

**PUBLIC SCRUTINY COMMISSION  
14 October 2004**

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**ABANDONED VEHICLES/UNTAXED CARS  
(Cllr Terry Mills, Executive Member for Public & Environmental Services)**

**1 INTRODUCTION**

- 1.1 At the meeting of the Public Scrutiny Commission on 15 April the Commission received a very detailed report from its sub group in respect of the problems associated with abandoned and untaxed cars. The Commission sought feedback to the recommendations in that report over and above that which I gave at the meeting. In the period since I have endeavoured to keep members apprised of developments.
- 1.2 The Commission sought specific feedback on a number of points and as executive Member I am charged with providing a response on behalf of the Executive.

**2 RECOMMENDATIONS FROM THE COMMISSION**

- 2.1 The Commission made the following recommendations (in bold) and my response follows:

**We propose that BFBC takes up Devolved Powers from the DVLA.**

The idea was accepted on the basis that having the power increases our ability to provide a local solution in the absence of any effective action on behalf of those with the statutory responsibility. The DVLA powers only relate to highway land. Any initiative that we would introduce needs to go beyond this to be effective.

**We propose that the Executive authorise the officers to proceed with the implementation of devolved powers.**

Following the meeting of the Commission the officers were tasked with signing the Council up to the Protocol Agreement with the DVLA. They have been trying to effect this ever since. The DVLA have been very slow to respond. We are advised that this is a workload issue and the earliest we can expect to be empowered is now late October 2004.

The issue that was never fully addressed in the report to the Commission was affordability. To implement the powers gives rise to a cost and therefore any action taken would have to be within available budgets. The DVLA powers only relate to cars on the highways. Whilst we might be able to use common law powers on other land the power to recover costs is not clear. Therefore the suggestion that the use of the powers could be self funding is not accepted unless the Council only sought to take the higher value untaxed cars on the highways. There is also a direct link to the cost of disposal of low value cars and this is affected almost on a daily basis by the price of scrap. As budgets currently stand if the power is to be used it could only be on a targeted basis and as part of the wider initiative already taken very successfully

in respect of abandoned cars and the recovery of costs. I propose to ask the officers to take this approach as soon as possible in respect of both highway land and Borough Council land as soon as they are able to do so provided that it does not result in a budget pressure.

The officers are in discussion with a potential contractor who is considering whether by retaining fees and recovering costs, a comprehensive service could be provided at no cost to the Council. We are awaiting this contractor's written proposal.

**We reinstate a temporary amnesty on untaxed/abandoned cars.**

This was implemented because the price of scrap was/is high and the cost of the service fell as a result of a re-tendering exercise. The cost to the Council can therefore be met from within budgets. The amnesty can remain for as long as this remains the case as it is a very effective use of resource.

**We mount a campaign to alert owners of their responsibilities.**

Press coverage has been given to the amnesty. When we are able to progress with an initiative to deal with untaxed cars, we will do more. The intention will however be targeted in order to avoid false and non-attainable expectations being raised.

**We commence removing untaxed vehicles from the highway under BFBC initiative and direction.**

Without the DVLA agreement the Council has no powers to do this.

**Removed vehicles are crushed, sold or claimed by the contractor.**

This is what currently happens with abandoned cars. The Council authorised the destruction or sale of a vehicle collected. Sometimes the 'sale' is to the contractor in lieu of payment. We could do the same in respect of any other untaxed vehicle taken into our possession subject to the various legal requirements/powers.

**Claimed vehicles are re-taxed and covered by DVLA continuous registration resulting in automatic penalties for defaulters.**

The issue of penalties is a matter for the DVLA save that the Council, if it were to act under devolved powers from the DVLA, would have to follow a protocol that would ensure the taxation of the claimed vehicle.

**The process is monitored to assess effectiveness.**

The Council has not been able to progress this yet as the DVLA have not empowered us. Even if empowered the use of the powers would be budget dependent. The use of all Council resources should be monitored as proposed in line with normal Council practice.

**A PR campaign is maintained to maximise public awareness.**

The DVLA have a national and ongoing campaign. BFBC has consistently promoted its own actions and would continue to do so as appropriate.

### 3 POST MEETING REVIEW/REFLECTION

3.1 The Commission must keep the needs and the duties of the Council in context.

3.2 The Government in its consultation document Clean Neighbourhoods (July 2004) recognised that Councils have limited responsibilities and powers. It states:

"Current legislation<sup>3</sup> focuses on vehicles which have been abandoned, but untaxed vehicles and those left on the street in a state of disrepair can also cause nuisance to members of the public and lead to the degradation of a locality. In addition, the legislation is complex and can make it difficult for local authorities to act quickly and effectively. The Government therefore intends to replace it with new measures that would provide local authorities with the tools they need to deal with abandoned and nuisance vehicles."

It proposes:

#### **"4.1 Create new offences and powers in relation to nuisance vehicles**

Authorities would be given the power to remove immediately a vehicle which:

- had no registered keeper; or
- was abandoned; or
- was not displaying a current tax disc; or
- was causing a nuisance or was detrimental to the amenity of an area.

It would no longer be necessary to fix a notice to a vehicle which met these conditions before removing it. This would help to reduce the incidence of vandalism and arson that often follows the fixing of notices. These provisions would apply to vehicles on the highway or on land to which the public had access, and to vehicles on other land without the permission of the occupier.

It would be made an offence to be responsible for or have used a vehicle removed as a nuisance vehicle; anyone convicted could be fined up to a maximum level 4 (£2,500). There would be a statutory defence for an owner who could show that his vehicle was stolen and subsequently abandoned. In most circumstances, it would be possible to discharge liability for the offence by paying a fixed penalty and we are looking into the possibility of allowing local authorities to keep the receipts from these fixed penalty notices to help offset their costs of enforcement. For serious or multiple offences, prosecution would remain the appropriate form of enforcement.

Where the authority removed a vehicle, the keeper or their representative would be able to reclaim it on payment of the fixed penalty, together with the costs of removal and storage. They would also have to show that they were properly insured. A surety would be payable if there were no valid tax or MOT for the vehicle. This would be refunded if valid documents were presented within a prescribed time. Vehicles not released within a given period would be destroyed or otherwise disposed of.

Detailed provisions on the operation of the new measures would be set out in regulations and statutory guidelines. These would, for example, define the circumstances in which a vehicle would be deemed to be causing a nuisance or be detrimental to the amenity of an area. There would be an appeal system for those wishing to appeal against the removal of their vehicles."

3.3 Clearly there remains a large gap between what the Council can effect and public expectation. The Government are not helping the situation by misinforming people about the powers and responsibilities of the local authority.

Background Papers

Clean Neighbourhoods Consultation Document July 2004

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