

Operational Policy Subject: **ABANDONED VEHICLES (INCLUDING UNTAXED VEHICLES)**

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ABANDONED VEHICLES

Abandoned vehicles (AVs), primarily cars, are an eyesore on our streets and a real danger to children, who are attracted to them as playgrounds, and are a target for local vandals and arsonists. The majority of AVs are unlicensed (UVs), do not display a current tax disc and are likely to have changed hands at low prices without proper documentation. There is also a link between AVs / UVs and their use as 'pool' vehicles in crime.

Where it appears to a local council that a vehicle in its area is abandoned, it will be its duty to remove the vehicle. This duty applies to all land in the open air or any land forming part of a highway. However, in respect of such vehicles those are not on the carriageway, this duty does not apply where the costs of removing them to the nearest convenient carriageway is unreasonably high.

The following characteristics are generally common to AVs and one or a combination of the following could assist a local council officer in making a decision on abandonment.

- ◆ no current or local vehicle keeper on the driver and Vehicle Licensing Agency's (DVLA) record
- ◆ stationary for a significant amount of time
- ◆ significantly damaged, run down or unroadworthy (could include flat tyres, wheels removed or broken windows)
- ◆ fire damaged (partial or burned out)
- ◆ lacking one or more of its number plates
- ◆ containing waste
- ◆ untaxed

This is not an exhaustive list and a vehicle would not have to be displaying the full list to be considered abandoned.

Objective

- ◆ improve the environment by reducing the number of AVs on the streets of North Lincolnshire.
- ◆ reduce the incidence of vehicle arson.
- ◆ reduce the number of actual and potential 'pool' vehicles.

Link to council priorities

By ensuring the area is thriving, communities are confident and caring and that individuals can see a difference this will enhance the visual appearance of town and country.

Background

Where a vehicle, which is deemed to be abandoned, is on land that is occupied, the council must give the occupier 15 days notice that they propose to remove the vehicle. The council is not entitled to remove the vehicle if the occupier objects to the proposal within that period. However, if the occupier gives the council permission to remove the vehicle (e.g. if the vehicle was abandoned without their consent), the 15-day notice automatically lapses and the vehicle can be removed immediately.

The service of a 15 day notice is not required where a vehicle is abandoned on a 'road' (within the meaning of section 142 the Road Traffic Regulation Act 1984). Section 142 defines a road as (in England and Wales) 'any length of highway or of any other road to which the public has access, and includes bridges over which a road passes.' All such AVs can now be removed immediately.

Section 4 of the RDAA, sections 100 and 101 of the Road Traffic Regulations Act 1984 and part III of the Removal and Disposal of Vehicles Regulations 1986, as amended, include steps required to trace the owner of vehicles. The council will take steps to trace the owner of an AV and, if successful, give them 24hours written notice that the council intends to dispose of the vehicle if it is not collected within that time. If the owner is traced, the council may also serve a FPN as an alternative to prosecution. On satisfying the council of ownership, the owner of a vehicle can remove the vehicle from custody after paying all the fees relating to removal and storage owed. Up to a year after a council sells an AV the owner can reclaim the sum of the proceeds of sale minus any removal, storage and disposal costs that may have accrued.

The council has the power to dispose of AVs that it has removed in 'such a manner as they think fit'. North Lincolnshire Councils depolutes and destroys all AVs recovered.

Fixed Penalty Notices (FPNs) can provide enforcement agencies with an effective and visible way of responding to low-level environmental crimes, and the Government wishes to encourage their use by local councils and other agencies. Experience has shown that the public generally welcomes the use of FPNs, provided that they are issued sensibly, enforced evenhandedly and are seen as a response to genuine problems.

The availability and level of FPNs for environmental crimes reflect the impact of the offence. However, due to the severity and impact on the environment those responsible for repeat / continuing offences of the foregoing will normally be prosecuted (and upon conviction) punished in the courts.

It is essential, therefore, that FPNs are only issued where there is adequate evidence to support a prosecution if a notice is not paid, and that unpaid notices are followed up. Failure to pursue unpaid notices through the courts will discredit the use of fixed penalties in the locality, and will lead to declining rates of payment.

Application of the enforcement policy

Paragraph 16 of the Waste Management Enforcement & Prosecution Policy applies to the problem of vehicle abandonment. Enforcement action will therefore be taken on the first occasion an offence is committed due to impact on the local environment and resident's lives.

Paragraph 29 of the Waste Management Enforcement & Prosecution Policy allows for the use of FPNs where the legislation allows. This may be used in respect of vehicle abandonment.

Legislation

This part provides brief guidance on the legislation dealing with vehicle abandonment, as amended by sections 10–17 of the Clean Neighbourhoods and Environment Act 2005.

Section 2 of the Refuse Disposal (Amenity) Act 1978 (RDAA)

- ◆ makes it a criminal offence to abandon a motor vehicle or anything that has formed part of a motor vehicle on any land in the open air or on any other land forming part of a highway.

Policy

The elements of proof highlighted in paragraph 21 of the Waste Management Enforcement & Prosecution Policy are required to demonstrate the offence. In every case where the action of vehicle abandonment has been witnessed or there is other firm evidence the presumption will be to issue a £200 FPN or prosecute. This reflects the zero tolerance approach being taken to tackle this problem.

This policy applies to vehicle abandonment on any land in the open air or on any other land forming part of a highway in North Lincolnshire. The £200 FPN is issued as an alternative to the person being prosecuted through the courts, with a potential maximum fine not exceeding £2,500. Failure to pay will result in prosecution. A FPN will be issued by mail or face to face. Offences observed on town centre CCTV, private CCTV and council covert CCTV systems will be pursued where identity can be obtained.

Payment of FPN by instalments will not normally be accepted. Instalments will only be allowed at the discretion of the Head of Neighbourhood & Environmental Services where demonstrable hardship is proven and prosecution is likely to result in a conditional / absolute discharge. Failure to pay will result in prosecution.

All age groups will be approached, but fixed penalty notices only issued to people above the age of ten.

Upon admission of an offence of vehicle abandonment, and once a £200 FPN has been issued, a council cannot prosecute for the offence if the FPN is paid in full within 14 days. It is therefore in offender's interests to pay any FPN served at the earliest opportunity so as to avoid prosecution.

All age groups will be approached, but enforcement action (FPN, ASBO or prosecution) will only be taken against people above the age of ten. Wherever possible, when enforcement action is to be taken against a juvenile a parent, guardian, teacher or other responsible adult will be present to support them.

Procedural notes

An FPN can only be issued where the offender accepts his / her guilt. If they wish to challenge the offence, this is done in court as a prosecution. Subsequent conviction may result in a fine and costs being awarded.

The council has a direct link to the DVLA at Swansea and details of registered keepers may be obtained via this link. Declaration forms requiring details relating to any vehicle abandonment offence may be served on the registered keeper at the address determined by this enquiry.

If the registered keeper claims they were not the vehicle 'owner' at the time of the offence, or that they did not abandon the vehicle, they will be required to give the name and details of the person(s) who they sold the vehicle to or believe to have abandoned the vehicle. In the event of none co-operation the default will be to proceed with enforcement action against the registered keeper.

North Lincolnshire Council undertakes joint patrols with Humberside Police and will visit offenders in their homes / place of work if they are evasive or obstructive.

Delivery strategy

£200 FPNs may be issued for the above. There is NO discount for early payment. Prosecutions may be undertaken as per the requirements of the Code for Crown Prosecutors – paragraph 20 of the Waste Management Enforcement & Prosecution Policy.

Information in the council's *Direct* magazine, website and media releases will be prepared to inform the public of the above policy. Offenders will be approached by Enforcement Officers who will advise of the offence, seek names and addresses and then inform them of the fact that they will be reported for an offence.

Officers will have written authorisation to issue FPNs.

UNTAXED VEHICLES

The identification and subsequent removal of untaxed vehicles (UVs) is seen by the DVLA as an emerging priority and should lead to reductions in AVs, vehicle crime and anti social behaviour.

In an attempt to proactively deal with UVs, the DVLA has established a scheme whereby councils act on their instruction to remove unlicensed vehicles on the highway. The scheme is in accordance with the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997, as amended. North Lincolnshire Council has adopted the powers under the scheme and is required to follow an agreed code of practice that ensures that operations are performed in a consistent manner.

The DVLA retains overall responsibility for UVs in North Lincolnshire and the council employs the devolved powers as a secondary 'tool' when dealing with AVs on a one off basis, or as part of a proactive operation with partner agencies.

Delivered by

Neighbourhood Enforcement team (StreetRight) staff are authorised to give verbal warnings and issue CLE2/6 and INF101 notices. Other council staff may be authorised.

The Head of Neighbourhood & Environmental Services, or his nominated deputy, is authorised to instigate legal proceedings and issue Formal Cautions.

Partnerships outside North Lincolnshire Council

The public, businesses, Humberside Police, DVLA, North Lincolnshire Community Safety Partnership, HANWAG, Town and Parish Councils, Environment Agency, ENCAMS, Defra.