

## ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET MEMBER

1.	<b>Meeting:</b>	<b>Cabinet Member for Town Centres</b>
2.	<b>Date:</b>	<b>6 September 2010</b>
3.	<b>Title:</b>	<b>Regulation 10 Penalty Charge Notices (Drive away PCNs).</b>
4.	<b>Directorate:</b>	<b>Environment and Development Services</b>

### 5. Summary

The Traffic Management Act (TMA) 2004 and regulations made within the Act have given parking enforcement authorities the power to issue Penalty Charge Notices (PCNs) to motorists who park vehicles 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'.

This Council, like many authorities, did not adopt these powers initially upon the implementation of the TMA 2004. This report recommends that these powers now be adopted and summarises the enforcement approach that it is suggested Rotherham MBC should apply based on the experience of other boroughs who have adopted the powers.

### 6. Recommendations

**That Cabinet Member be asked to resolve that:-**

1. Rotherham MBC makes use of the powers in the Traffic Management Act 2004 and regulations made within the Act for the enforcement of Regulation 10 VDA PCNs, from 1 October 2010.
2. That the proposed approach to enforcement outlined in this report and the programme of actions for the adoption of these powers is approved.

## **7. Proposals and Details:**

Under Section 66(1) of the Road Traffic Act 1991, for a Penalty Charge Notice (PCN) to have been correctly issued by a Parking Attendant, it had to have been either fixed to the vehicle or given to the person appearing to be in charge of the vehicle. Under Road Traffic Act 1991 regulations, if a motorist parked in contravention but drove away before a PCN was served in the manner described above, the enforcement authority were powerless to pursue the charge. Such contraventions were recorded by Parking Attendants as 'VDA', i.e. 'vehicle driven away'.

The Traffic Management Act (TMA) 2004, the relevant sections of which came into force on 31 March 2008, attempted to address this imbalance by enabling enforcement authorities to pursue VDA PCNs through the service of a 'Regulation 10' postal PCN.

This would mean that CEOs would have three methods of issuing PCNs, namely:

- Fixing the PCN to the vehicle.
- Handing the PCN to the driver.
- Issuing a "vehicle driven away" PCN, through the post, when the vehicle is driven away before the issuing process is completed.

Regulation 10 also allows for the issue by post of a 'prevented from issue' PCN, where a CEO may be prevented from issuing a PCN on-street by abuse, intimidation, threats or actual physical violence.

A Regulation 10 VDA PCN is issued by post to the registered keeper of the vehicle, who can then either pay the PCN (offered at a 50% discount rate for the first 14 days after service) or make representations to the Council as the enforcement authority.

Rotherham MBC initially chose not to enforce Regulation 10 VDA PCNs upon implementation of the TMA 2004 for two reasons:

- The Department for Transport's statutory and operational guidance for the TMA 2004 contained very little in terms of advice regarding the evidence that either should ideally or must be obtained by CEOs to enable such PCNs to be successfully pursued by the Council upon challenge, especially to adjudication stage at the Traffic Penalty Tribunal (TPT).
- The Council's software service provider (Civica) could not amend the software provided to the Council to allow this type of PCN to be issued.

Few authorities currently enforce Regulation 10 VDA PCNs. However, their experience has shown that whilst the very nature of this type of PCN often makes it difficult for CEOs to collect enough quality evidence to enable a PCN to be upheld through the statutory appeals process, the ability to issue VDA PCNs can still be a useful tool for an enforcement authority to possess.

## **8. Finance**

The Council has recently installed software from a new service provider, Imperial Civil Enforcement Solutions. This software is already equipped with the capability of issuing

Regulation 10 PCNs. This has not cost anything over and above the cost of the software purchase.

The Council's CEOs currently log approximately 10 "drive away" incidents per week. This would equate, in financial terms, to £350 per week if the figures were mirrored in Regulation 10 PCNs and each PCN was paid within the discount period. A more realistic scenario would be a 70% collection rate equating to £245 per week, equating to £12,740 per annum.

There are currently "hot spot" areas in the town, e.g. Fitzwilliam Road and Wellgate. These are areas which are notorious for drivers being aware that CEOs need a certain amount of time to issue a PCN and take advantage of this by driving the vehicle away prior to a PCN being issued. Such parking activities often cause traffic congestion and danger to pedestrians. This situation currently discourages CEOs from commencing the issuing process and they usually just ask the driver to move on. It should be considered that CEOs will be more encouraged to commence the PCN issuing process in these "hot spot" areas which will result in an increase to the average 10 per week and increase revenue.

#### **9. Risks and uncertainties**

There may be negative media coverage regarding this proposal.

#### **10. Policy and Performance Agenda Implications**

N/A

#### **11. Background Papers and Consultation**

Traffic Management Act 2004

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