

REPORT TO: Executive Board Sub Committee
DATE: 1st April 2011
REPORTING OFFICER: Strategic Director – Environment and Economy
SUBJECT: Abandoned Shopping Trolley Policy
WARD(S): Borough-wide

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to make recommendations with regard to the adoption of legislative powers, and a new Council policy, in respect of abandoned shopping trolleys.

2.0 RECOMMENDED: That;

- 1. the Executive Board Sub Committee endorse the adoption of the draft Abandoned Shopping Trolley Policy set out in this report; and**
- 2. the Council be recommended:**

2.1.1 To adopt of Section 99 Schedule 4 of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005) on 1st August 2011;

2.1.2 To adopt the draft Abandoned Shopping Trolley Policy set out in this report;

2.1.3 The Strategic Director – Communities be authorised to determine all matters relating to abandoned shopping trolleys, including the fixing of charges for the purposes of Schedule 4 of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005);

2.1.4 The Strategic Director – Communities be given the power to authorise suitable individuals to enforce compliance with the Abandoned Shopping Trolley Policy throughout the Borough.

3.0 BACKGROUND INFORMATION

- 3.1 At their meeting of 16th March 2011, Members of the Environment and Urban Renewal Policy and Performance Board considered a report that set out proposals to adopt new powers, and a new Council policy, in relation to abandoned shopping trolleys. Members of the Board subsequently endorsed the proposals contained within the report and made recommendations that the Executive Board Sub Committee approve the adoption of the draft Abandoned Shopping Trolley Policy, and that recommendations should be made to the Council in respect of the adoption of legislative powers relating to abandoned shopping trolleys. The details of the legislative powers are set out within this report and a copy of the draft Abandoned Shopping Trolley Policy is attached as Appendix 1.
- 3.2 Schedule 4 of the Environmental Protection Act 1990, as originally enacted, was adopted by the Council in 1991. This dealt with the problem of abandoned shopping (and luggage) trolleys. In this borough there is no problem with abandoned luggage trolleys but the legislation deals with both issues.
- 3.3 The Clean Neighbourhoods and Environment Act 2005 amended the 1990 Act and introduced a new system to replace the old rules. To apply the new legislation the Council must adopt the legislation (as amended) again.
- 3.4 Section 99 and Schedule 4 of the Environmental Protection Act 1990 (as amended by The Clean Neighbourhoods and Environment Act 2005) allows local authorities to recharge for costs incurred as a result of dealing with abandoned shopping trolleys. The problem with the existing provisions is that if owners do not wish to reclaim their trolleys, e.g. if they are damaged, the Council cannot reclaim the cost of recovering the trolley. The new legislation contains a more realistic recharging mechanism with the Council able to serve notice on the owner of abandoned shopping trolleys and secure payment in default of compliance with the Council's policy.
- 3.5 Should the Council resolve to adopt the new legislation a Public Notice will be placed in the local press in accordance with section 99 of the Environmental Protection Act 1990. The Notice will outline the general effect of the legislation and state the date when it will come into effect (This is intended to be 1st August 2011). The resolution would specify a date which must not be before the expiration of three months beginning on the day on which the resolution is passed by Full Council.
- 3.6 It is therefore recommended that the draft Abandoned Shopping Trolley Policy be adopted to help improve the procedures for dealing with abandoned shopping trolleys and to ensure that the owners of trolleys can be recharged the full costs incurred by the Council in the seizure, removal, storage and return of each trolley that it may be required to deal with.

4.0 SUPPORTING INFORMATION

- 4.1 The intention of the draft policy is to reduce the number of trolleys abandoned in the borough's shopping areas, residential estates and open spaces. It is hoped that the introduction of the charges will provide a strong deterrent effect encouraging supermarkets and retail outlets whose trolleys are used in this manner to employ methods to prevent trolleys being taken "off site" or from being left uncollected within neighbourhoods for any period of time to reduce the problem. It is also hoped that where trolleys were abandoned, the introduction of efficient reporting and collection arrangements will lead to their swifter removal. A draft Abandoned Shopping Trolley Policy is set out in Appendix 1.
- 4.2 Schedule 4 of the Environmental Protection Act 1990 permits local authorities to enter into agreements with local retailers, in which the retailers undertake (either directly or via a specialist company) to collect all abandoned trolleys notified within a specified period of time. It is important to work in partnership with the local retailers to tackle problems as and when they occur and to this end local retailers will have the option to enter into a voluntary protocol whereby they would be notified of the location of abandoned trolleys and given a period of time to collect them prior to Council intervention. Failure by any retailer to comply with an agreed voluntary protocol would result in the Authority enacting its powers under the new legislation.
- 4.3 In February 2011, local supermarkets and their headquarters were consulted and provided with the opportunity to comment on the Council's proposals for dealing with abandoned shopping trolleys, the charging arrangements and the option to enter into a voluntary protocol. Following the consultation, the Council received the following responses;
- 4.3.1 Asda use a third party (Trolleywise) to collect all of their stolen/abandoned trolleys. Trolleywise, who have national contracts with Asda and Iceland, contacted the Council and commented regarding the short response times for collecting shopping trolleys. Trolleywise are to carry out an assessment of the relevant stores in Widnes and Runcorn, after which they will meet with Council officers to discuss their proposed arrangements.
- 4.3.2 Aldi indicated that it may not be possible for them to meet the removal timeframes and requested an additional 'grace' period be allowed for them to collect trolleys.
- 4.3.3 Morrisons have indicated that they wish to agree a voluntary protocol to recover trolleys.
- 4.4 There are no providers of luggage trolleys in Halton and therefore no further consultation was necessary.

5.0 FINANCIAL IMPLICATIONS

- 5.1 Actual costs incurred by the Authority will be recharged to the owners of abandoned shopping trolleys and therefore there are no financial implications as a result of the proposals contained within this report.

6. POLICY IMPLICATIONS

- 6.1 This report will result in a new draft Abandoned Shopping Trolley Policy, the objectives of which are to;

6.1.1 Remedy the current deficiencies associated with the removal of abandoned shopping trolleys and allow the Council to seize, store and dispose of abandoned shopping trolleys, and to recover the costs from the owner of the trolley as a debt

6.1.2 Remove the blight on the quality of the local environment, or harm to the wildlife or creating a flood hazard in a water course.

6.1.3 Remove obstructions caused by discarded trolleys, preventing harm to pedestrians and motorists.

6.1.4 Avoid trolley losses and ensure a swift retrieval before damage occurs.

7. OTHER IMPLICATIONS

- 7.1 The adoption of the policy and legislative powers will enable more effective use of the Council's resources and help improve the visual aspect of the Town Centers and residential areas.

- 7.2 The Council, as the Highway Authority, has a legal duty to ensure that the public highway is free from illegal obstructions and this policy assists the Council in discharging its duty. Failure of the Authority to take appropriate action under the Highways Act may render it liable to legal action.

8. IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

8.1 Children and Young People in Halton

No direct impact

8.2 Employment, Learning and Skills in Halton

No direct impact

8.3 A Healthy Halton

No direct impact, but the Policy will contribute towards for improving the environment and the appearance of the borough and shall have an overall beneficial affect on well-being.

8.4 A Safer Halton

The adoption of regulations on shopping trolleys will make supermarkets more responsible for their equipment, and will significantly reduce the potential hazards encountered by individuals as a result of discarded trolleys. This will have a positive impact upon the Safer Halton Priority, and contribute towards the 'Cleaner, Greener, Safer' agenda.

8.5 Halton's Urban Renewal

No direct impact, but the policy will help to promote a positive street scene and improve the visual appearance of the Runcorn and Widnes Town Centres and the surrounding environment and help make the borough a more attractive location for investment.

9.0 RISK ANALYSIS

9.1 Failure to maintain an up to date and fit for purpose Abandoned Shopping Trolley Policy could reduce the effectiveness of the Council's powers to deal with abandoned shopping trolleys and;

9.1.1 Result in a reduced deterrent for retail outlets to take measures to prevent shopping trolleys from escaping their store confines

9.1.2 Reduce the attractiveness of town centre and residential areas and result in increased dangers to members of the public

9.1.3 Result in unnecessary and increased costs being incurred by the Council to deal with abandoned shopping trolleys.

10.0 EQUALITY AND DIVERSITY ISSUES

10.1 The Policy is not intended to have either a positive or negative impact upon equality and diversity or apply differently to any particular group. The Waste and Environmental Improvement Division will continue to invite and seek feedback on its waste collection services and policies and will respond to any suggestion of differential impact.

11.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

11.1 Consultation letter sent on 2nd February 2011 to all supermarkets and retailers in Halton who offer the use of shopping trolleys to their customers, and replies received thereof.



DRAFT

ABANDONED SHOPPING TROLLEY POLICY

March 2011

1. INTRODUCTION

- 1.1 Abandoned shopping trolleys can have a detrimental affect upon the attractiveness and safety of an area. The Council has adopted different approaches to address this issue over a number of years, with varying degrees of success however, this anti-social behaviour has remained prevalent within many neighbourhoods across the Borough.
- 1.2 The Council has relied upon retailers to implement measures to prevent shopping trolleys from escaping the confines of their stores and upon their goodwill to collect their trolleys within a reasonable timescale upon notification. Although some good partnership working has existed, problems have remained in many areas and the Council needs to have in place a more comprehensive solution.
- 1.3 This document sets out the Council's Policy for dealing with abandoned shopping trolleys in Halton.

2. THE POWER TO SEIZE AND REMOVE ABANDONED SHOPPING TROLLEYS

- 2.1 Section 99 Schedule 4 of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005) allows local authorities to recharge for costs incurred as a result of dealing with abandoned shopping trolleys. This refers to trolleys that are seized and stored by the Council, with the whereabouts notified to the assumed owners.
- 2.2 If an owner claims the trolley, the Council must return the trolley to the owner but is entitled to make a charge for all costs associated with this procedure. If the owner does not claim or refuses to accept delivery of the trolley, after six weeks, the Council is entitled to dispose of said trolley and recovers the associated costs form the owner. These costs may be recovered as a debt.
- 2.3 A shopping trolley is defined as, '*A trolley provided by the owner of a shop to customers to enable them to carry goods purchased at the shop*'. This definition excludes power-assisted trolleys. The powers in the Clean Neighbourhoods & Environment Act 2005 apply to trolleys in any condition, and therefore may be used in relation to unserviceable trolleys and trolley parts.

3. RECOVERY OF ABANDONED SHOPPING TROLLEYS

Voluntary Protocol – Store Recovery

- 3.1 The Council's approach to dealing with abandoned shopping trolleys is to work with local retailers to prevent the escape of trolleys, rather than their recovery afterwards. It is not the Council's preferred choice to seize shopping trolleys but rather that the relevant store be notified of a report of an abandoned trolley and that a response is made for its removal within a reasonable timescale.

- 3.2 Schedule 4 of the Environmental Protection Act 1990 permits local authorities to enter into agreements with local retailers, in which the retailers undertake (either directly or via a specialist company) to collect all abandoned trolleys notified within a specified period of time. Retailers will have the opportunity to enter into a voluntary protocol whereby they would be notified of the location of abandoned trolleys and given a period of time to collect them prior to Council intervention. The Council has determined that in the interests of community safety an abandoned shopping trolley dealt with through a voluntary protocol should be removed by the responsible owner as follows;
- 3.2.1 An abandoned shopping trolley reported to a store by 12 noon should be removed by 5.00pm that day.
- 3.2.2 An abandoned shopping trolley reported to a store after 12 noon should be removed by 12 noon the following day.
- 3.3 The store is required to notify the Council that an abandoned trolley has been removed. Should the store fail to notify the Council and subsequent checks are required to ascertain that removal has taken place the store may be recharged for the costs incurred by the Council.

Council Recovery

- 3.4 The Council will take all reasonable steps to ensure that trolleys identified for removal by a local store are collected. However, the Council will enact its powers under legislation and arrange for the seizure of abandoned shopping trolleys in the following circumstances;
- 3.4.1 Should a trolley be identified as belonging to a store that has not signed up to a voluntary protocol with the Council,
- 3.4.2 Should a store fail to adhere to the commitments it made in a voluntary protocol (by not responding and removing abandoned shopping trolleys within the required timescales as detailed in paragraphs 3.2.1 and 3.2.2 above),
- 3.4.3 Should abandoned shopping trolleys be encountered by Halton Borough Council operatives during the course of their normal duties (In the interests of community safety these trolleys will be immediately seized and the relevant store be notified retrospectively).

4 SEIZED TROLLEYS

- 4.1 Following seizure of an abandoned shopping trolley by the Council, the assumed owner (relevant store) will be advised either by fax, telephone or email. The store will be requested to take ownership of the trolley and collect it from the Council within 48 hours of notification. If the store is unable to provide a collection service, the Council will arrange for the trolley to be returned. In accordance with guidance, the Council shall store the trolley for six weeks.

- 4.2 The Clean Neighbourhoods and Environment Act 2005 states that where the six-week period has expired and the trolley has not been claimed (or has been claimed but the demanded charges not paid), the Authority is entitled to sell or dispose of it.
- 4.3 If the trolley has not been collected by the owner within 14 days from the date of collection, the Council shall serve a Notice on the owner stating that the trolley has not been collected informing them that if it is not claimed then the Council may dispose of it in accordance with legislation. The Notice will also advise of the associated costs involved.
- 4.4 Once a trolley has been collected by or returned to a store, or has been disposed of, a Charge Notice for any and all associated costs incurred by the Council will be sent to the store.
- 4.5 Legislation allows Halton Borough Council to recover costs associated in dealing with shopping trolleys escaping from store confines. These costs will be recovered as a debt. Details of the charges to be applied in respect of abandoned shopping trolleys are as follows;
- 4.5.1 Owners of shopping trolleys seized by the Council will be notified within 24 hours of seizure and will be offered the opportunity to collect their trolleys. A storage cost of £5 per day per trolley will apply. A charge of £50 for the initial collection by the Council will also be payable.
- 4.5.2 Owners can request the return of each trolley collected by the Council for which a charge of £100 per trolley will apply. This shall be in addition to the daily storage charge that shall be payable.
- 4.5.3 The Council shall store shopping trolleys for a period of up to six weeks (42 days). Should the assumed owners, after having been informed of its whereabouts and having been given the option to recover a seized shopping trolley, fail to do so, then the Council shall dispose of the trolley. In the event that the Council disposes of a trolley that it has collected and stored a charge shall be made to the assumed owner of £310 per trolley.

Summary of Charges

Collection by the Council (including administration costs) - £50 per trolley.

Storage (Up to a maximum of 42 days) - £5 per day per trolley.

Return to owner by the Council (including administration costs) - £50 per trolley.

Trolley Disposal (including administration costs) - £50 per trolley.