

Cheltenham Borough Council

Cabinet – 22nd January 2019

Abandoned Trolleys

Accountable member	Councillor Andrew McKinlay, Cabinet Member Development and Safety
Accountable officer	Mark Nelson, Enforcement Manager
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>On 10 October 2017, a report was taken to Cabinet detailing the Council's proposed approach to dealing with abandoned shopping trolleys. This report is attached at Appendix 2 and contains a full description of the legal powers available to the Council in respect of abandoned trolleys and the associated procedures and consultation required to enable the council to use these powers.</p> <p>The agreed recommendations of the report included;</p> <ol style="list-style-type: none"> 1. That a formal period of consultation be initiated, as required by Section 99 of the Environmental Protection Act 1990, regarding the possibility of applying Schedule 4 to control abandoned shopping trolleys in the Cheltenham area; and 2. That a further report be prepared detailing the outcome of the consultation setting out proposals as appropriate. These will include any proposed charging regime and the associated financial implications. <p>This report and attached appendices, detail the outcome of the consultation and the proposed charging regime. The report recommends adoption of Schedule 4 on the specified date, but it is also the intention to request that retailers sign up to a voluntary protocol in the period before implementation, as detailed in the proposed policy attached as appendix 3 to this report.</p> <p>Following on from the consultation, there is a requirement to make a resolution. This has to state the date on which the Schedule 4 controls will come into force, being not less than three months from the date on which the resolution is passed.</p> <p>There is a requirement to publish notice of the resolution in at least one local newspaper, indicating the general effect of the adoption of the Schedule.</p>
Recommendations	1. Cabinet resolves to adopt Section 99 Schedule 4 of the Environmental Protection Act 1990 (as amended by the Clean Neighbourhoods and Environment Act 2005) with an implementation

date of 1st May 2019 and that notice of this resolution be published as required.

2. That Cabinet agrees to the abandoned trolley policy and associated protocol, as contained in Appendix 3 and that this policy, with the associated charging regime, be reviewed and updated from time to time by the Enforcement Manager in consultation with the Cabinet Member for Development and Safety.

Financial implications	<p>If statutory powers are used under Section 99 Environmental Protection Act 1990, the costs of removal, storage and disposal can be claimed back from trolley owners. Charges made in this respect must be reviewed each year.</p> <p>Any negotiated non statutory agreement with retailers for the return of their trolleys should ensure that all council costs are recovered from the retailers.</p> <p>Contact officer: Andrew.knott@publicagroup</p>
Legal implications	<p>Section 99 of the Environmental Protection Act 1990 (EPA 1990) allows a council to apply Schedule 4 (powers to deal with abandoned shopping trolleys) in its area if it:</p> <ul style="list-style-type: none">• Consults with those likely to be affected by Schedule 4;• Passes a resolution that Schedule 4 is to apply in its area;• Publicises that resolution and its effect in at least one local newspaper. <p>In relation to the consultation, this should be undertaken with persons and representatives of persons who appear to the council to be affected by the proposed decision to adopt schedule 4 of the EPA 1990. It is likely that the Council will have to send correspondence to all local supermarkets and their head offices, to any other outlets that may use trolleys and possibly to representative bodies (such as the British Retail Consortium, Association of Town Centre Management and the Association of Convenience Stores).</p> <p>Although the statute does not provide an exact time period for consultation, it appears that the usual practice of other local authorities has been to provide for a 90-day consultation. If after consideration of the consultation a resolution is adopted that Schedule 4 will apply in the area, the council must advertise that fact in a local newspaper; it can then implement the powers in Schedule 4 at least three months from the date of the resolution.</p> <p>If a Schedule 4 scheme is agreed to by shopping trolley owners and then adopted by the Council, the Council cannot demand a charge in respect of any trolley which has been dealt with in accordance with the scheme. However, if that scheme is not being appropriately complied with, the Council will be in a position to charge for any shopping trolley which is not in compliance with the agreed scheme.</p> <p>Contact officer: Nicholas.Woodward@teWKesbury.gov.uk</p>

HR implications (including learning and organisational development)	None
Key risks	See Appendix 1
Corporate and community plan Implications	The recommended outcomes in this report positively contribute to protecting, maintaining and enhancing Cheltenham's environmental quality.
Environmental and climate change implications	Report recommendations, if approved, will reduce the environmental blight caused by abandoned trolleys.
Property/Asset Implications	Storage space for trolleys collected under this scheme is available and the costs of storage are recoverable as part of the scheme charges. Contact officer: Gary.Angrove@cheltenham.gov.uk

1. Background

- 1.1** The background is contained in the 2017 Cabinet report which is attached as appendix 2 to this report.

2. Reasons for recommendations

- 2.1** To provide effective agreement/procedures to tackle the problem of abandoned trolleys in Cheltenham.

3. Alternative options considered

- 3.1** The consultation detailed in the report also requested that consultees suggest alternative solutions to the use of formal legal powers that would be cost neutral to the council. No such alternative suggestions were received.

4. Consultation and feedback

- 4.1** The consultation was undertaken, as detailed in the 2017 Cabinet report, but no feedback was received as a result,
- 4.2** A list of those organisations and retailers that were written to during the consultation process is set out in appendix 4. The Council's website was also used to promote wider consultation.

5. Performance management –monitoring and review

- 5.1** From time to time the council must consult on the operation of the Schedule for its area with those affected by it. Local authorities are advised to review the operation of the Schedule at least every five years, and monitor the number of trolleys recovered under the schedule. As part of the review they should consider whether adequate steps are being taken to reduce the number of abandoned trolleys. Earlier review may be necessary if there is a significant change in circumstances.

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Appendices	1. Risk Assessment 2. Cabinet Report, 10 th October 2017, Abandoned Trolleys 3. Abandoned Trolley Policy 4. List of Consultees
Background information	1. 2017 Cabinet Report, Abandoned Trolleys

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
ST1	If retailers do not sign up to and abide by the proposed protocols concerning the return of abandoned trolleys, the Council may need to make use of its statutory powers and recover the costs incurred, if necessary through the courts.	Mark Nelson	Dec 18	1	2	2	Accept	The Council may make use of statutory powers under Section 99 Environmental Protection Act 1990, provided all statutory procedures are followed. Subsequent charges would be made on a cost recovery basis as detailed in the Abandoned Trolley policy.			
Explanatory notes Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) Control - Either: Reduce / Accept / Transfer to 3rd party / Close											