. The Council can make a temporary order which also prevents parking that interferes with the works. The Council would appoint a CEOs who can issue a penalty charge notice (PCN) to vehicles where a motorist has disregarded signage and has left the vehicle to wait in

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contravention of the order. If the vehicle is not removed by the owner, the vehicle can then be removed.

- 3.4 Vehicles are moved by a specialist vehicle removal company to a nearby suitable location on the highway and ensure that ECC's customer services, parking partnerships and police were informed of the move and the new location so that disruption to the motorist is kept to the minimum.
- 3.5 A specialist vehicle removal contract has been procured. Vehicles are as far as possible removed in a way which involves lifting them by the wheels so as to minimise the possibility of damage.
- 3.5 In the lead up to the works being carried out, Essex Highways distribute leaflets explaining that vehicles would be removed from site to residences 10 days prior to the works commencing with additional warning signs placed locally 7 days prior to works starting on site as per the procedure. During the pilot period there were no customer complaints nor any negative media or social media feedback relating to procedure.
- 3.6 It is estimated that the implementation of this trial has resulted in excess £53k savings through avoiding crew shifts for the 8 sites. This figure does not account for the additional compliance on sites where just signage was used however so it can be assumed that the benefits exceed this figure by at least a factor of two.
- 3.7 During the trial period, issued PCN's were cancelled by default. However, with the introduction of the procedure on a permanent basis these will no longer be waived going forward.

4 Options

- 4.1 **Option 1 (recommended):** Adopt the removal of vehicles as permanent county wide policy. This will enable ECC to continue to benefit from having minimal disruption on site during annual maintenance and highway works.
- 4.2 **Option 2:** Revert to previous methods and accept risk of abortive costs and risks due to parked vehicles. This would not ensure that ECC continue to realise the benefits identified during the pilot period.

5. Issues for consideration

5.1 Financial implications

- 5.1 During 2018 the policy was trialled on 98 high risk urban resurfacing sites of which 16 vehicles were moved from 8 sites at a cost of £9,095 to ECC.
- 5.2 Charges only apply if and when the removal service is called upon. The cost of the removal of vehicles across 20 sites would be £11,200 (at £560 per call site) for example. The trial found increased compliance based on tow away signage alone.

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5.3 PCN charge amounts are nationally set through legislation, The annual initial estimated income is expected to be up to £10,000 per annum which will be collected as part of existing parking enforcement activities via the parking partnerships. This will be reflected as part of the upcoming future years MTRS process. The Parking Partnership will not charge ECC for any additional administrative costs incurred through its involvement in this policy. ECC will benefit by avoiding have to return to incomplete works. It is estimated this would result in ECC avoiding costs of £53,000.

5.4 It is also important to note that the vehicle removal company accepts liability for any costs incurred as a result of damage to the vehicle when it is being moved.

6 Legal implications

6.1 For the removal of a vehicle to be lawful ECC need to ensure that:

- There is a valid order which has been contravened and proper signage has been erected – this is especially important when the signage is temporary
- There is a valid PCN issued by a properly pointed Civil Enforcement Officer (CEO) wearing the correct uniform.
- The CEO has authorised the removal of the vehicle.

6.2.1 It is proposed that ECC should use a formally adopted policy written by the Essex Parking Partnerships in collaboration with Essex Highways. This utilises sections of the Traffic Management Act 2004 alongside The Removal and Disposal of Vehicle Regulations 1986 (as amended).

6.2.3 In summary the Policy says that:

- The Temporary Traffic Regulation Orders for the closure of the roads will include provisions for a “no stopping” (clearway) restriction to be imposed at sites if required.
- Prior warning of the closure, clearway and vehicle removal is signed on site 2 weeks before the works commence.
- Prior warning is included in letter drops to affected residents/businesses.
- Regulatory signs for clearway installed with the road closed signs.
- If parked cars remain, protocol requires that attempts are made to find the vehicle owner at local residences before taking action.
- Penalty Charge Notices (PCNs) would be issued (as a last resort) to obstructive vehicles by trained individuals, the vehicles would then be moved to a nearby on street location by an approved company.
- The PCN will state a standard charge of £75, reduced by a discount of 50% to £35 if paid within 14 days (if payment was enforced).
- Any issued PCNs may be cancelled with no ongoing charge required of the vehicle owner.

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- Issue of PCN's will be strictly controlled and can only be done by trained and identified CEOs who are ECC officers.
- The vehicle removal company accepts liability for any costs incurred as a result of damage to the vehicle when it is being moved.

7. Equality and Diversity implications

- 7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 7.3 The equality impact assessment indicates that the proposals in this report **will not** have a disproportionately adverse impact on any people with a particular characteristic.

List of appendices

- i. Parking Partnership Vehicle Removal Policy
- ii. Highways Vehicle Removal Procedure
- iii. Equality Impact Assessment

List of Background papers

- i. Vehicle Removal Trial Update, Dec 2018

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	11/06/19

In consultation with:

Role	Date
Director Highways and Transportation	07/01/19

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<p>Andrew Cook</p> <p>Head of Network and Safety</p> <p>Liz Burr</p>	<p>04/01/19</p>
<p>Executive Director for Corporate and Customer Services (S151 Officer) by Stuart Ruddick on behalf of</p> <p>Margaret Lee</p>	<p>01/04/19</p>
<p>Director, Legal and Assurance (Monitoring Officer) by Kim Cole on behalf of</p> <p>Paul Turner</p>	<p>24/05/19</p>