

Subject:	Postal Penalty Charge Notices issued by CCTV and for 'vehicle drive aways'		
Date of Meeting:	29 November 2011		
Report of:	Strategic Director, Place		
Contact Officer:	Name:	Paul Nicholls	Tel: 29-3287
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Key Decision:	No		
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The Traffic Management Act (TMA) 2004 gives enforcement authorities the power to issue Penalty Charge Notices (PCNs) by post to motorists who park in contravention but drive away before the PCN can be fixed to the vehicle or handed to the person appearing to be in charge of the vehicle. These PCNs are referred to as 'Regulation 10 VDA (Vehicle Driven Away) PCNs'.
- 1.2 The TMA also gives enforcement authorities the power to issue PCNs by post on the basis of evidence from CCTV cameras ("approved devices"). Like many authorities, Brighton and Hove did not adopt these powers initially upon the implementation of the TMA. This report recommends that both these powers now be adopted to tackle congestion on key routes in and out of the city and to reduce dangerous parking outside schools, in bus stops and for other serious parking contraventions. The report summarises the enforcement approach that it is suggested the City Council should apply.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Transport & Public Realm approves the use of the powers in the Traffic Management Act 2004 and regulations made under it for the enforcement by the City Council of Regulation 10 Vehicle Drive Away PCNs, and PCNs issued on the basis of CCTV evidence from 1 March 2012.
- 2.2 That the Cabinet Member for Transport & Public Realm approves the proposed approach to enforcement outlined in this report and appendices and the programme of actions for the adoption of these powers.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Traffic Management Act (TMA) 2004, enables enforcement authorities to pursue 'vehicle driven away' PCNs through the service of a postal PCN. Regulation 10 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 gives powers to an enforcement authority to serve a PCN by post where a Civil Enforcement Officer (CEO) had begun to prepare a PCN for service, but the vehicle concerned was driven away before the CEO had finished preparing the PCN or had served it.
- 3.2 The Western Road / North Street Corridor together with London Road and Lewes Road are key public transport access routes into the city centre and are used by 3,000 buses every day.
- 3.3 If a vehicle is seen parked in contravention a Civil Enforcement Officer (CEO) will start to issue a Penalty Charge Notice (PCN), a process which takes about two minutes to complete. Drivers are however frequently in nearby shops and will return to the vehicle and drive away as soon as they see a CEO.
- 3.4 In September 2011 the busiest section of London Road received 265 CEO visits with 57 PCNs issued but 121 vehicles parked in contravention drove away before the PCN could be issued.
- 3.5 A CEO would not be able to issue a postal PCN for all vehicles currently recorded as 'vehicle drive aways' as the officer would need to have recorded sufficient evidence to prove the contravention, including photos. However, it is envisaged that the adoption of the power to issue regulation 10 VDA PCNs would reduce the number of PCNs evaded in this way.
- 3.6 Secretary of State guidance recommends that CCTV enforcement is only used where enforcement is difficult or sensitive and Civil Enforcement Officer enforcement is not practical.
- 3.7 All areas covered by static cameras used for bus lane enforcement have more 'vehicle drive aways' recorded by CEOs than PCNs issued, which illustrates the difficulties experienced in enforcing these key areas by foot.
- 3.8 Bus lane monitoring officers can call for CEO enforcement when they observe a vehicle parked in contravention. However, this can take some time to arrive with the vehicle driving away as soon as the CEO is present and starts to issue the PCN.
- 3.9 The adoption of powers to issue PCNs on the basis of CCTV evidence is in line with government guidance and will help to address the issues outlined above and improve the effectiveness of parking enforcement within the city.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 Over the past ten years parking officers have met with ward councillors on numerous occasions about the issue of parked vehicles restricting the flow of traffic along key public transport routes. Parking officers also receive frequent

complaints about parents stopping on school clearways for short periods of time for which we currently have no effective means of enforcement.

- 4.2 Brighton and Hove buses have been consulted about the proposals and are in favour of the proposed changes in the interest of improved and more consistent bus journey times. Western Road has been particularly problematic for the bus company. In September 2011 only 13 PCNs were issued in Western Road following 527 visits with 132 recorded vehicle drive aways.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 An investment in parking hand-held computer software would be required, funded from on street parking income. Overall areas with poor compliance are expected to show rapid improvement as a result of this measure so there will be no significant impact on parking income.

Finance Officer Consulted: Karen Brookshaw Date: 24/10/11

Legal Implications:

- 5.2 Regulation 10 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 gives the council as enforcement authority powers to serve a penalty charge notice by post on the basis of a record produced by an approved device or where a civil enforcement officer had begun to prepare a penalty charge notice for service but the vehicle concerned was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it.
- 5.3 "Approved device" for this purpose means one that has been approved under The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007. The council therefore needs to ensure that all devices (i.e. CCTV cameras) used for this purpose have been so approved.

Lawyer Consulted: Carl Hearsom Date: 25/10/11

Equalities Implications:

- 5.4 The new policy will be included in Parking Services Equalities Impact Assessment. As the contraventions listed for postal PCNs mainly relate to 'instant' PCNs such as where there is a bus stop, loading ban, school clearway etc. they will apply to contraventions where there are no Blue Badge concessions. The only exception would be a vehicle parked in a disabled bay without displaying a valid Blue Badge. Before issuing a postal PCN for this type of contravention they would need to be sure that a valid blue badge was not displayed. Overall issuing postal PCNs should therefore assist blue badge holders find a parking space by deterring drivers without a blue badge from using them.

Sustainability Implications:

- 5.5 This initiative aims to help alleviate congestion on key public transport routes

Crime & Disorder Implications:

- 5.6 There are no crime and disorder implications.

Risk and Opportunity Management Implications:

- 5.7 A higher rate of appeal against postal Penalty Charge Notices is to be expected and these will be investigated by the appeals team in line with statutory guidance. The use of these powers provides an opportunity to improve compliance with the parking regulations in problem areas. If this were to happen there would be benefits in terms of improved public transport journey times and less congestion

Public Health Implications:

- 5.8 The aim of this initiative is to reduce congestion on public transport routes and thereby carbon and particulate emissions which can be harmful to health.

Corporate / Citywide Implications:

- 5.9 None identified

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The option of not adopting these powers has been considered. The long term benefits of improving compliance with the parking regulations are seen to outweigh this option.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 A small number of drivers are persistently parking in contravention on key public transport routes then driving away before a PCN can be issued. The objective of issuing postal PCNs will be to change this behaviour and allow traffic to flow more freely and help address the problem of short term dangerous parking.

SUPPORTING DOCUMENTATION

Appendices:

1. List of parking contraventions to be enforced by CCTV or CEO postal PCN

Documents in Members' Rooms

None

Background Documents

1. Code of Practice for CCTV enforcement

