

Appendix A

Examples where the current enforcement approach is limited

Persistent Evaders

Under the Traffic Management Act 2004 (TMA) a Persistent Evader is classified as "If there are three or more recorded contraventions for the vehicle and the penalties 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".

There are powers within the TMA to deal with persistent evaders but this legislation requires the offending vehicle to be in contravention at the time of action. This means a PCN must be on the vehicle windscreen and only this PCN can be recovered.

If the offending vehicle has a name and address registered with the DVLA, after 4-6 months a Warrant of Control is obtained by the district/borough council and enforcement agents are used to recover the debt. Currently, enforcement agents must collect any outstanding debt within one year of a warrant being issued, after which, the debt has to be 'written off' or the process starts all over again. Unfortunately, there are limitations on the powers that they can use, in that they are unable to seize a vehicle that is subject to a hire purchase agreement, parked on another's property (e.g. even within a council car park) or where the vehicle is a 'tool of the trade' (e.g. a taxi, ice cream van or tradesperson's van).

Subsequently, some motorists may 'hide' their vehicle away from their home address, not answer their door and/or place their vehicles in locations where they are unable to be seized from e.g. council car parks. They continue to do this until the warrant is expired. These vehicles, which are normally low value and considered disposable by the owners, may continue to park with relative impunity as long as they can avoid the enforcement agents collecting the debt on behalf of the district/borough council. They are not paying for their parking (and often receiving further PCNs) and/or using a space that may genuinely be needed by another road user. It is mainly these vehicle owners that would be classed as persistent evaders.

It is estimated that around 75 percent of debts accrued by persistent evaders are written off (source: British Parking Association). In addition, there are many thousands of cases that never even reach the debt collection stage because there is no (or incorrect/incomplete) keeper information with the DVLA. In these cases, a Notice to Owner cannot even be sent. Although this results in a significant cost to the County Council as well as district/borough councils, of even greater importance is the fact that, because the DVLA are unable to provide accurate keeper details, the drivers of these vehicles are able to exploit this loophole and continue to park unlawfully, and in many cases avoid paying road tax, insurance

and may not have a MOT. These drivers may be more likely to run a red light, speed, drive dangerously and be a danger to others, as they cannot easily be traced. They may also be involved in other criminal activities.

In West Sussex, the scale of the persistent evader problem (on and off-street combined) is as follows:

| Area | Number of Persistent Evaders 2019-2020 | Number of outstanding PCNs 2019-2020 | Value of outstanding PCNs 2019-2020 |
|---------------|---|---|--|
| Arun | Unknown | Unknown | Unknown |
| Chichester | 116 | 678 | £61,768 |
| Crawley | 100 | 565 | £54,207 |
| Horsham | 189 | 633 | £63,064 |
| Mid Sussex | 72 | 489 | £41,789 |
| Worthing/Adur | 258 | 1,848 | £179,250 |
| Total | 735 | 4213 | £400,078 |

Contravening the Blue Badge Scheme

There are several ways in which Blue Badges can be misused. These include:

- Copied or Counterfeit Badges
- Expired or Expired / Altered Badges
- The Badge Holder is deceased
- The Badge has been reported lost or stolen
- The Badge has been cancelled by the Issuing Authority
- Abuse of a valid badge has been clearly established
- In the case of an Organisational Badge - the Organisation ceases to exist

Currently, Blue Badge Investigators are employed by the County Council to detect and investigate misuse on specific action days, which will likely involve checking Blue Badges in use and where misuse is suspected, retaining badges for further investigation and possible legal action.

Civil Enforcement Officers (CEOs) working on behalf of a district/borough council can also retain a Blue Badge if the holder has had a relevant conviction for misuse. They can also request the return of a badge if they are satisfied that it was falsely obtained.

In both of these cases, the enforcement approach relies upon the vehicle owner and/or passenger being present in order for the badge to be inspected and potentially withdrawn. In circumstances where a vehicle displaying a fraudulent badge has been left unattended, there is no action that can be taken until the owner and/or passenger has returned to the vehicle. In a pay and display or limited waiting bay for example, a vehicle could potentially be left unattended all day as the time restrictions do not apply to Blue Badge holders.

Fraudulent Use of On-Street Parking Permits or Pay & Display Tickets

A similar scenario to that for Blue Badges exists in cases of:

- Copied or Hybrid or Wholly Counterfeit permits or tickets
- Expired and or Expired/Altered permits or tickets
- Permits reported lost or stolen
- Permits cancelled by the Issuing Authority
- Abuse being clearly established
- In the case of a Business Permit - the business ceases to exist

Despite a contravention being established, the current enforcement approach only allows for the issue of a PCN and relies on the vehicle owner and/or passenger being present in order for the permit/ticket to be inspected and potentially withdrawn. In the meantime, other genuine users are prevented from using that on-street parking space.

Abandoned and Untaxed Vehicles

A vehicle is normally considered abandoned when it is untaxed or has a Statutory Off Road Notification (SORN) on public land or it is taxed but not moved for four weeks. Abandoned vehicles often appear un-roadworthy or damaged and are usually not insured or have a current MOT. In many cases, they can cause a nuisance by obstructing roads, traffic and pedestrians and can also degrade the quality of local environments by attracting acts of vandalism and criminal damage, including vehicle arson, and diverting money from local services. Some of the vehicles may have also incurred a number of PCNs and are classified as a persistent evader under the TMA.

The County Council, District and Borough Councils and Sussex Police have formed a partnership called Operation Crackdown for reporting and swiftly dealing with abandoned vehicles in West Sussex. A countywide contract for the removal and disposal of abandoned vehicles has also been procured. When a report of an abandoned vehicle is received the details are entered onto the Operation Crackdown database and directed via the Sussex Police Hub to the relevant district or borough council for action.

Unfortunately, Operation Crackdown does not cover vehicles that are solely untaxed, of which it is estimated there are currently 22,000 in West Sussex. These are different to abandoned vehicles in that they may still be roadworthy and in constant use. The only body that has the power to remove these vehicles is the DVLA through their contractors.

The DVLA currently collects around £6 billion a year in Vehicle Excise Duty (VED) but VED evasion has risen from 0.6% to 1.8% over the last 6 years, equating to a potential loss of £107 million to the Exchequer. In addition to a new national wheel clamping contract launched in November 2018, the Secretary of State has now sanctioned the devolvement of DVLA enforcement powers to local authorities to help tackle VED evasion. The DVLA and local authorities can then work in partnership to remove unlicensed vehicles from the roads. Currently 48 local authorities and 33 police services have taken on these devolved powers and nearly 40,000 vehicles have been enforced against in the last 12 months by devolved power partners.

If West Sussex were to seek these devolved powers to remove such vehicles, it would first be required to seek a letter of assignment from the DVLA. The DVLA would then work with each district and borough council to implement the necessary training and processes etc.

Vehicles Causing a Hazard or Obstruction

There are often cases where a vehicle is parked in contravention (i.e. on yellow lines) and in a way that is also dangerous to other road users and/or impacts upon access for emergency service vehicles. Currently, although a PCN can be issued, there is little other action that can be taken by a CEO apart from notifying Sussex Police. Accordingly, the vehicle remains in situ and still causing a hazard.

In recent months, this issue has become more prevalent in coastal areas or popular tourist locations in West Sussex as parking activity has been impacted by Covid-19 restrictions. It has become apparent that many drivers are prepared to risk parking their vehicles dangerously on an existing restriction and accepting that rather than have the vehicle moved, they will just receive a PCN, which will be discounted to £35 if paid within 14 days.

There are also cases where vehicles may be parked on lengths of road where access is required for essential works e.g. highways maintenance. Here, a PCN can only be issued if the works are being done under a valid Temporary TRO which includes a temporary parking restriction, but the vehicle can not be moved. The only available recourse is to contact Sussex Police but in the meantime, the vehicle remains in situ and prevents works from being undertaken.

