

BRIERLEY HILL AREA COMMITTEE – 7 JULY 2005

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

WHEEL CLAMPING ON PRIVATE LAND AND RIGHTS OF PRIVATE LANDOWNERS TO CHARGE FOR CAR PARKING

1.0 Purpose

- 1.1 To respond to a question raised at a previous Brierley Hill Area Committee in respect of the legal position with regard to wheel clamping on private land and the rights of private landowners to charge for car parking and to advise of any way in which the Council can monitor the situation.

2.0 Background

- 2.1 A member of the public raised concerns over the parking charges of private companies, in particular in Kingswinford where shoppers are allowed to park for up to 1 hour free of charge but if they overstay this time period they are then issued with a £60 parking charge. The Council's Directorate of Law and Property was asked to look into ways of monitoring the situation.
- 2.2 Dudley MBC does not have control over the operation of private car parks. It is up to the operator of the private car park to set their own parking charges.
- 2.3 Clamping on private land without a licence is now a criminal offence. Anyone immobilising, removing or restricting vehicles for a fee will need a licence. Anyone found clamping without a Security Industry Authority (SIA) licence could incur a fine of up to £5000 and up to 5 years in prison under the Private Security Industry Act 2001, which came into force on 3 May 2005.

- 2.4 Owners of private land must also display a clear and prominent notice advising that they operate clamping and removal. The notice should also display a telephone number to ring to have the clamp removed, which will usually incur a fee.
- 2.5 Under the Act, one of the functions of the SIA is to set or approve standards of conduct, training and levels of supervision by those who carry on businesses providing security industry services or other services involving the activities of security operatives and those who are employed for the purposes of such businesses. All SIA licensed clampers will therefore have to be properly trained to know when to clamp and when not to clamp; understand the legislation concerning vehicle immobilisation and behave in a responsible manner.
- 2.6 The conditions of the SIA licence state that any vehicle immobiliser must not immobilise, remove or restrict a vehicle if the vehicle is an invalid carriage or if a valid disability badge is displayed on the vehicle or if the vehicle is an emergency vehicle which is in use.
- 2.7 When a release fee is collected, the vehicle immobiliser must provide a receipt, which should include details of the location where the vehicle was immobilised, removed or restricted, their name and signature, their licence number and the date.
- 2.8 If motorists are clamped on private land, they should ask to see the clamber's SIA licence. If they do not have one, they should be reported to the SIA. If the clamber refuses to release their car, they should contact the police.

3.0 Proposal

- 3.1 That the Committee note the advice contained in this report.

4.0 Finance

4.1 There are no direct financial consequences arising from this report.

5.0 Law

5.1 The Private Security Industry Act 2001 and Regulations made thereunder make provision for the regulation of the private security industry.

6.0 Equal Opportunities

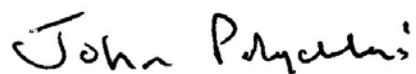
6.1 This report takes account of the Council's Equal Opportunities Policy.

7.0 Recommendation

7.1 That the Committee note the advice contained in this report.

8.0 Background Papers

8.1 None.

A handwritten signature in black ink, appearing to read "John Pym".

DIRECTOR OF LAW AND PROPERTY

Contact Officer: Carol Bacon, Solicitor ext. 5315