

**October 2017**

## **Norfolk County Council Highways Enforcement Protocol**

### **1.0 Introduction**

The Highways area teams receive a significant number of customer complaints each year relating to enforcement matters. These range from trading on the highway, such as car sales on verges, caravans / motorhomes being parked on the highway, blocked public footpaths and trailer or van mounted advertising hoardings.

The CES enforcement policy is followed, with priority is given to highway safety matters. Increasingly, the teams work with a number of bodies to achieve successful outcomes, as often issues are complex and can be legally difficult to resolve.

For example, we have been working closely with South Norfolk District Council over illegal advertising trailers. A joint authority meeting, which included NPLaw, concluded that the most appropriate way forward in addressing the issue of these trailers was to use the Town & Country Planning Act 1990 rather than the Highways Act 1980, as this offered the best chance of a successful prosecution combined with deterrent fines.

### **2.0 Illegal Advertising Trailers**

Illegal advertising trailers are an issue on both the trunk road network and the local road network, particularly on the approaches to urban areas. Contrary to popular belief, Norfolk County Council cannot simply tow these trailers away as it is not known if they are roadworthy (and Norfolk County Council could be fined) and the wheels are usually locked.

A recent review of the national situation by the Highways teams, has concluded that although the Highways Act could be used for a prosecution, the fines are very low, and it has to be successfully proven that the Highway was obstructed giving rise to a safety concern. Although most trailers are a distraction to motorists, they are usually placed to enable easy access to the verge and not in locations where visibility is obstructed. This would reduce the probability of a successful prosecution using powers under the Highways Act.

Recent legal advice has also highlighted:

- that there is no reason why powers cannot be delegated from the County Council to a District / Borough Council;
- that under the Highways Act 1980 Section 130 (2) any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority. Therefore, delegated powers are not necessarily required.
- That District & Borough Councils can use their existing powers under the Town & Country Planning Act 1990 Section 224 to take action against the advertisers, including a prosecution.

Therefore, the current approach is that:

- i) The County Council Highways teams will only notice and contact the owners / advertisers if the trailers are negatively impacting on highway safety (ie blocking visibility or obstructing the public highway in areas where there is expected usage of the verge);
- ii) District and Borough Councils have existing powers under both the Highways Act and the Town & Country Planning Act, so there is no need to go through a formal delegated powers process;
- iii) District & Borough Councils have the option to use their powers under the Town & Country Planning Act 1990 to carry out prosecutions against the owners of these trailers. Any action would be supported by the County Council.

### **3.0 Vehicles for sale on the Highway**

Parking of vehicles on the Highway 'for sale' is an offence under the Clean Neighbourhood & Environment Act 2005.

When a complaint is received or issue identified, the Highways Area team will notify the owner and ask them to remove it immediately. A phone call will suffice provided that a record is kept of the time and date.

The Highways Area team will re-inspect the site at least twice within the next calendar month, taking photos and noting the date and time of the inspections. If the problem persists after 4 weeks, the Highway Engineer and Area Manager will assess situation and identify a way forward.

### **4.0 Public Footpaths**

The Countryside Access Officers within the local Highways area teams undertake a high level of enforcement. This is typically to deal with obstructions on public rights of way, such as illegal gates and other structures across the official alignment, and removing other blockages across public footpaths such as crops and livestock.

In the period April 2017 to August 2017, across the county, there have been 85 number Section 134-137 Non-reinstatement Notices and 11 number Section 143 Removal Obstruction Notices sent out. By early September 2017, 85 of the 96 cases had been resolved and the remaining are ongoing and being actively monitored and pursued with landowners.

## **5.0 Other issues**

### **Parking of vehicles on the Highway without a valid Tax**

If a vehicle has been parked on the Highway without valid road tax (which can be checked on line on the DVLA website), then this offence should be reported to either the police or the DVLA.

### **Parking of vehicles on the Highway causing an obstruction**

If a vehicle is parked on the Highway causing an obstruction, then this is generally an offence which should be reported to the police for action. Highway Authority's such as Norfolk County Council do have powers under Section 149 of the Highways Act 1980 to remove vehicles but only if they constitute a 'danger'. In accordance with the Act, a notice period is required to allow the offender time for removal before any action can be taken.