

To: COMMUNITIES, HOUSING & PLANNING POLICY BOARD

On: 21 AUGUST 2018

Report by: DIRECTOR OF COMMUNITIES, HOUSING & PLANNING SERVICES

**Heading: CONSULTATION ON CHARGES FOR THE REMOVAL, STORAGE
AND DISPOSAL OF VEHICLES**

1. SUMMARY

- 1.1. On 14 May 2018 the Scottish Government opened a consultation regarding possible charges for the removal, storage and disposal of vehicles. The closing date for the consultation was 6 August 2018. It was not possible to secure an extension of this closing date to allow the Board the opportunity to consider a response prior to submission. A response was therefore submitted on behalf of the Council by the due date and is now attached for the homologation of the Communities, Housing & Planning Policy Board.
- 1.2 The consultation document sought views on proposed changes to the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Amendment (Scotland) Regulations 2005 and the Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005. The aim of the changes being to put in place revised charges that would apply when either Police Scotland or local authorities invoke legislative powers to remove, store or dispose of vehicles.
- 1.3 The legislative position in relation to dealing with vehicles that require to be removed because they are causing an obstruction or appear abandoned is complex. Renfrewshire Council also currently remove vehicles under the Refuse Disposal (Amenity) Act 1978 while the Removal and Disposal of Vehicles Regulations 1986 is also used in order to depollute and dispose of vehicles. The last review of charges for this type of work took place in 2005 and since then inflationary prices increases only have applied. The intention of the proposed charging matrix is not to profit from this activity, but to try and recover costs more effectively. The Scottish Government's proposed approach should also simplify the various cost structures that currently apply.

It is hoped that the new proposals will provide the public sector with one legislative framework and charging structure, making it easier for all agencies and the general public to follow.

- 1.4 Renfrewshire Council fully supports the proposals as outlined in the response to the consultation attached as Appendix 1
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2. RECOMMENDATIONS

- 2.1 It is recommended that the Communities, Housing & Planning Policy Board:
- (i) notes the consultation carried out by the Scottish Government on the charges for removal, storage and disposal of vehicles; and
 - (ii) homologates the Council's submitted consultation response as detailed in Appendix 1 to this report.
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3. BACKGROUND

Consultation on removal, storage and disposal of vehicles

- 3.1 The open consultation sought views on changes to the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) Amendment (Scotland) Regulations 2005. The proposed changes will revise charges in place when local authorities or Police Scotland use their legislative powers to remove, store or dispose of vehicles. Charges were last reviewed in 2005 and since then there have been significant changes in costs since the regulations were last reviewed. The Government also took the opportunity to consult on the introduction of a charging matrix approach rather than flat rate charges. This is an approach that has been in place for a number of years in England and Wales and varies the charge according to the weight and condition of the vehicle being recovered. The approach has been welcomed by insurance companies and recovery companies as applied in England and Wales, and their initial feedback would indicate that a more standardised approach across the UK would be welcomed – albeit that this is a devolved matter.
- 3.2 Removals ordered by the police are necessary in a number of situations including enforcing the law and to remove obstructions and potential dangers. Local authorities are also required to remove vehicles in some cases where they have become abandoned or are parked in contravention with the law.

Current statutory charges

- 3.3 In Scotland, there are currently three separate regulations which contain statutory charges for the removal and disposal of vehicles. It is important to note that these are the sums that must be levied, rather than maximum permissible charges.
- 3.4 The first set of regulations relate to the powers of removal contained within the Road Traffic Regulations Act 1984. The Removal, Storage and Disposal of

Vehicles (Prescribed Sums and Charges etc) Amendment (Scotland) Regulations 2005 sets the statutory charges as:

- Recovery: £150.00
- Storage: £20.00 per day
- Disposal: £150.00

3.5 The Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005 for the removal of vehicles being used in an antisocial manner have the statutory charges set at:

- Recovery: £105.00
- Storage: £12.00 per day

Current procedures in Renfrewshire for abandoned vehicles

3.6 Local Authorities in Scotland use the Refuse Disposal (Amenity) Act 1978 for any vehicle that is deemed to be abandoned on Council owned land. Under this legislation, if a vehicle is abandoned, a notice is served on the owner of the vehicle to remove within a prescribed timescale. If the vehicle is not removed by the owner, the Council will remove and dispose of the vehicle via an approved contractor.

3.7 In Renfrewshire the Council do not store vehicles, they are disposed of via an approved contractor. Due to difficulties with clarifying ownership and registered keepers of abandoned vehicles, Renfrewshire Council often finds itself in the position of not being able to charge anyone for the cost of removal and disposal of a vehicle.

Stakeholder suggestions for changes

3.8 The Scottish Government engaged with stakeholders during the development of the proposals and a number of issues were raised and considered:

- A menu system of charging (where an overall charge would be built up from different prescribed charges for the various elements of a removal operation – e.g. hours worked, miles travelled, equipment used etc). This option was not favoured by the Scottish Government as it removed legislative control over potential levied charges, and was viewed as an overly complex system for people to understand and work within.
- Consideration of a system that would allow for increased charges where a fatal accident has occurred, as recovery of this nature would be lengthy and evidence would have to be preserved.
- Development of a system that would take into consideration the type and nature of damage to the vehicle being recovered as this does legitimately affect the cost of removal – gear problems, ability to freewheel, etc.
- Consideration of additional travel costs applied for operators who have to travel further distances, particularly rural areas, or involving ferry travel to the islands.

- Closer alignment with the matrix system used in England and Wales, as while this is a devolved matter to Scotland, the haulage industry operate on a UK wide basis and having similar systems in place may be a useful approach.
- 3.9 In general the stakeholder suggestions for the proposed changes, have been helpful to reflect the issues being experienced across Scotland and the UK and have also assisted in determining what could be usefully applied in the Renfrewshire area.
- 3.10 Overall the proposals made by the Scottish Government are welcomed in the response submitted to the consultation on behalf of the Council. In general, the approach set out by the Government is therefore broadly agreed with, with a small number of suggestions made – for example to explicitly include a wider range in the definition of vehicle – including boats and caravans for example as well as motor vehicles – albeit that these should be covered in relation to the weight ranges specified in the proposed matrix.

Implications of the Report

1. **Financial** – None
 2. **HR & Organisational Development** – None
 3. **Community Planning** – Renfrewshire is well – by removing any vehicles that are deemed to be abandoned, the aesthetics of a community will be improved as well as the feeling of belonging as abandoned vehicles can attract anti-social behaviour.
 4. **Legal** - None
 5. **Property/Assets** - None
 6. **Information Technology** - None
 7. **Equality & Human Rights**
 8. **Health & Safety** – None
 9. **Procurement** – None
 10. **Risk** – None
 11. **Privacy Impact** – None
 12. **CoSLA Policy Position** – None
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List of Background Papers

Removal, Storage and Disposal of Vehicles Regulations Consultation Guidance

MC/OR
25 July 2018

Author: Oliver Reid, Head of Communities and Public Protection

Question 1

Q.1 Do you consider there should, as at present, be one flat rate charge for all removals ordered by the police or that there should be a number of different charges for different vehicle categories/incident scenarios Yes/No?

Comments

No - Renfrewshire Council feel that the matrix approach based on the system used in other parts of the UK would be more effective and more fair. Ideally this model should be used by all relevant Public Sector organisations / agencies including local authorities, superseding other legislation and charging frameworks currently available for the removal, storage and disposal of vehicles.

Different charges for different vehicle categories / Incident scenarios as outlined in the proposals are required to allow appropriate costs to be recovered.

The approach would make it easier for members of the public to understand as there would be a standard approach and structured consistent framework for applying charges regardless of the organisation carrying out the work and would also assist with procurement as this type of work is often subcontracted out.

The proposed matrix approach allows for each vehicle to be treated on its own merit. The location of the vehicle should also be taken into consideration i.e. it will cost less to remove a vehicle from the road than from a 20ft gorge.

Q.2 If you believe there should be one flat rate charge, on what do you think that should be based and what do you think it should be?

Comments

N/A

Q.3 Vehicles removed on police instructions must be released to their owner on payment of any prescribed charge. If no charge is prescribed, they must be released on demand free of charge. Do you think there are any types of police ordered removal for which no charge should be prescribed?

Comments

Vehicles should be returned free of charge where there is no prior notice/signage in place due to an evolving emergency situation requiring the removal of a vehicle or where other extreme circumstances can be evidenced.

Q.4 Under the Scottish Government's proposals, as set out in **ANNEX E**, the regulations would prescribe different charges for different vehicle categories and incident scenarios. Do you agree with the current categories and scenarios? If not, what factors do you think should be taken into account in deciding those scenarios (e.g., type of vehicle to be removed, vehicle condition, vehicle position including whether or not upright, geographical location, nature and state of any load)?

Comments

Yes - agree with approach. Although covered by weight it is also suggested that certain non-motorised non-standard vehicle types are specifically included in the definition of vehicles that might be required to be moved – for example boats and caravans, as this is something the Council has had to deal with in recent years.

Q.5 The Scottish Government's proposals, as set out in **ANNEX E**, include allowing for more to be charged for a recovery of a vehicle that is not upright or is "significantly damaged". Do you agree with this approach, and with the Scottish Government's definition of "significant damage"? If not, what alternative approach would you suggest?

Comments

Yes - Agree with approach

Q.6. If you do not agree with the charges suggested by the Scottish Government, what charges would you suggest and on what would you base these?

Comments

N/A

Q.7 If you do not think it practical to identify satisfactorily all the broad scenarios that might be encountered, would you prefer that no charge were prescribed or that there should be a charge "for all other cases"? If the latter, what do you think this should be?

Comments

There should be the opportunity to make exceptional charges in one off circumstances where it can be demonstrated that the matrix approach does not reflect the circumstances of the incident or vehicle being recovered. In these cases the charge should be based on the actual cost of removal and storage.

Q.8 Do you think the prescribed charges should take into account the fees recovery operators pay to belong to management schemes, or charges that are not paid, or any special requirements made of operators by the police? Are there other factors to consider, and if so how do you feel they should be reflected in charges?

Comments

As above – Q7

Q.9 Do you think there any unintended consequences of the Scottish Government's proposals or other factors not currently taken into account?

Comments

No

Q.10 Should any prescribed charges be increased annually based on inflation (bearing in mind that this will require a Scottish statutory instrument to be prepared each year), or should the regulation be reviewed at specified times such as every 3 or 5 years?

Comments

The charges should be subject to review and amendment every 3 years.

Q.11 Are there any factors the Scottish Government should take into account to reflect on the experiences of the matrix system that has been operating in England and Wales since 2008?

Comments

No comment