Shropshire Parking Service
Policy for Clamping & Removal of Illegally Parked Vehicles

Responsible Officer  Caroline Reid-Smith
Email: caroline.reid-smith@shropshire.gov.uk
Telephone: 01743 253007

Summary

This report sets out the policy and procedure for the clamping and removal of vehicles which are illegally parked. This may be considered on the rare occasion when traditional Penalty Charge Notices are an insufficient deterrent to the illegal parking of vehicles. The Road Traffic Regulation Act 1984 makes provision for Local Authorities to remove vehicles; and Regulations made under The Traffic Management Act 2004 permits the Council to immobilise vehicles.

Recommendations

A. That the Traffic Manager be given delegated authority to use the powers to remove vehicles and immobilise vehicles contained under Part VII of the Road Traffic Management Act 1984 and Part 6 of the Traffic Management Act 2004 and regulations made thereunder.

B. That the policy set out in this report be approved.

C. That the guidelines contained in Appendix 1 to this report be approved.
Report

Context

1. There are occasions when the issuing of a Penalty Charge Notice to a vehicle parked in contravention of a parking regulation is not a sufficient deterrent to prevent parking in that location. In order to discourage motorists who persistently commit contraventions or seek to avoid payment of outstanding Penalty Charge Notices; Shropshire Council may under the powers of the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 either wheelclamp or remove a vehicle if found to be parked in contravention.

Policy

2. Shropshire Council will not undertake widespread clamping and removal of vehicles. However, Shropshire Council will take removal action against ‘persistent offending vehicles’. Shropshire Council will clamp or tow away vehicles under the following circumstances:

   A). When a Penalty Charge Notice (PCN) has been lawfully issued **AND** the vehicle is a persistent offending vehicle. A persistent offending vehicle is a vehicle with three or more unpaid and unchallenged PCNs, one of which has progressed to warrant stage **OR** the owner or keeper detail of the vehicle is not identifiable via the DVLA and all other legitimate means of enforcement have failed.

   B). The vehicle is parked on a No Waiting restriction causing severe congestion and its immediate removal is the last option in the interest of public safety and other road users. Appendix A sets out the Shropshire Council’s Procedural Guidance for the Clamping & Removal of Vehicles. This Guidance is in line with the Department for Transport’s Operational Guidance to Local Authorities on this matter.

3. If this policy is approved, the procedure for the clamping and removal of vehicles will form part of the Highways Term Contract. A vehicle will be released on payment of the appropriate fees. For clamping, this will include payment of the original Penalty Charge Notice (PCN) and the Clamp Removal fee. Where removal and storage of the vehicle is involved in addition to the Penalty Charge Notice (PCN), there will be a towing fee and storage fees as applicable. The storage fees apply from midnight of the day the vehicle was removed, so it is in the interest of the owner or keeper of the vehicle to retrieve the vehicle as soon as possible.

4. The procedural guidance for Shropshire Parking Service to undertake clamping & removal of vehicles is set out in Appendix 1 of this report.
Delegated Authority for Decision making

5. It is recommended that the decision to clamp or tow a vehicle must be given by Shropshire Council’s Traffic Manager. This authorisation must be granted prior to any action being taken to commence the clamping or removal of a vehicle by any member of Shropshire Parking Services or any approved contractor.

Right to Appeal

6. As with any PCN, the owner/keeper of the vehicle has the right to appeal the PCN and to challenge the removal of the vehicle retrospectively. The procedure of how to do this will be set out within the removal documentation and displayed on Shropshire Council’s website: www.shropshire.gov.uk.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

DfT Operational Guidance to Local Authorities; Parking Policy & Enforcement; Traffic Management Act 2004.

Human Rights Act Appraisal
The recommendations contained in this report are compatible with the provisions of the Human Rights act 1998.

Environmental Appraisal
There are no environmental implications arising from this report.

Risk Management Appraisal
The policy seeks to protect highway users and local residents from vehicle owners who continue to park in contravention of local traffic regulations.

Community / Consultations Appraisal
West Mercia Police are being consulted on the contents of this report.

Cabinet Member
Martin Taylor-Smith

Local Member
N/A

Appendices
Appendix 1 Shropshire Council’s Procedural Guidance Clamping & Removal of Illegally Parked Vehicles.
Appendix 1

Shropshire Council’s Procedural Guidance

Clamping or Removal of Illegally Parked Vehicles

Shropshire Council will only use this procedure in limited circumstances such as where the same vehicle repeatedly breaks parking restrictions and it has not been possible to collect payment for penalties, primarily because the keeper is not registered, or is not properly registered, with the DVLA. Where a vehicle is causing a hazard or obstruction the enforcement authority should remove rather than clamp. Clamping /removal activity should only take place where it gives clear traffic management benefits.

(i) Shropshire Council’s Traffic Manager with advice from the Senior Civil Enforcement Officer (CEO) will consider each case on its merits. The Traffic Manager is the Officer with delegated responsibility for making the decision as to whether an offending vehicle will be clamped / removed.

(ii) In coming to this decision, the following factors will be considered:

- The inconvenience that immobilisation causes drivers;
- The potential obstruction or loss of parking space that results;
- The effect of immobilisation and removal on public perception and acceptance of CPE.
- The clamping and removal of a vehicle will not be favoured if it will cause disproportionate inconvenience and potential danger to vulnerable drivers, for example; it is very late at night.

(iii) Once the decision to clamp or remove has been granted, the following procedures must be followed by the CEO present;

(iv) When a vehicle is parked where parking is permitted, Shropshire Council will not clamp or remove in the first 30 minutes following the issuing of the PCN, with the exception of ‘persistent evader’ vehicles (see paragraphs (xvii) &-(xviii) below) where the time limit is 15 minutes.

(v) When a vehicle has been immobilised, a CEO must affix a notice to the driver’s side windscreen or door glass that says all of the following:

a. A clamping (immobilisation) device has been fitted;

b. No attempt should be made to drive the vehicle or otherwise put it in motion until it has been released from that device;

c. Specifying the steps to be taken in order to secure its release; and

d. Warning that unlawful removal of a clamping (immobilisation) device is an offence.
(vi) The clamping device may only be removed by or under the direction of a CEO following payment of the release fee and the penalty charge.

(vii) Where a vehicle is causing a hazard or obstruction, Shropshire Council will remove rather than clamp. If the vehicle is parked where parking is prohibited (such as on double yellow lines), then the vehicle can be removed as soon as a PCN has been served.

(viii) If a driver returns to the vehicle whilst clamping or removal is taking place, then, unless they are a persistent evader, it is recommended that the operation is halted, unless the clamp is secured or the vehicle has all its wheels aboard the tow truck. If clamping or removal is halted, the PCN should still be enforced.

(ix) When a vehicle is clamped and subsequently removed to the pound, the driver does not have to pay the clamp release fee.

(x) Where vehicles are removed, enforcement authorities should contact the West Mercia Police and advise them of the time, place, vehicle registration number, and pound to attend for retrieval so they can deal with queries from motorists who report their vehicle stolen.

(xi) Where a vehicle has been clamped or removed, an authority should seek to make it available to its owner immediately upon payment. In the case of clamp release, Shropshire Council will release a vehicle within 2 hours of payment being received.

(xii) On the release of a vehicle from a clamp or from the vehicle pound Shropshire Council will immediately inform the vehicle owner or person in charge of the vehicle about their right to make representations and their subsequent right to appeal against representations that are rejected. The vehicle will already have been issued a PCN that sets out the grounds on which representations can be made. This Notice about representations against the clamping or removal also gives full particulars of the grounds, procedure and time limit for representations.

(xiii) Storage charges will apply for each day or part of day, reckoned from 2400 midnight on the day following removal of a vehicle.

Special consideration for disabled badge holders and vehicles with diplomatic registration plates

(xiv) CEOs should be aware of special considerations in respect of valid Blue Badge holders and vehicles with diplomatic plates.
(xv) Vehicles displaying a valid Blue Badge must not be clamped and, as a general rule, should not be removed. In exceptional circumstances (for example, where a vehicle displaying a Blue Badge is causing a safety hazard), the vehicle should be moved to a safe spot nearby, where possible within sight of its original location. The authorities should not charge a removal fee for the relocation of vehicles displaying a Blue Badge. They should notify the police in case the owner reports the vehicle stolen.

(xvi) Diplomatic vehicles have registration plates marked with a D or an X, or have personalised plates composed of a country’s initials or an abbreviation of its full name. In general, diplomatic vehicles should not be clamped. The exception is for X registered vehicles which have been identified as persistent evaders. X registered vehicles can be removed but diplomatic vehicles with D or personalised plates that are causing an obstruction or danger should only be repositioned close by as an extreme measure.

**Persistent Evaders**

(xvii) Some vehicle owners contravene parking regulations deliberately and often, and fail to settle the debts they incur. A vehicle owner can be classed as a ‘persistent evader’ if there are three or more recorded contraventions for the vehicle and the PCNs for these have not been paid, represented against or appealed against within the statutory time limits, or their representations and appeals have been rejected but they have still not paid. Usually this is because the vehicle keeper is not registered, or is not correctly registered, on the DVLA database and the owner is confident that they can avoid paying any penalty charges. Shropshire Council will not treat a vehicle owner as a persistent evader unless bailiffs have failed to recoup the outstanding and unchallenged penalty charges. Where a vehicle appears to be registered in the UK, but the identity and address is not registered, or is not correctly registered on the DVLA database, Shropshire Council will consider making the information available to the police who can, if appropriate, investigate any criminal offence.

(xviii) When parked in contravention, a persistent evader’s vehicle should be subject to the strongest possible enforcement following the issue of the PCN and confirmation of persistent evader status. This is likely to involve clamping or removal. The benefit of removal is that it requires proof of ownership and a registered address before release of the vehicle, whereas clamping prevents law abiding motorists from using valuable kerb space. If a vehicle of a persistent evader is in a designated parking place, the Traffic Management Act (TMA) 2004 and regulations made under it prohibit an enforcement authority from clamping or removing the vehicle until at least 15 minutes have elapsed following the issue of a PCN. Currently, under TMA regulations an authority can only obtain payment for the PCN of the contravention for which the vehicle is clamped or removed and not any other outstanding PCNs.