

LOCAL AUTHORITY HOUSING MANAGEMENT

# ABANDONED VEHICLES POLICY and PROCEDURE

For queries about this policy please contact  
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## 1. Introduction<sup>1</sup>

- 1.1. This document sets out the Local Authority Housing Management (LAHM<sup>2</sup>) policy and procedure on dealing with abandoned vehicles. It is in line with the corporate policy on dealing with abandoned vehicles and the terms specified within the Service Level Agreement (SLA) between the housing service and the parking service vehicle removal section (VRS).
- 1.1.1. Particular legislation is used for vehicles deemed to be abandoned within garages and underground car parks owned by the housing service<sup>3</sup>. Please see Section 5 for guidance on vehicles abandoned in garages and underground or enclosed car parks.
- 1.2. This policy uses the provisions of the Refuse Disposal (Amenity) Act 1978, Local Government (Miscellaneous Provisions) Act 1982, Road Traffic Regulation Act 1984, the Removal and Disposal of Vehicle Regulations 1986, and the Clean Neighbourhood and Environment Act 2005.
- 1.3. It aims to inform the public and guide staff in what to do when abandoned vehicles are found on housing service land.
- 1.4. When dealing with abandoned vehicles on housing land within the city, officers should liaise with PCC's VRS and reference can be made to the SLA which is held between the housing service and the parking service. The VRS only operates within Portsea Island and Paulsgrove housing office areas.
- 1.5. When dealing with abandoned vehicles within the Havant Borough Council (HBC) boundary, officers should liaise with HBC, who will deal with the vehicle removal. See sections 3.1.5 and 4.3 for further information.

## 2. Definitions

- 2.1. There is not a legal definition of an 'abandoned vehicle'. The decision of whether a vehicle is abandoned or not rests with the local authority's VRS authorised officer. There is a more detailed definition of abandoned vehicles in appendix 1.
- 2.2. The term vehicle includes:**
  - 2.2.1. Mechanically propelled vehicles intended or adapted for use on roads whether or not it is in a fit state for such use
  - 2.2.2. Any trailer intended or adapted for use as an attachment to such a vehicle
  - 2.2.3. Any chassis or body with or without wheels, appearing to have formed part of such a vehicle or trailer (e.g. vehicles with flat tyres, wheels removed or broken windows)
  - 2.2.4. Anything attached to such a vehicle or trailer
  - 2.2.5. Caravans.
- 2.3. The following characteristics are common to abandoned vehicles and one or more of the following will be taken into account when deciding whether a vehicle is abandoned:**
  - 2.3.1. The length of time the vehicle has been in its current location

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<sup>1</sup> There is a glossary on page 12 for all abbreviations used in this document

<sup>2</sup> The term 'housing service' will be used in place of LAH and LAHM for the purposes of this document

<sup>3</sup> Section 41 Local Government (Miscellaneous Provisions) Act 1982

- 2.3.2. The overall condition, age and appearance of the vehicle
- 2.3.3. The absence of a valid tax disc or Statutory Off Road Notice (SORN) if on private land – if this is the case PCC has enforcement powers to deal with untaxed vehicles. The LA officer should complete and forward a CLE offence report to the DVLA. See section 3.1.2
- 2.3.4. The absence of a number plate
- 2.3.5. Apparent lack of roadworthiness
- 2.3.6. Security issues
- 2.3.7. Proximity of the vehicle to the registered address of the last registered keeper.

### **3. WHO'S RESPONSIBLE FOR DEALING WITH ABANDONED VEHICLES ON LOCAL AUTHORITY HOUSING LAND?**

- 3.1. **Depending on the situation other departments and agencies may get involved in dealing with abandoned vehicles:**
  - 3.1.1. Local authority housing staff: identify abandoned vehicles; monitor whether the vehicles are moving; and liaise with the vehicle removal section, legal services, and the police where appropriate.
  - 3.1.2. Driver and Vehicle Licensing Agency (DVLA) – The council has enforcement powers to deal with untaxed but legally parked vehicles. When a vehicle is known to be in use (not abandoned) and parked on housing service land:
    - the housing officer or ESO should complete and forward to DVLA – offence report form CLE2/6 LAP version (5/08). The DVLA will action the offence report by serving a penalty fine on the vehicle owner<sup>4</sup>.
    - CLE forms can be ordered by fax only from the DVLA stationary stores on fax number 01792 783525.
  - 3.1.3. The VRS (023 9268 8284) will arrange removal of an abandoned vehicle with its contractor, and carry out subsequent actions:
    - notify the police
    - deal with vehicle owners that come forward after a vehicle has been removed
    - arrange the final disposal of the vehicle
  - 3.1.4. Legal services - liaison with housing staff. See also section 5 for the process for removal of vehicles in garages and underground car parks.
  - 3.1.5. For vehicles abandoned in HBC areas contact details for the removal section of HBC are held in the Wecock Farm and Leigh Park area offices. See section 4.3

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<sup>4</sup> the address for completed CLE forms is DVLA Regional Office, Enforcement Centre, 2<sup>nd</sup> Floor, Bourne Gate, 25 Bourne Valley Road, Poole, BH12 1DY

## 4. HOW TO DEAL WITH AN ABANDONED VEHICLE ON HOUSING LAND (OPEN AIR)

- 4.1. The following applies to vehicles abandoned on housing land on Portsea Island and Paulsgrove. For Leigh Park, Crookhorn and Wecock Farm please see section 4.3.
- 4.1.1. When a vehicle is first identified, the housing service member of staff should make a judgement about whether to treat it as abandoned. If it is deemed to be abandoned the following procedure should be followed. (For vehicles not deemed to be abandoned but which are untaxed form CLE2/ LAP should be used. See 3.1.2)
- 4.1.2. The housing staff member will provide a detailed report to the VRS by email at [abv@portsmouthcc.gov.uk](mailto:abv@portsmouthcc.gov.uk), unless it's untaxed (see 3.1.2) or in an enclosed space (see 5.1). A copy of the email should be forwarded to Colin Edwards. Vehicles not reported by email will not be visited within the KPI timescales or conditions set within the SLA.
- 4.1.3. Reports must contain the relevant information as listed in the SLA:
- make, model, colour, registration
  - precise location
  - whether the vehicle is on LA housing land or other land (if known)
  - whether the vehicle is secured or unsecured
  - whether the vehicle is currently taxed, condition of vehicle (good, fair, poor, wreck, burnt out)
  - length of time vehicle has been on the site (if known)
  - results of local enquiries made.
- 4.2. The VRS will then investigate the alleged abandoned vehicle and take appropriate action as follows:
- 4.2.1. **CATEGORY A** - burnt out, substantially vandalised, high fire risk, dangerous to pedestrians or motorists -
- Visit the vehicle on the same working day if reported by 2pm or on the next working day if reported between 2pm and 5pm<sup>5</sup>
  - Where appropriate, have removal effected on the same day as the visit is undertaken
- 4.2.2. **CATEGORY B** - Condition OK, vehicle intact, light to moderate damage, low fire risk, no danger -
- Visit the vehicle within two working days
  - Take action in accordance with current and prevailing legislation
  - Have removal effected where appropriate
- 4.2.3 **VEHICLES DEEMED NOT ABANDONED**  
When the VRS investigation has found that abandonment has not been established the VRS will send a return email report to the referring officer, Colin Edwards and the estate services manager detailing the findings. (Local Keeper Identified / Not Abandoned).

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<sup>5</sup> if a vehicle is discovered outside the hours of 8am and 5pm Monday to Thursday, and 8am and 4:30pm Friday and is deemed to be a 'Fire Environmental Audit Priority Category 1, Risk to Life' the concierge will report the vehicle to be removed to Boarhunt garage who will deal with the vehicle

4.3. **For vehicles abandoned in Leigh Park, Crookhorn and Wecock Farm:**

- 4.3.1. Complete the abandoned vehicles sheet as per instruction
- 4.3.2. Email it to customer services at Havant Borough Council (HBC)
- 4.3.3. HBC will reply with a reference number
- 4.3.4. HBC Rangers will then sticker the vehicle if appropriate and deal with the vehicle in accordance with legislation

## **5. PROCEDURE FOR DEALING WITH AN ABANDONED VEHICLE IN AN ENCLOSED SPACE AFTER TENANCY IS TERMINATED**

- 5.1. This procedure refers to section 41 of the Local Government (Miscellaneous Provisions) Act 1982.
- 5.2. If a vehicle is left in a garage or enclosed parking space after the tenancy has been terminated, the ex tenant must be served one-month notice to remove it. See appendix 2 for a sample letter.
  - 5.2.1 The housing officer should consult with legal services when issuing a one-month notice, prior to issue of the notice.
  - 5.2.2 During this time the vehicle should remain in the garage (or parking space).
    - 5.2.1. If after reasonable enquiries there is no success in contacting the ex tenant or the vehicle registered keeper, the vehicle must remain in the garage or parking space for the one month notice period.
    - 5.2.2. At the end of the one month notice period the interest then vests with the city council and the property (vehicle) can be removed.
- 5.3. **Contact for removal - The estate service manager** will email a copy of the relevant section 41 notice and a report to VRS and Colin Edwards, detailing the following:
  - make, model, colour, registration
  - precise location,
  - whether the vehicle is secured or unsecured
  - condition of vehicle
  - secure access only?
  - height restrictions?
  - method of disposal (scrap or storage)
  - 5.3.1 The VRS will attend the site to carry out a removal inspection and risk analysis to identify the correct plant and staff to effect the vehicle removal. The VRS will discuss disposal method scrap / storage with the housing member of staff and /or manager prior to arranging the removal. The housing member of staff will be notified of the date and time of the removal and, where there are access restrictions, ensure they or a representative member of staff is present to provide access to the site.

- 5.4. **Refuse and Waste.** If, upon inspection by the VRS, a vehicle is found to contain refuse or other waste or free access to the garage or vehicle is unattainable due to the level of waste in or surrounding the vehicle, the case will be returned to the referring officer. All refuse and waste materials must be removed from in and around the vehicle by the housing service (contractors) prior to the vehicle removal being arranged.
- 5.5. **Removal Method - Scrap.** The VRS will arrange for the vehicle to be disposed of through an authorised treatment facility (ATF) and ensure the vehicle is de-polluted and destroyed within the requirements of the End of Life Vehicle Directive 2003 (ELV). The VRS will also ensure that a certificate of destruction (COD) is issued by the ATF to DVLA ensuring the vehicle is removed from the DVLA register.
- 5.6. **Removal Method - Storage.** The VRS will arrange removal and transfer of the vehicle to its current contractor's storage facility. The vehicle will be held in storage for an unspecified period, until a further instruction is received by email from the housing service / Colin Edwards to carry out the final disposal of the vehicle.
- 5.7. **Waste producer responsibility.** When disposing of an ELV or transporting vehicles for disposal the local authority becomes a waste producer. This places a duty of care and responsibilities to meet legislative requirements under the End of Life Vehicles Directive 2003 and the Hazardous Waste Regulations 2005.
- 5.7.1 The VRS will arrange hazardous waste transfer notes where applicable and ensure the designated codes from European Waste Catalogue (EWC) are applied.
- 5.7.2 The vehicle and waste consignment note details will be placed on the waste vehicle register at the parking service. (These measures are a legal requirement and are subject to Environment Agency audit).
- 5.8. **Vehicle release procedures.** When an owner wishes to claim a vehicle back after it has been removed for storage under section 41, the housing service must ensure that the vehicle is being released to the rightful owner.
- 5.8.1 The following items of identification should all be presented before the vehicle is released by the housing service:<sup>6</sup>
- proof of identity – driving license or passport
  - proof of address – current utility bill or bank statement
  - V5 – log book
- 5.8.2 all removal and storage charges must be paid in full
- 5.8.3 any other relevant charges to be paid in full (garage arrears etc)
- 5.8.4 please see appendix 3 for an example letter which must be signed by the authorising officer and the vehicle owner, and a copy kept by each party.

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<sup>6</sup> if the person collecting the vehicle is doing so on behalf of the registered owner, they will need all of the listed identification as well as a signed letter of authorisation from the registered owner

## 6. DEALING WITH CLAIMS OF UNLAWFUL REMOVAL

### 6.1 Unlawful Removal Claim

When an owner comes forward after a vehicle has been removed, this has occasionally led to the vehicle owner attempting to claim for loss or damage against the local authority. Challenges and or claims of unlawful removal of the vehicle will be handled directly by the VRS except where a vehicle has been removed on behalf of the housing service from an enclosed space using Section 41 of the Local Government (Miscellaneous Provisions) Act. (See 6.1.1)

#### 6.1.1 Unlawful Removal Claim – Local Government (Miscellaneous Provisions) Act.

The VRS will act as a recovery agent for the housing service arranging the removal of a vehicle from an enclosed space once a Section 41 notice has been issued and the 30 - day notice period observed. The authorisation and responsibility for the removal and disposal remains with the housing service. Should an owner come forward after a vehicle has been removed and make a challenge or claim for loss / damage or unlawful removal, the case will be referred back to the housing service.

## 7. INVOICING AND RECHARGES

- 7.1 The parking service VRS will arrange monthly recharges to the housing service, which will be transferred by journal at the end of each month by the finance section. Monthly charges will be made in accordance with the SLA and a copy forwarded to Colin Edwards for verification.
- 7.2 The VRS will do the initial inspection on the vehicle under Section 41 and arrange fees with Boarhunt garage.
- 7.3 Invoicing for removal and storage of vehicles removed under Section 41 notices will be made by Boarhunt Garage direct to Colin Edwards.  
(Prices as arranged by direct meeting)

End of document

## **1. Appendix 1 - Definitions of Nuisance & Abandoned Vehicles**

### **1.1. What is a nuisance vehicle?**

Abandoned vehicles often get confused with nuisance vehicles. An abandoned vehicle is always a nuisance, but a nuisance vehicle is not always abandoned. A nuisance vehicle could be any of the following:

- 1.1.1. Poorly parked
- 1.1.2. Causing an obstruction
- 1.1.3. Involved in residential parking disputes
- 1.1.4. Broken down
- 1.1.5. Untaxed

### **1.2. What is an abandoned vehicle?**

A vehicle is only abandoned 'where it appears to a local authority that a motor vehicle is abandoned without lawful authority...' (Refuse Disposal (Amenity) Act 1978). This means that a vehicle is only abandoned when the authorised officer at the local authority decides that it is abandoned.

### **1.3. Where are abandoned vehicles found?**

Abandoned vehicles can be found almost anywhere but the problem is particularly acute in major cities, especially London.

### **1.4. What is causing the problem of abandoned vehicles?**

Abandoned vehicles have been a problem since the 1960s. The problem has got progressively worse, dramatically so over the past five years. Vehicles no longer have the same scrap value of previous years. Therefore owners of vehicles that are no longer of any use often have to pay to have their cars taken away. The cost of vehicle removal is further increased because vehicle dismantlers have to pay more to dispose of tyres due to waste disposal regulations.

The fines for unlicensed and untaxed vehicles are often greater than the value of the vehicles themselves and so this leads to drivers simply abandoning them. This is also true of vehicles that have attracted high parking fines. Vehicles used in burglaries, ram raiding, joy riding and smuggling are also often abandoned once the crime has been committed.

### **1.5. Some other reasons for vehicles being abandoned are:**

- 1.5.1. High cost of running the vehicle
- 1.5.2. MOT failure
- 1.5.3. Death of the owner
- 1.5.4. Owner in prison
- 1.5.5. Owner suffering ill health
- 1.5.6. Long-term residency outside the UK

### **1.6. How can you tell if a vehicle is abandoned?**

It is not always easy to know if a vehicle is abandoned but the following points should allow a reasoned judgement to be made:



- 1.6.1. Is the vehicle taxed? (This should not be the sole consideration)
- 1.6.2. Are the tyres flat?
- 1.6.3. Is there any litter, weeds, etc. under the vehicle indicating that it has not been moved for some time?
- 1.6.4. Are the brake discs rusty?
- 1.6.5. Is the windscreen or any of the windows broken?
- 1.6.6. Is mould present on either the inside or the outside of the vehicle?
- 1.6.7. Does the vehicle contain items of waste, for example tyres?
- 1.6.8. Does the vehicle have a number plate?
- 1.7. Do local householders, businesses, councillors or the police know how long the vehicle has been there and do they have any knowledge of whom owned/abandoned it?**
- 1.8. What are the problems caused by abandoned vehicles?**  
There are various problems caused by abandoned vehicles including:
  - 1.8.1. Negative effect on local environmental quality;
  - 1.8.2. Risk of explosion and injury;
  - 1.8.3. Leaking dangerous fluids;
  - 1.8.4. Attracting vandalism;
  - 1.8.5. Vehicles can be the result of, or lead to a crime;
  - 1.8.6. Abandoned vehicles are often filled with rubbish.
- 1.9. Abandoned vehicles and the law**  
Local authorities are under a duty in accordance of Section 3 of the Refuse Disposal (Amenity) Act 1978, to remove a vehicle, which is abandoned in their area, on any land in the open air, or on any other land forming part of a highway. However, this does not cover vehicles abandoned on private land. Under this Act, abandoning a vehicle is a criminal offence.

## 2. Appendix 2 - sample letter for dealing with vehicles abandoned in enclosed spaces

**XXXXX Area Office**

XXX XXXXX

XXXX Road

Portsmouth

POX XXX

Phone: 023 92XX XXXX

Email: XXX.XXXX@

portsmouthcc.gov.uk

Ref:

Date: 24 July 2009

Dear XXXX XXXX

**PERSONAL PROPERTY ABANDONED AT: XX XXXX XXXXX  
SECTION 41 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

A *(insert model, make and registration number of vehicle)* was abandoned at the above named premises and has come into the possession of Portsmouth City Council. Portsmouth City Council owns and manages the above premises. It is understood that you may own the personal property as it is registered to you at the above address. The personal property has been held by the City Council for some time and you have failed to collect it.

This letter is formal notice that the City Council requires you to collect your personal property before 12:00 noon on *(insert date, not less than 1 month from date of notice)*. If you do not collect your personal property by this deadline then the property will vest in the City Council and the City Council may sell or otherwise dispose of the property as it thinks fit. The property may be destroyed.

Under Section 41(11) of the Local Government (Miscellaneous Provisions) Act 1982 the City Council is entitled to require you to pay the costs incurred by it in making inquiries in this matter, serving this notice and looking after the property adequately.

On collection of your property you will be required to sign the inventory to confirm that you are the owner of the items collected by you. Collection must be arranged by prior appointment with the *(area)* Housing Office.

You will be required to provide three separate dates and times upon which you are available to collect your property (Monday – Friday between 0930 – 1600 only) and you will be notified of the appointment which is convenient to the City Council. Failure to collect your property as arranged will lead to the property being disposed of without further notice to you.

Yours *Sincerely / Faithfully (delete as appropriate)*

### 3 Appendix 3 - form to use for release of vehicle to rightful owner

**[use headed paper, and delete this line]**

#### VEHICLE AUTHORISED FOR RELEASE

**[insert make, model and registration]**

#### COLLECTION POINT:

Boarhunt Garage

Robinson Way

Portsmouth

Hants

PO3 5SA

Phone: 023 9266 6665

Date: 24 July 2009

#### Authorisation

PCC Housing Service

Name and job title of staff member releasing vehicle:

Area office address:

Tel number of staff member:

Date:

Signature of staff member:

#### Vehicle released to

Name and address:

Date:

Signature:

Portsmouth City Council will process your personal information in accordance with the Data Protection Act 1998. The personal details provided by you will be held on a database and where the law allows, may be shared with other departments within the council to update details they hold about you. The council will also be required to disclose personal information to third parties (such as the police, Audit Commission or Department for Work and Pensions) for the purposes of preventing or detecting crime, fraud or apprehending offenders.

## **GLOSSARY**

<b>ATF</b>	Authorised treatment facility
<b>CLE2/6 LAP</b>	form to report untaxed vehicle to DVLA
<b>COD</b>	Certificate of destruction
<b>DVLA</b>	Driving Vehicle Licensing Agency
<b>ELV</b>	End of life vehicle directive
<b>EWC</b>	European waste catalogue
<b>HBC</b>	Havant Borough Council
<b>LAHM</b>	Local authority housing management
<b>SLA</b>	Service level agreement
<b>SORN</b>	Statutory Off Road Notice
<b>VRS</b>	Vehicle removal section