

**Agenda Item No:**

**Report No:**

**Report Title: Abandoned Trolleys - Adoption of Enforcement Powers**

**Report To: Cabinet**

**Date: 17 October 2007**

**Lead Councillor: Cllr D Gray and Cllr E Collicot**

**Ward(s) Affected: All**

**Report By: Director of Finance & Community Services**

**Contact Officer(s): Owen Clifford, Community Services Manager**

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**Purpose of Report:**

To seek a resolution from Cabinet that will enable authorised officers of the Council to (i) seize, store and dispose of abandoned shopping trolleys and (ii) charge the owners of such trolleys a set fee for their return.

**Officers Recommendation(s):**

- 1 That Cabinet resolves that Schedule 4 of the Environmental Protection Act 1990 as amended by section 99 of the Clean Neighbourhoods & Environment Act 2005 shall apply to the District of Lewes and come into force on 10 February 2008.
- 2 That Council be recommended to amend the Constitution so as to enable the Director of Planning and Environmental Services to implement and enforce the provisions of Schedule 4 of the Environmental Protection Act 1990 and section 99 of the Clean Neighbourhoods & Environment Act 2005 and to appoint authorised officers for this purpose.
- 3 That Cabinet approves the proposed charges as set out in paragraph 4.9 of the report.

**Reasons for Recommendations**

- 1 The abandonment of trolleys within Lewes district is a persistent and growing issue that requires significant officer time and cost to the Council to remedy as well as causing a nuisance to the local community and on occasion damage to the environment.
- 2 Section 99 and Schedule 4 of Environmental Protection Act 1990 (EPA) as amended by section 99 of the Clean Neighbourhoods & Environment Act 2005 (CNEA) provides local authorities with the power to charge the owners of abandoned trolleys for the costs associated with their retrieval, storage and return or disposal as appropriate
- 3 Cabinet must establish the appropriate charges to be made to owners and must set a commencement date for the new power, if adopted that is no less than 3 months from the date of the resolution.

## Information

### 4 Background

#### **Clean Neighbourhoods & Environment Act 2005 (CNEA)**

- 4.1 The Council adopted the majority of new powers contained within the CNEA primarily as part of the establishment of the Clean & Green team in 2006.
- 4.2 Section 99 of the CNEA was introduced on 1 April 2006 and has the effect of amending Schedule 4 to the EPA 1990. Taken together, these provisions enable a local authority to seize shopping and luggage trolleys that have been abandoned within its area and recover the removal, storage and disposal charges from the owners of those trolleys.

#### **Current Position**

- 4.3 The frequency and quantity and location of abandoned trolleys varies across the district. The Town of Lewes presents the most significant number of abandoned trolleys on a weekly basis. An average of 7-10 trolleys are abandoned weekly. Over half will appear on Council land. The Council's Community Ranger removes some 3-4 trolleys every week from the various ditches and watercourses on the Railway Land Local Nature Reserve.
- 4.4 The Street Wardens and Park Wardens also recover abandoned trolleys from other locations. All abandoned trolleys are then returned either directly to the owner or are stored at Southover House awaiting collection by the owner. During the period 1-14 September officers retrieved and returned 20 trolleys within Lewes Town.
- 4.5 Much officer time is expended on retrieving and storing and transporting abandoned trolleys. As well as the physical handling of abandoned trolleys there is an administrative impact of contacting owners and requesting them to collect the trolleys which may remain at Southover House for several weeks requiring the owner to be contacted on several occasions.

#### **Proposed Action**

- 4.6 As stated above, Schedule 4 of the EPA 1990 and section 99 of the CNEA 2005 enable local authorities to introduce a system of charging owners of abandoned trolleys for the seizure, removal and disposal of trolleys that appear to have been abandoned on any land in the open air within the district.

- 4.7** *Once a trolley has been seized/removed, the Council must notify the owner within 14 days of the fact that the trolley has been seized,* that it is being held in a particular place and that the Council intends to dispose of it (if it is not claimed) within a period of six weeks. If the trolley is claimed within that six week period, the owner is not entitled to have the trolley returned to him unless he pays to the Council, on demand, such charges as the Council requires. Those charges should be standard charges based on the average cost of dealing with abandoned trolleys within the Council's area. In setting those charges, the Council may take into account administrative costs, staff time, collection and delivery and the provision of storage space.
- 4.8** If the trolley remains unclaimed, then the Council can sell or otherwise dispose of the trolley (once the six weeks have expired) and re-charge the cost to the owner. This cost can be reclaimed as a debt in the County Court.
- 4.9** It is recommended the following standard charges are set and approved by Cabinet:
- £50 per trolley removed/stored by the Council and collected by the owner
  - £75 per trolley removed/stored by the Council and delivered by the Council to the owner

### **Consultation**

- 4.10** Section 99 of the EPA 1990 requires the Council to consult with local business that provide customer trolleys before adopting the new powers. Appendix A to this report includes a copy of the consultation letter sent on the 22 May 2007 to all identified business that provides trolleys for customer use within the Lewes district.
- 4.11** Appendix B represents the only response received to the consultation, a letter from Sainsbury's received on the 22 June 2007. Sainsbury's operate a supermarket at the Drove in Newhaven.
- 4.12** Sainsbury's would prefer the Council agreed local arrangements with their contractors to allow them to retrieve and collect abandoned trolleys emanating from their store as they feel it would reduce their costs and the burden placed upon the Council.
- 4.13** Officers experience is that Sainsbury's do not generate a significant number of abandoned trolleys within the Newhaven area, this may well be because of their out of town location resulting in the majority of customers traveling to the store by car or public transport.

**4.14** Whilst the Council retains the right to use its discretion in seeking to charge owners, it appears from experience to date that all owners of trolleys do not appear to have the arrangements in place that Sainsbury's purport to operate. A voluntary arrangement therefore would not resolve the issue in other parts of the district, particularly with in the town of Lewes where the problem appears to be most prevalent.

#### **Adopting Schedule 4 of the EPA 1990**

**4.15** If Cabinet adopts Schedule 4 of the EPA 1990 this would allow officers to more effectively deal with abandoned trolleys within the district. It would reduce the resource costs to the Council and may also act as a deterrent to trolley owners to encourage them to put in place more rigorous arrangements to prevent the unauthorized removal of trolleys from their premises.

**4.16** Officers would seize and remove any trolleys that are considered to be abandoned and store them whilst the identified owner is contacted and invited to collect them or agrees that the Council return the trolley to their premises. An invoice would then be sent to the owner for the required amount. Failure to pay could result in the Council taking action to recover the debt. The Council can also choose to sell or dispose of any uncollected trolleys that remain 6 weeks after the initial notification to the owner. The Council can also charge the trolley owner any costs for those trolleys that are disposed of less any income obtained.

**4.17** Any owner approached by the Council can dispute the demand for payment on the grounds that he was not the owner of the trolley at the time it was removed. Given that the vast majority of recovered abandoned trolleys are clearly displaying the owner's name, it is unlikely this will result in any significant challenges.

**4.18** Once Cabinet has resolved to adopt the provisions of Schedule 4, the Council is required to publicise the passing of the resolution in the local press. Section 99 of the EPA 1990 stipulates that Schedule 4 cannot come in to force before the expiration of 3 months from the date of the making of the resolution which in this case is 10 February 2008.

**4.19** Section 99 of the EPA 1990 requires local authorities which have adopted Schedule 4 to review the situation "from time to time" in terms of the effectiveness of the use of the powers and the levels of charges set. This includes consultation with trolley owners

#### **Financial Implications**

**4.20** The aim of the new powers, (as with much of the CNEA 2005) is to principally bring about a change in behaviour and attitude towards issues that affect the environment and local quality of life as opposed to being a form of revenue generation and/or punitive enforcement.

**4.21** The income collected in the first full year of operation could be in the order of £18,000 if trolley owners failed to implement more secure systems at their stores, or make their own arrangements for prompt collection.

**4.22** Any income received by the Council would offset the cost of the Clean and Green service. Ideally we would wish to reach a position where no income was collected, the number of trolleys dumped is a minimum and that owners make arrangements for prompt collection.

## **5 Environmental Implications**

I have completed the Environmental Implications Questionnaire and there are significant positive effects as a result of adopting these recommendations:

- Adoption of Schedule 4 of the EPA 1990 will have a positive impact of improving the environment and local quality of life.

## **6 Risk Management Implications**

I have completed the Risk Management questionnaire and there are no identified risks arising.

## **7 Background Papers**

Clean Neighbourhoods & Environment Act 2005 Final Guidance

## **8 Appendices**

Appendix 1 - Consultation Letter

Appendix 2 - Consultation Response from Sainsbury's