

DECISION NOTICE OF AN INDIVIDUAL MEMBER OF GWYNEDD COUNCIL CABINET

DATE OF DECISION 27 July 2021

DATE DECISION PUBLISHED 28 July 2021

DATE DECISION WILL COME INTO FORCE and implemented,
unless the decision is called in, in accordance with section 7.25 of
the Gwynedd Council Constitution **4 August 2021**

Cabinet Member: Councillor Gareth Wyn Griffiths, Cabinet Member for the Environment

SUBJECT:

Gwynedd Council Policy to install an immobilisation device

DECISION

To approve Gwynedd Council's Policy to install an immobilisation device (clamp) [Appendix A] and adopt appropriate rights to deal with vehicles parking illegally and causing obstruction or hazards to other road users. To give approval to the Environment Department to proceed and put arrangements in place should the new enforcement powers be exercised

REASON WHY THE DECISION IS NEEDED

Please see attached officer report

DECLARATIONS OF PERSONAL INTEREST AND ANY RELEVANT DISPENSATIONS APPROVED BY THE COUNCIL'S STANDARDS COMMITTEE


None

ANY CONSULTATIONS UNDERTAKEN PRIOR TO MAKING THE DECISION

Consultation with:
Gwynedd Council Statutory Officers
North Wales Police
Snowdonia national Park Authority

The results of the consultations are reported upon in the attached report

DECISION NOTICE OF AN INDIVIDUAL MEMBER OF GWYNEDD COUNCIL CABINET – OFFICER REPORT

Name and title of Cabinet Member/s:	Councillor Gareth Wyn Griffith Cabinet Member for Environment
Name and title of Report Author :	Dafydd Wyn Williams, Head of Environment Department
Date of Decision :	27 th July 2021
Signature of Cabinet Member/s :	

Subject : Gwynedd Council Policy to install an immobilisation device

Recommendation for the Decision:

To approve Gwynedd Council's Policy to install an immobilisation device (clamp) [Appendix A] and adopt appropriate rights to deal with vehicles parking illegally and causing obstruction or hazards to other road users.

To give approval to the Environment Department to proceed and put arrangements in place should the new enforcement powers be exercised.

Reason why Decision is needed:

Motorists who decide to park illegally and negligently by creating dangers for other users are a common problem throughout Gwynedd and beyond.

Unfortunately, the effects of Covid 19 has exacerbated parking problems throughout the County, due to a significant increase in visitor numbers and a lack of parking spaces.

Extensive problems were experienced last year as hundreds of motorists travelled towards Pen y Pass with the intention of walking the mountains, and decided to park on the highway after realising that the car park was full.

Pen y Pass is governed by parking restrictions in the form of a clearway. The mountain pass is narrow with a heavy flow of traffic on a daily basis, including cyclists and a local bus Service that runs through frequently. This location can also be heavily pedestrianised and illegally parked vehicles pauses a significant risk to pedestrians, particularly if they are forced to walk along the highway because vehicles are parked on the already narrow footway.

Reason and justification behind the Decision :

As previously mentioned, illegal parking was extremely problematic last year and despite the efforts of the Council Parking Enforcement Officers to fine motorists, unfortunately this effort does not remove the immediate dangers to road users.

Some motorists even welcomed the fine and thought that £35 was reasonable for a day out in such a beautiful location. Of course, this is unacceptable.

The Council worked closely with North Wales Police and Snowdonia National Park to take appropriate action to tackle the problem at Pen y Pass and along the A4086 by sharing resources to closely monitor and use Police powers to tow vehicles away. Through robust publicity, regular monitoring and swift action, the problem came under control.

Robust publicity and regular monitoring continue to happen this year and although the situation has improved significantly, we believe it is premature to think that the problem has completely disappeared.

The willingness of North Wales Police to assist the Council with towing away illegally parked Vehicles has been invaluable, however, they have stated that it is not practically possible for the current arrangements to continue in the long term due to the shortage of Police Officers at weekends and the need to address other priorities.

We therefore believe that it is sensible for the Council to establish the proposed policy and adopt appropriate rights under Section 79 of the Traffic Management Act 2004 to deal with vehicles that park illegally and cause obstruction or danger to other road users, without having to rely on the resources of the emergency services.

The power to install a device on vehicles (clamp) and power to tow vehicles away comes hand in hand. However, we believe that we will only exercise the power to tow Vehicles away under very special circumstances.

In terms of the practicality of the process, we intend to adopt the same procedure as North Wales Police who have contracted with a local garage. Should the Parking Enforcement Officers come across a vehicle that is illegally parked and causing an obstruction and dangerous, they would contact the garage directly and make arrangements for them to collect and keep the vehicle in a suitable and safe compound. The vehicle owner will need to pay all fees relating to the Council and garage's efforts before the vehicle is released.

I confirm that the process involved in towing vehicles away is self-financing and the risk to the Council is minimal.

Any consultations undertaken prior to making the decision :

Consultation with North Wales Police and Snowdonia National park

Head of Finance: I understand that this process will be self-sustaining, at no extra cost to the Council.

Monitoring Officer: The matter has been the subject of guidance from Legal Services. No comments to add regarding propriety.

Appendices

Appendix A Gwynedd Council Policy to install an immobilisation device

Gwynedd Council's policy as its Civil Enforcement Officer installs a vehicle immobiliser.

Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013/363 (y Rheoliadau)

Statutory Guidance to Local Authorities on The Civil Enforcement of Parking Restrictions; March 2010 (y Canllaw)

Section 79 of the Traffic Management Act 2004 empowers the Welsh Ministers to make regulations authorising traffic authorities, such as Gwynedd Council (the Council) to enforce the parking of a vehicle by installing a vehicle restraint. As a result of the above right the Regulations were made.

This paper looks at one way of enforcing parking, which is the right to install a vehicle in motion (a device). Paragraph 58 of the Guidance requires Gwynedd Council (the Council) as the relevant traffic authority to draw up a policy to show under what circumstances the Council will use its power to place the device on an illegally parked vehicle.

In formulating this policy the Council wishes to act on the suggestions set out in paragraph 57 of the Guide.

Under Regulation 12 (1) of the Regulations before installing a device the Council must first give a notice in a prescribed manner showing that an offense has taken place and this is subject to a penalty, the "Penalty Charge Notice" (PCN).

If the vehicle was parked in a place that allowed parking, the device could not be installed or the car moved until at least 15 minutes had elapsed after the PCN was issued.

The right to take the vehicle away includes the right to attach a device to a vehicle.

Prior to the Civil Enforcement Officer installing a device on the Vehicle, the officer must put a warning on the vehicle. Regulation 12 (2) of the Regulations states what must be put in the notice. The device can only be removed by the authority of the Civil Enforcement Officer.

Should a vehicle create a “hazard” or obstruction then the Council should remove the vehicle immediately rather than put a device on the vehicle.

If the vehicle was parked in a place where parking is prohibited, for example on double yellow lines, the vehicle can be moved immediately after the PCN is placed on the vehicle.

A vehicle that displays a disabled person's badge, or where a disabled person's concession is shown, cannot be fitted with a device.

Council's Policy to install a device on a Vehicle

The Council will be slow in exercising the right to install a device on a vehicle. The Council recognises that they will operate in limited circumstances; for example when the same

vehicle breaks the rules more than once and it is not possible to receive penalty payments because the person in charge of the vehicle is not registered with the licensing authority, the DVLA.

If the vehicle created an obstruction or "hazard" then the Council would remove the vehicle rather than install a device. That the Council will install the device in circumstances where the act of installing a device is beneficial to the authority in terms of traffic management.