

CITY SERVICES - ENFORCEMENT DIVISION

Operational Policy Subject: **Nuisance Vehicles –
Vehicles For Sale on the Highway**

Approved By:

Date: **December 2006**

Version number: **1**

Version revised by: **Stacey Campbell**

1. Scope

- 1.1 This policy refers to vehicles placed on the Highway and advertised for sale. This includes any vehicle displaying signs that name an individual or business; or displays notices intended to sell the vehicle. A public highway includes footpaths and adjacent verges as well as the road itself. The policy is aimed at those who attempt to profit from selling numbers of vehicles.
- 1.2 This policy is not intended for individuals who legitimately attempt to sell their own vehicle near their home address or during their daily activities. However action may need to be taken where a hotspot area occurs, i.e. where vehicles are persistently parked on a particular area within the city but cannot be all traced back to one individual or business, or where an individual is buying and selling vehicles for gain.
- 1.3 Vehicles for commercial sale on private land will require the necessary planning permission.

2. Objective

- 2.1 To seek an improvement in the visual street environment by ridding the highway of commercial obstructions that prevent proper maintenance and cleaning of the highway. To prevent annoyance occurring to residents of the City from nuisance vehicles. To reduce vehicle crime by tackling unroadworthy vehicles. To ensure that powers contained within the legislation to tackle vehicles for sale upon the Highway are applied fairly and consistently. To reduce consumer offences caused by sale of vehicles with minimal details and no link to business premises, providing little recourse for the public.
- 2.2 It is not intended to target the individual trying to sell the “family car”, but to tackle the nuisance caused by the presence of numbers of vehicles offered for sale by the same person or business.

3. Link to Council Plan

- 3.1 Ensuring that “all neighbourhoods are safe, clean, green and well maintained” and that “all communities are thriving and harmonious places where people are happy to

live” are two of the five priorities for the Council Plan. Improving the physical appearance and condition of the streets and immediate surroundings to improve quality of life helps support this aim.

- 3.2 This Policy contributes to The Vision for Leeds 2004-2020 to make Leeds an internationally competitive city and the best place in the country to live, work and learn, with a high quality of life for everyone.

4. Application of the Environmental Enforcement Policy

- 4.1 “Paragraph 5.1.1 – Statutory Notices shall be served to require offenders to cease contravening activities or give an offender reasonable time to rectify a contravention”.
- 4.1 “Paragraph 5.2.1 – Fixed Penalty Notices will be issued under specific legislation”.
- 4.2 “Paragraph 5.3.- Prosecution” and “par 5.3.4/5.3.5 - Failure to comply with lawful requirements” and history of non-compliance apply to the problem of nuisance vehicles. Legal action will therefore be taken when there is a breach of legislation following a warning or non compliance with a Fixed Penalty Notice.

5. Legislation

- 5.1 Section 131 of the Highways Act 1980 “If a person, without lawful authority or excuse, deposits anything whatsoever on a highway so as to damage the highway is guilty of an offence”.
- 5.2 Section 137(1) the Highways Act 1980 “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”.
- 5.3 Section 147A of the Highways Act 1980 “No person shall, for the purpose of selling anything or offering or exposing anything for sale, use any stall or similar structure or any container or vehicle, kept or placed on the verge of a trunk road or a principal road, a lay by on any such road or unenclosed land within 15 metres of any part of any such road.
- 5.4 Section 148 of the Highways Act 1980 “If, without lawful authority or excuse, a person deposits whatsoever on a Highway to the interruption of any user of the Highway, he is guilty of an offence”.
- 5.4 Section 149 of the Highways Act 1980 “If any thing is so deposited on a highway as to constitute a nuisance, a Highway Authority may by way of a notice require a person who deposited it there to remove it forthwith”.
- 5.5 Part 2(3) of the Clean Neighbourhoods and Environment Act 2005 Exposing vehicles for sale on a road “ (1) A person is guilty of an offence if at any time- (a) he leaves two or more motor vehicles parked within 500 metres of each other on a road or roads where they are exposed or advertised for sale, or (b) he causes two or more motor vehicles to be so left.
- 5.6 Local Government (Miscellaneous Provisions) Act 1976. “Section 7 (1) of this Act gives an authorised officer of the Highways Authority power to specify a highway,

through a control order, whereupon any person is prohibited from 'selling' or 'offer to expose anything for sale' on the designated highway.

- 5.7 Section 222 – Local Government Act 1972 – This Act gives local authorities the right to institute civil proceedings in their own name to promote or protect the rights of the inhabitants of their area and prohibit a person from continuing to be a public nuisance.

6.0 Policy

- 6.1 Selling vehicles on the highway will only be pursued as an offence where it is conducted by people who run a business, selling motor vehicles or make a profit from selling motor vehicles and use the road as a mock showroom. This behaviour is unfair to local residents who are thereby deprived of using the road themselves to park vehicles and go about their daily lives. Some garages and businesses place cars for sale, for an extended period, on the street. This can cause a significant nuisance to local residents and takes up valuable car parking spaces.

- 6.2 There are usually four circumstances that arise around vehicles for sale:-

- i. Legitimate individual private sellers of single vehicles
- ii. Overspill from commercial garage premises
- iii. Individuals obtaining vehicles from sources such as motor auctions and turnover said vehicles for profit
- iv. Hotspot areas occurring from numerous vehicles being sold at prominent locations in the city, usually a verge or wide footpath on an arterial route near a junction. The sources of these vehicles may be individuals or businesses.

- 6.3 Section 3 of the Clean Neighbourhoods & Environment Act 2005 describes an immediate offence of two or more vehicles being offered for sale less than 500m apart, for the purposes of a business.

- 6.4 Upon receipt of a complaint, an officer will visit the site, note the vehicle details, registration number and the sale details, including any phone numbers, signs or logos. Checks will be subsequently conducted to ascertain the vehicle owner, including registration checks with the DVLA. This information will be shared with other relevant enforcement agencies including Trading Standards and West Yorkshire Police, who may also undertake separate action.

- 6.5 Once these checks have been undertaken, if the circumstances fall under categories ii, iii or iv above, and it is in breach of section 3 of the CNEA, the offender will be prosecuted. (It is recognised that, very rarely, a private individual may at one time or another have more than one car to sell and decide to offer them by parking them close together on a road.) The offence carries a maximum penalty of £2500. The offender will normally be given the opportunity to discharge the offence by payment of a fixed penalty notice of £100, although in unusual circumstances the FPN may not be offered. A separate offence takes place on each day.

- 6.6 If the vehicles are more than 500m apart, or are single vehicles and fall under categories iii or iv above, appropriate investigations will be carried out to ascertain who is responsible for the vehicle.

- 6.7 During the investigation, if checks show that the registered keeper of a single vehicle has legitimately parked the vehicle outside their property, no further action is required. Where the vehicle is not outside the property, but the officer is satisfied that the owner is genuinely driving the vehicle pending the sale and has parked for example in a car park, no further action is required. Where the vehicle is parked away from the property and in what is seen to be a “selling position”, such as on grass near a road junction, the owner will be requested to remove it. Vehicles which have no registered keeper, or whose keeper sold it on to a third party will be treated as for commercial sale.
- 6.8 Vehicles requiring enforcement action will have a Highways Act notice, printed on yellow sticky backed plastic, applied to the windscreen. This Notice requires removal of the vehicle. Records will be maintained of who has received notices to cease selling vehicles.
- 6.9 Injunctions may be sought against repeat offenders, taking into account any previous history. Costs of such legal action will be sought.
- 6.10 Where hotspot areas occur in the City (6.2 iv) and any action taken under the above fails to resolve the issue, action may be taken under the Local Government Act 1982 which would prohibit the sale of any goods on the specific Highway without Council consent.
- 6.11 Any vehicles placed on the Highway that are untaxed will be removed immediately (subject to authorisation), using the DVLA devolved powers (VED Immobilisation and Disposal of Vehicles Regulations). The vehicle owner will then have an opportunity to claim back their vehicle subject to the DVLA procedure, upon which the details will be used for investigation into the original offence of placing the vehicle for sale on the Highway.