

**Decision maker:** Cabinet Members  
5<sup>th</sup> December 2011

**Subject:** New Policy:  
Storage of Non-Motor Vehicles and Structures on the Public Highway (Caravans, Trailers, Boats etc)

**Report by:** Head of Transport and Environment

**Wards affected:** All

**Key decision (over £250k):** No

**Budget & policy framework decision:** No

### 1. Purpose of report

To obtain Cabinet Members' approval of a new policy in relation to the storage of non-motor vehicles and structures (NMVS) on the public highway. NMVS means vehicles and structures such as caravans, trailers, boats, horse-boxes etc. that are unable to move by independent power means.

### 2. Recommendations

- 2.1 That the policy (see Appendix A) is accepted and adopted.
- 2.2 That the necessary council department and staff are identified to enforce the new policy, and an operational date is agreed.
- 2.3 That the new policy is publicised prior to commencement, for example in *Flagship* and/or *The News*, to inform people that non-motor vehicles and structures (NMVS) can no longer be stored on the public roads.
- 2.4 That any unrecovered costs of enforcing this policy be met from the Off Street Parking reserve. The costs have been forecast and are set out in the Head Of Finance Comments. This recommendation will require further approval from Council as this is expenditure from a reserve.

### 3. Background

- 3.1 The long-term storage of non-motor vehicles and structures such as caravans, trailers, boats etc is viewed by many residents as an unreasonable use of the public highway; one that exacerbates the existing parking problems. Parking space is effectively removed from use where NMVS are stored, and are not subject to road tax, MOT and insurance.

- 3.2 The report to Cabinet Members in April 2011 made the following recommendations, which have now been satisfied with this report and policy:
- a fully comprehensive report and policy is brought to Members by the end of Summer 2011, to include estimated costs, resources, operational mechanisms and legal aspects
  - a policy with operational procedures is developed in relation to use of the public highway as a storage facility for non-motor vehicles and structures (NMVS), such as caravans, trailers, boats, horseboxes etc.
  - the policy uses relevant government legislation to empower the council to issue notices requiring NMVS to be removed from the public highway.
  - the policy enables the removal of NMVS by the local authority following failure to comply with a notice.
  - the policy details all procedures relating to the identification and communication of the offence, issue of notices, removal, storage, return and/or destruction.
- 3.3 The initial outlay costs of removing, storing and potentially destroying non-motor vehicles and structures (NMVS) will be borne by the council. A budget for the policy has not yet been identified.
- 3.4 In accordance with the policy, removed NMVS will only be returned to owners on payment of all charges incurred and proof of ownership. However, it is not possible at this time to detail how many NMVS owners will fail to comply with notices issued, resulting in removal and storage costs, nor how many will wish to reclaim their NMVS.
- 3.5 The information outlined in **Appendix C (Pages 5-6)** explains why other sections of the Highways Act 1980 were considered but discounted as a basis for the policy. These relate to deeming non-motor vehicles and structures as an “obstruction”: a term with proven difficulties and the requirement to involve a magistrates’ court.

#### 4. **Reasons for recommendations**

- 4.1 To be able to respond to complaints from customers:

Currently, an estimated 50 caravans, trailers and boats etc are stored on the public highway in Portsmouth. These are not subject to vehicle tax, insurance, MOT and/or permit requirements and therefore it is deemed unreasonable for them to be stored indefinitely on the public highway (preventing its use by others).

4.2 To provide a service to improve on-street parking opportunities across the city, and allow fairer use of the (often limited) space available

**5. Equality impact assessment (EIA)**

This report has undergone a preliminary equality impact assessment and there are no equality issues arising from this report.

**6. Head of legal services' comments**

The City Solicitor is satisfied that there are no legal implications arising at this time.

**7. Head of Finance's comments**

The costs of enforcing this new policy will be met from within existing service cash limits. It is not envisaged that this new policy will require additional resource.

The potential unrecovered costs of removal, storage and disposal have been estimated as an initial annual amount of £5,050.00. This amount is likely to reduce year on year as residents become aware of this new policy.

It is recommended that approval is sought via full council to fund this expenditure from the Off Street Reserve.

See **Appendix B (Page 4)** for a breakdown of removal and storage costs involved.

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Signed by:

**APPENDICES:**

**Appendix A** – Policy Document

**Appendix B (page 4)** – Removal and Storage Costs

**Appendix C (pages 5-6)** Further information on “obstructions” under the Highways Act

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

<b>Title of document</b>	<b>Location</b>
Policy and procedures for dealing with use of the public highway as a storage facility for non-motorised vehicles and structures	Business Admin, 4 <sup>th</sup> floor, Civic Offices
The Highways Act 1980	Freely available (libraries, internet)

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by:

## APPENDIX B – Removal and Storage Costs

It is anticipated that, in the majority of cases, the issue of a Notice will result in the NMVS' removal by its owner. Caravans and trailers can be high value items of personal property and therefore it is reasonable that these will be claimed by owners. (This policy does not relate to abandoned vehicles, which are dealt with separately).

However, where a NMVS is removed, stored then destroyed and an owner does not come forward, the local authority will bear the costs.

The Parking Section within the Transport & Environment Service currently operates contracts with a local vehicle recovery company and a vehicle disposal company. It is proposed to add to those contracts the removal of non-motor vehicles and structures (such as caravans and trailers), storage and disposal if required.

In the event that the contract no longer exists, a new contract would be required and appropriate service provider sought.

There is currently space in the Boarhunt compound for around 15 caravans (26ft), which would not affect the abandoned and untaxed vehicle operations.

### Caravans

#### 1. Existing contractor: Boarhunt Group Ltd

a) Removal from on-street location to compound -	Up to 26ft	£50.00
	Over 26ft	Individual costing required
b) Storage per week -	Up to 26ft	£60.00
	Over 26ft	Individual costing required

#### 2. Existing contractor: Silverlake Auto Parts Ltd

Collection from compound and disposal	Up to 26ft	£225.00
	Over 26ft	Individual costing required

The above examples:

1. A 15ft Caravan removed from street to compound and stored for 7 days **£110.00**

2. 15ft Caravan removed from on-street location to compound, stored for 14 days then destroyed **£395.00**

Scenario 1: The costs are to be paid by the owner prior to the caravan's release.

Scenario 2: The costs will fall to Portsmouth City Council if caravans are unclaimed and destroyed; there is no scrap value in caravans.

### Potential costs to Portsmouth City Council – Worst case scenario

It is estimated that there are currently 50 NMVS on the highways and notices will be served on all of these.

It is assumed that of these 30 will be removed by their owners and require no further action.

If 10 of these are removed and stored for 7 days (as per example 1.) the cost will be  $£110.00 \times 10 = £1,100.00$

If 10 of these are removed, and stored for 14 days and then destroyed ( as per example 2) the cost will be  $£395.00 \times 10 = £3,950.00$

**Therefore, it is estimated that the potential total cost of dealing with NMVS could potentially be a cost of £5,050 in year 1**

## **APPENDIX C: Further Information on “Obstructions” under the Highways Act 1980**

There are proven difficulties with deeming non-motor vehicles and structures, such as caravans and trailers, to be causing an “obstruction.” The scope for what is considered to be an obstruction and what is not can result in a grey area; something that this Policy seeks to avoid.

As example of this is when parking spaces are taken up with non-motor vehicles or structures. If the latter are deemed to be obstructions, then any vehicle taking its place afterwards must also be considered to be an obstruction.

The sections given below are part of the Highways Act 1980 that have been considered and discounted as unsuitable for the aims of this Policy. Under these sections, the Council is required to apply to a magistrates’ court for

(a) an order compelling the person responsible to remove the obstruction within a specified time, or

(b) authorisation to remove an obstruction directly and attempt to recover associated costs.

- Section 130 enables the Council to take action to assert and protect public rights:

*(1) It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.*

*(2) Any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it.*

*(3) Without prejudice to subsections (1) and (2) above, it is the duty of a council who are a highway authority to prevent, as far as possible, the stopping up or obstruction of—*

*(a) the highways for which they are the highway authority, and*

*(b) any highway for which they are not the highway authority, if, in their opinion, the stopping up or obstruction of that highway would be prejudicial to the interests of their area.*

*(4) Without prejudice to the foregoing provisions of this section, it is the duty of a local highway authority to prevent any unlawful encroachment on any roadside waste comprised in a highway for which they are the highway authority.*

*(5) Without prejudice to their powers under section 222 of the Local Government Act 1972, a council may, in the performance of their functions under the foregoing*

*provisions of this section, institute legal proceedings in their own name, defend any legal proceedings and generally take such steps as they deem expedient.*

- Section 137 (1) states:

*“If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale”.*

Further to this, a highway obstruction has been defined by the courts as ‘something which permanently or temporarily removes the whole or part of the highway from the public’s use altogether’.

- Section 137ZA details the power to remove an obstruction:

*(1) Where a person is convicted of an offence under section 137 above in respect of the obstruction of a highway and it appears to the court that -*

*(a) the obstruction is continuing, and*

*(b) it is in that person’s power to remove the cause of the obstruction,*

*the court may, in addition to or instead of imposing any punishment, order him to take, within such reasonable period as may be fixed by the order, such steps as may be specified in the order for removing the cause of the obstruction.*

- Section 149 (1) states:

*“If any thing is so deposited on a highway as to constitute a nuisance, the highway authority for the highway may by notice require the person who deposited there to remove it forthwith and if he fails to comply with the notice the authority may make a complaint to a magistrates’ court for a removal and disposal order under this section.*