

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM 6

REPORT TO CABINET

5 OCTOBER 2006

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION/KEY DECISION

Environment – Lead Cabinet Member – Councillor Nelson

**ENVIRONMENTAL PROTECTION ACT 1990, SECTION 99 & SCHEDULE 4 AND CLEAN
NEIGHBOURHOODS & ENVIRONMENT ACT 2005 – SHOPPING TROLLEYS**

1. Summary

The purpose of this report is to seek formal approval of a scheme for the control of abandoned trolleys within the Borough.

2. Recommendation

That the scheme set out at Appendix A be approved, with effect from 5 January 2007.

3. Reasons for the Recommendation/Decision

To encourage retailers to take all steps available to them to ensure that trolleys do not become abandoned, and to ensure that the Council has an effective system for dealing with trolleys if and when they do become abandoned.

4. Members Interests

Members (including co-opted members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (paragraph 8) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (paragraph 10 of the code of conduct).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting is being held, whilst the matter is being considered; not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (paragraph 12 of the Code).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc.; whether or not they are a member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting, and if their interest is prejudicial, they must also leave the meeting room during consideration of the relevant item.

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NEIGHBOURHOODS & ENVIRONMENT ACT 2005 – SHOPPING TROLLEYS**

SUMMARY

The purpose of this report is to seek formal approval of a scheme for the control of abandoned trolleys within the Borough.

RECOMMENDATION

That the scheme set out at Appendix A be approved, with effect from 5 January 2007.

DETAIL

1. Abandoned shopping and luggage trolleys are a source of public nuisance, attract acts of anti-social behaviour and contribute to the decline of the quality of the local environment.
2. Schedule 4 of the Environmental Protection Act 1990 allows a Local Authority to seize, store and dispose of abandoned shopping and luggage trolleys found in its area. The Clean Neighbourhoods & Environment Act 2005 improves the ability of local authorities to reclaim costs involved on demand.
3. Schedule 4 provides that the schedule applies to any shopping or luggage trolley that is found by an authorised officer on 'any land in the open air', including land covered by water, if it appears to him/her to be abandoned. The schedule does not apply to land in which the owner of the trolley has a legal estate, land or facilities used/provided for leaving trolleys used by customers, any land designated by the Local Authority for the purpose of providing trolley parking facilities and land used for the transport undertakings for which luggage trolleys may be provided.
4. Where the land (the site of trolley abandonment) is occupied the consent of the occupier must be obtained before removal of the trolley commences or, as an alternative, the Local Authority may serve notice that it intends to remove the trolley. If no notice of objection is received in response the Local Authority may remove the trolley after 14 days.

Retention, Return and Disposal of Trolleys

5. The Local Authority must before destruction, sale or disposal store the trolley for a period of six weeks.
6. A notice must be served on anyone who appears to be the owner of the trolley as soon as reasonably practicable and at least within 14 days, giving notice that the Authority has removed the trolley, give details of where it is being kept and that the Authority may dispose of the trolley if not claimed.

7. If the trolley is not claimed the Local Authority is not permitted to dispose of it unless reasonable enquiries have been made to ascertain who owns it.
8. If the owner fails to claim and or claims the trolley but has not paid the charges as demanded by the Council, the Authority is entitled to sell or dispose of it.
9. In such case the Authority may charge a person who appears to the Authority to be the owner an amount to cover the removal, storage and disposal of the trolley. A standard charge will be set based on the average cost of dealing with trolleys in the Borough. This may be recoverable as a debt by the Authority if not paid.
10. These costs will include:
 - Administrative costs
 - Staff time
 - Collection and delivery costs
 - Physical storage
 - Disposal costs
11. Experience from a trial carried out earlier this year, under which trolleys were collected and returned to retailers, free of charge, mainly in Thornaby and Hardwick, suggests that the main impact of introducing a formal scheme, with the potential of cost sanctions, will be to encourage retailers to improve the effectiveness of their own systems for management and recovery of trolleys, and that the adoption of a formal scheme will therefore have a beneficial impact on the Borough. The value of trolleys varies according to quality, usually with the size of the retailer concerned, but the value of the robust versions used by major multiple retailers is of the order of £200.
12. The proposed scheme is attached as **Appendix A**.

FINANCIAL AND LEGAL IMPLICATIONS

13. It is possible that there may be some marginal benefit to the budget for the Neighbourhood Enforcement Service as a result of income from charges, but it is anticipated that this will be negligible, since the effect of introducing the scheme is likely to be preventative, as explained at paragraph 11 of the 'Detail' section.
14. Members will be aware that the Neighbourhood Enforcement Service is currently funded to March 2008, and is heavily reliant on the Neighbourhood Renewal Fund and associated regeneration funding.

RISK ASSESSMENT

15. The risk assessment of this scheme is categorised as low to medium risk. Existing Management Systems and daily routine activities are sufficient to control and reduce risk.

COMMUNITY STRATEGY IMPLICATIONS

16. The proposed scheme supports the Community Strategy, particularly in respect of improving the local environment and tackling crime and anti-social behaviour.

CONSULTATION INCLUDING WARD/COUNCILLORS

17. The following organisations and individuals were consulted on the draft scheme:-

All known retailers with trolley facilities in the Borough
Town Centre Managers
Retail Park Managers
British Retail Consortium
Association of Town Centre Management
Association of Convenience Stores
Rail Network
Post Office Limited Local Sorting Office Orde Wingate Way
Durham Tees Valley Airport
Residents and Community Groups SCRAGA
Local Chamber of Trade & Commerce
Environment Agency
Police Superintendent Stockton
Senior Fire Officer Stockton District

Only two responses were received. These were comments received from the Stockton Town Centre Manager supporting the principle of environmental improvement, but expressing concern about the potential financial impact on retailers, and from the Castlegate Centre Manager welcoming the initiative.

Neil Schneider
Corporate Director of Development & Neighbourhood Services

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Background papers:
Trolleys file

Scheme to remove trolleys believed abandoned in accordance with the Environmental Protection Act 1990 section 99

On 5 January 2007 Stockton-on-Tees Borough Council intends to commence the recovery, removal and where appropriate, the storage and potential destruction, sale or disposal of abandoned shopping and luggage trolleys found within the Borough of Stockton-on-Tees.

Neighbourhood Enforcement Officers will respond to reports from members of the public and other agencies e.g. Police. In addition, they will locate and seize abandoned trolleys whilst on patrol, where circumstances permit.

- During retailers opening times the Officer will make reasonable attempts to identify the owner and return the trolley as soon as possible. The Officer will return the trolley to the owner and receive a one off payment of £80 and provide a receipt.
- Where an Officer locates a trolley outside the opening hours of the retailer, a notice will be served at the retailers' premises as soon as is practicable, the trolley will be booked into storage with the Council's approved storage agent, (Centex, South Bank) for a period of up to six weeks.
- Once claimed by the retailer and the appropriate release fee is paid to the Council the trolley will be returned to owner.
- Where efforts to locate an owner fail or the trolley and outstanding fees remain unclaimed and unpaid, the storage facility will be instructed by the Council to dispose of the trolleys.
- In all cases, where recovery results in removal to a storage facility the release fee is £130 plus £5 per day storage charge, up to and including the date of collection and or disposal.