

<b>Subject:</b>	<b>Removal of Non-motorised Vehicles</b>		
<b>Date of Meeting:</b>	<b>28<sup>th</sup> June 2016</b>		
<b>Report of:</b>	<b>Acting Executive Director Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>David Fisher</b>	<b>Tel: 29-2065</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 Following the recommendation from Environment, Transport & Sustainability Committee on 13<sup>th</sup> October 2015 The Highway Enforcement team has undertaken a more detailed investigation and consultation into the use of the Highways Act 1980 to develop a highway policy that will assist in the removal of Non-Motorised Vehicles (NMV's) from the Public Highway.

1.2 NMV's left upon the public highway generate a large number of complaints from residents particularly about the vehicles taking up valuable parking spaces and attracting anti-social behaviour. The Highway Enforcement team currently deal with abandoned Non-Motorised Vehicles (NMV's) whilst the Travellers Liaison team deal with lived-in NMV's on the public highway. However the council does not have a policy to deal with NMV's that are neither lived-in nor abandoned, and therefore these are able to remain stored on the public highway.

**2. RECOMMENDATIONS:**

2.1 That the committee agree the new policy to deal with NMV's on the public highway.

**3. CONTEXT/ BACKGROUND INFORMATION**

3.1 This report focuses on the issues surrounding use of the public highway as a storage facility for Non-Motorised Vehicles (NMV's). NMV's can include caravans and trailers. The definition used in this report is: A vehicle or structure that cannot move by independent means.

The storage of NMV's for unlimited periods on the public highway prevents others from making use of the area and causes inconvenience and frustration to Brighton and Hove residents, business and visitors.

Opportunities for parking are reduced for residents' vehicles, which are subject to road fund licence, insurance, MOT and within parking schemes, parking permit costs. NMV's such as caravans and trailers are not subject to these legal

requirements, and therefore it could be seen as unreasonable for them to remain stored on the public highway for long durations.

The Council currently assesses abandoned NMV's under the Refuse Disposal (Amenity) Act 1978 and carries out removals when necessary. However, if an owner has come forward to claim the property that legislation is no longer applicable. This report seeks to address the issue of NMV's stored indefinitely on the public highway, and which have identified owners, therefore not falling into the category of being abandoned.

- 3.2 NMV's are becoming an increasing problem across Brighton and Hove. Since 2012 the Highway Enforcement team have dealt with over 400 reports of problem NMV's. Of the 400 reports we have only removed about 40 from the public highway as genuinely abandoned. The majority are claimed by local owners.

A large number of the reports are also passed over to the Travellers' Liaison Team who will check if the NMV is being lived in; if so they can serve a notice under Section 77 of the Criminal Justice and Public Order Act 1994 that requires the NMV is moved on. Whilst this does solve the initial issue, the NMV is normally moved to another location on the public highway.

For the period 1 April 2015 until 31 Mar 2016 there were 193 Section 77s served on suspected lived-in vehicles. Of these 79 (41%) were sent to legal services so that the Council could apply for Magistrates' court orders.

The Highway Enforcement team and NSL who manage the city's parking enforcement carried out a survey between August 2015 and October 2015 to assess how many NMV's were parked on the public highway. There were over 120 NMV's parked on the public highway including in controlled parking zones. This is an increase from 70 in January and February 2015 when a similar survey was carried out.

- 3.3 Following research into other local authorities' approach, it is proposed that Brighton & Hove City Council consider a policy to deal with NMV's on the public highway. This policy if adopted would seek to address the issue of non-motorised vehicles as structures stored indefinitely on the public highway, and which have identified owners, therefore not falling into the category of being abandoned or lived in.

Section 143 of the Highways Act 1980 provides that highways authorities have the power, following the service of a notice, to remove structures from the highway where such structures are present without lawful authority. There must be a period of at least one month between service of the notice and removal of the structure. The authority may recover any costs reasonably incurred from the person having control or possession of the structure. For the purposes of the section a "structure" includes a structure on wheels.

Whilst the Highway Enforcement team already have the delegated powers under the Highways Act 1980 to use this piece of legislation and do so for other structures (walls, posts etc.), the council does not use it to remove NMV's.

- 3.4 If the policy was adopted there would be a cost to the council. This cost would include the removal and storage of any NMV. These costs could be offset by charging owners for the return and possibly selling on of any NMV's with financial value that were not claimed. However there is little to no scrap value in NMV's and the council would be charged for disposal for any unclaimed vehicles.

Recovery contractors have quoted £50 per removal. The Council does not have facilities to securely store caravans and therefore Sussex Police have been approached regarding their vehicle pound in Shoreham-by-Sea. The Police would charge in the region of £20 per day. The NMV's would either be claimed within 14 days or disposed of. If the NMV was not reclaimed and there was no value in either selling the vehicle or scrap value there would be an additional charge of £350 for disposal of non-recyclable waste.

Based on these figures and the number of NMV's that could potentially be removed using this policy and then disposed of, the very worst case scenario would be a cost to the council of over £81,600 for the first year. However the true cost will be considerably lower as most NMV's will be removed by their owners from the public highway. In any event, case law has held that whether something can be classed as a structure and removed under s143 depends on its degree of permanence. In the case law concerned 13 months was considered to be sufficiently permanent so this requirement and taking the most contentious cases only, would reduce the costs considerably. In 2011 Portsmouth City Council set aside £5000 to cover the cost of their policy. The cost will reduce over time as the public become aware of the policy and the number of NMV's stored on the public highway reduce.

- 3.4 The policy would complement the council's overall control of NMV's on the public highway and will not replace other forms of control. Any reports of NMV's would still go through the current investigations by the Highway Enforcement Team and Travellers' Liaison Team. Only after these routes have been investigated would this policy come into effect.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 Allowing NMV's to remain on the public highway could be considered; NMVs are generally owned by local residents and it could be argued that allowing them to remain on the public highway is helpful as residents can enjoy the benefit of owning a NMV whilst not having to pay for storage. However this could result in an increase in complaints and the possibility of anti-social behaviour including litter and befouling of the surrounding area which can indirectly cost the council in officer time and resources as well as affecting the local community.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 Following the Environment, Transport and Sustainability Committee on 13<sup>th</sup> October 2015 a public consultation was carried out. (Appendix 2-3)

## 6. CONCLUSION

- 6.1 Following the consultation and reviewing the number of complaints received by the council regarding NMV's on the public highway it is clear that there is public support for adopting the policy set out in Appendix 4.
- 6.2 Whilst a budget must be identified to cover the cost of the policy the saving to other departments including an increase in available parking and reduction of costs to city clean for clearing areas around NMV's should mitigate this budget.

## 7. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 7.1 The cost of implementing measures associated with the new policy will be funded from the existing Highways Enforcement revenue budget within the Transport service. It is difficult to predict the cost of such measures as it is unknown what impact the policy will have on the behaviour of owners, however based on similar Local Authority comparators it is estimated that the cost will be between £5,000 and £10,000 per year. The costs will be reviewed as part of the budget monitoring process and any significant budget variations will be reported. Where possible, costs will be recovered by charging owners and selling non-motorised vehicles to minimise the cost met from the council's general fund.

*Finance Officer Consulted: Steven Bedford*

*Date: 27/05/16*

### Legal Implications:

- 7.2 The legislative background to the recommended policy is set out in the body of the report.

It is not considered that the recommendation gives rise to any adverse human rights implications.

*Lawyer Consulted: Hilary Woodward*

*Date: 31/5/16*

### Equalities Implications:

- 7.3 Following consideration there are no disproportionate negative implications against anyone because of a protected status.

### Sustainability Implications:

- 7.4 There are no sustainability implications

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Crime and Disorder Implications
2. Public Consultation Report
3. Consultation Map
4. Draft Policy

### **Background Documents**

1. Environment, Transport & Sustainability committee report 13<sup>th</sup> October 2015

Crime & Disorder Implications:

- 1.1 If the policy is adopted there is a potential to reduce antisocial behaviour and the fear of crime and antisocial behaviour.

Risk and Opportunity Management Implications:

- 1.2 None

Public Health Implications:

- 1.3 None

Corporate / Citywide Implications:

- 1.4 None