

Vehicle Recovery Group (VRG) Guide 2021

**This Guide is dedicated to David Towson
(Metropolitan Police Service) who sadly passed
on the 10th of February 2020.**

**David's support, enthusiasm, passion and
knowledge enabled the completion of this work.**

Difficult roads often lead to beautiful destinations...



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Foreword

Chief Constable Jo Shiner



As the NPCC lead for Roads Policing, I am pleased to introduce this updated National Police Chiefs Council (NPCC) Vehicle Recovery User Guide.

The Police Service recovers thousands of vehicles every year for a variety of operational purposes and recovery services are fundamental within a safe systems approach to roads policing, as advocated in the current NPCC Strategy 2018/21 'Policing our roads together.'

It is essential that recovery processes are operated lawfully and that they are both legitimate and transparent. This guidance helps forces and vehicle recovery service providers to understand their roles and responsibilities and provides advice on running schemes and the relevant charges that schemes rely upon for funding.

I am grateful to all those who have contributed to this guidance which I am sure you will find extremely useful.

Jo Shiner

Chief Constable Sussex Police
NPCC Lead for Roads Policing



Foreword

Terry Hunt



As the NPCC Chair for Vehicle Recovery, I am really pleased to present a revised user guide. This revised User guide builds upon previous good work and includes current topics.

The User guide is essential to ensure that we are all aware of the personal and/or Organisational risks and suggests good practice. It is by no means intended to be definitive policy; that is for each Police Service to decide.

The User guide is a collection of policy, legislation and good practice that you (the experts) have suggested should be in the guide. There is so much information to cover and I have tried to keep it high level and relevant.

I am really grateful to all those who have contributed to this guidance which I am sure you will find extremely useful.

Terry Hunt

Director – Frontline Support Services (Met)

Chair – NPCC Vehicle Recovery Group





Overview

It is estimated that in 2019, police officers in the UK were responsible for the recovery or seizure of about 385,000 vehicles for reasons including the need to clear up after collisions, vehicles taken from uninsured and unlicensed drivers and vehicles involved in crime. The majority of these recoveries attracted prescribed statutory charges paid by vehicle owners totalling c £65 million. A further c £21 million was raised from the disposal of vehicles that were not collected.

With such large volumes and with the finances being public funds it is important that the recovery, storage, return, disposal and charging for the vehicles concerned is adequately managed. The charges are payable to Chief Constables and responsibility for applying the correct charges and final disposal of vehicles cannot be devolved (*R v Greater Manchester Police Authority, the Chief Constable of Police for Greater Manchester, the Automobile Association Developments Ltd and ex parte Century Motors (Farnworth) Limited – [1998] EWCA Civ 527*) – Hereinafter referred to as *R v GMP, AA (Farnworth) Ltd and Century Motors*.

Currently all Police Services contract with companies to remove, store and dispose of vehicles, the exception being the Metropolitan Police who operate their own compounds. This is done in 2 ways, by direct contract with locally based recovery and disposal operators or via managing agents who then sub-contract with local operators.

Government guidance given when the regulations governing the charges were set was that it is not intended that Police Services use vehicle removal as a revenue generation exercise. However, most Police Services retain a proportion of the charges that are collected to cover administration costs, a key decision for Police Services is to determine the proportion of charges collected they will retain and where a managing agent is used the proportion that is retained by them.

The law governing the operation of police vehicle removal schemes has evolved over a long period, it has been a contentious area in the past and in addition to the various statutes there are a number of stated cases that determine how Police Services should behave; it is useful for those involved in managing police schemes to have knowledge of these. To assist a summary is attached at **Appendix A**.

Leadership

The Vehicle Recovery Group (VRG) is focused on becoming a modern, innovative group better equipped to respond to policing needs and deal with the rapid change in the nature of crime.

We want to attract and keep the best people within the VRG. Helping you to be successful and effective in your role, helps us deliver better performance and service for the public.

Leadership is a really important part of strong delivery. We want to equip our staff with the skills they need to lead the VRG now and in the years ahead. Everybody should be developing their leadership skills.

In 2019 we began work in consultation with other NPCC groups to review how we organise the overall VRG structure and information sharing. Much of this work stalled in 2020 and early 2021 as a result of the Covid19 pandemic. However, moving forward our aims will be to:

- Break down barriers and promote collaboration with shared responsibility across the VRG, acting as a single team in which free thinking, challenge and innovation is encouraged.
- Focus more on the big issues for us as a group, leading the improvements we want to make in 2021/2022 and beyond.
- Be flexible and responsive to changing needs and events, and have the operational resilience to work effectively in the 'worst case' scenarios.



- Help to make it easier for everyone to feel empowered and make decisions.

The key to our success lies less in how we are organised and more in how we act as a group. This is about encouraging collaboration, equipping staff to make decisions appropriate to their level and creating a more trusting and open environment where challenge is welcomed as a way to learn and grow.

A simple definition is that leadership is the art of motivating a group of people to act toward achieving a common goal. They are the person in the group that possesses the combination of personality and leadership skills to make others want to follow their direction. You are all leaders.

Governance

Governance is the action of governing an organisation by using and regulating influence to direct and control the actions and affairs of management and others. It is the exclusive responsibility of the ‘governing body’, the person, or group accountable for the performance and conformance of the organisation. In this case, it is the VRG Secretary and Chair acting on behalf of the NPCC.

The VRG is structured by regular meetings divided into Police Service ‘groups’. There are regular two monthly NPCC Roads Policing meetings that are chaired by the Chief Constable lead. The VRG ‘fits’ within the wider NPCC Roads Policing Strategy 2018/21 ‘Policing Our Roads Together’. There is an annual VRG conference (normally in May), for Police Services to attend. This was cancelled in 2020 due to the Covid19 pandemic restrictions and will be held in November 2021.

Each Police Service ‘group’ should meet regularly to discuss current topics, areas of concern along with innovations and ideas. The actions/minutes should be passed to the Secretary who will escalate any issues to the Chair.

Individual questions concerning Vehicle Recovery – policy or legislation etc. should in the first instance be fed into the VRG Secretary who is responsible for reply. Police Services should not be sending out ‘scattergun’ questions and/or enquiries to Police Services.

Insourcing vs. Outsourcing

Current practice is that all Police Services outsource the work of removing, storing and disposing of vehicles, exceptions regarding storage are some small compounds in police premises used for long term storage and the Metropolitan Police who run and staff their own compounds.

The nature of the UK Vehicle Recovery Industry is such that recovery vehicles and compounds are operated by a large number of small locally based companies and a few larger companies with regional coverage. Other companies with National coverage act as intermediaries between vehicle owners and recovery companies, breakdown organisations such as the AA being the obvious examples.

A key decision for Police Services is whether to contract directly with recovery operators or via an intermediary acting as a managing agent. There are limitations to the functions that can be contracted out, the application of the charges, lien over vehicles, complaints, ownership disputes

¹ www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government

² assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816633/Outsourcing_Playbook.pdf



and authorising disposal of vehicles and the proceeds, must remain under the control and management of the Police Service (R v GMP, AA (Farnworth) Ltd and Century Motors).

Increasing demand for public services creates ever more pressure on the public resources available, increasing the need to make better use of these limited resources. The challenge to those preparing and advising on spending decisions has never been greater. In this context, it is vital that spending and investment decisions are based on highly competent professionally developed proposals.

Two key documents will assist with this challenge:

- ‘The Green Book: appraisal and evaluation in central government’¹ and
- ‘The Outsourcing Playbook’²

These documents provide a clear framework for thinking about spending proposals and a structured process for appraising, developing and planning to deliver best social value for money: all of which is captured through a well-prepared business case to support objective, evidence-based decisions.

They both provide a practical “step by step” guide to the development of business cases, using the Five Case Model – in a scalable and proportionate way. It recognises and aligns with other best practice in procurement and the delivery of programmes and projects. Experience has demonstrated that when this guidance is embedded in public sector organisations, better more effective and efficient spending decisions and implementation plans are produced. At the same time the approach, when correctly understood and applied, provides a more efficient planning and approval process saving between 30% and 40% in the time taken and cost of production of business cases compared with unstructured approaches. The guide provides a framework for thinking and a process for developing and gaining approval, which is flexible and scalable, as well as a range of tools that can be applied proportionately to provide clarity in the decision support process. It also provides a clear audit trail for the purposes of public accountability.

All centrally funded public spending proposals, including those subject only to approval by UK Departments or other centrally funded organisations, are required to use this approach and the Five Case Model method, as are major programmes and projects considered by the Treasury and Cabinet Office which are core for procurement.

The following extracts were taken from a recently agreed Police Service insourcing scheme. They show that with investment Police Services could offer value for money as well as a significant crime-fighting role.

Below are some indicators on why Vehicle Recovery is an essential service:

- It is a key enabler of the enforcement of regulations including The Road Traffic Act (1988) and Regulations (2005), which give officers’ statutory powers to seize vehicles.
- It is a key enabler of the Policing Plan, which includes a ‘vision zero’ approach to reducing road danger, and of the NPCC’s mission statement, which highlights the need for road safety and efficient roads.
- It plays a significant crime-fighting role by providing support in areas such as forensics, data collection, the secure storage of vehicles and large exhibits, terrorism-related vehicle crime, intelligence gathering, firearms and offensive weapons detection and disposal, vehicle registration and large-scale incident response.
- Key users of the vehicle recovery services are operational teams in Forensics, Frontline Policing, Specialist Crime and Counter Terrorism. The service also has significant contact with the public.

Outsourcing should not be considered as a means of offsetting responsibility or liability to a contractor. Police Services should avoid retaining only an in-house ‘liaison officer’, with little or no scheme management responsibility, merely as a communications link.



It may also be prudent to ensure that managing agents, where appointed, are not additionally assuming some of the responsibilities vested in the Chief Officer, at least not without Police Services understanding the legislation and being aware of the risks of doing so.

It is recommended that each force considers a 'data processing' agreement between the Chief Constable and each of the contractors and/or recovery operators. The agreement should cover procedures relating to access to personal information, whether from the PNC or other sources, data security and confidentiality. Where adopted, this agreement may be incorporated into the contract or be a separate document.

An example of an out sourced service is where a managing agent is responsible solely for the appointment, quality assurance and deployment of garages (the commercial aspects of the scheme) whilst the Police Service retains full management over the recovered vehicles including charging and disposal of vehicles. The Police Services have their own IT system for managing the vehicles, with the contractor being afforded restricted access. The managing agent merely sends details of vehicles, which have been recovered for the Police Service, through an automated interface and the Police Service then takes over full management of the vehicles.

Police Services should fully explore the most financially viable option, which takes into account vehicle recovery, storage, facilities and income from the sale of auction and scrap vehicles when examining the best option for their respective Police Service.

As the Chief Officer may be criminally liable for some VAT issues, contractual indemnity may not be enough.

Security

The security of vehicle storage sites is vitally important, regardless of whether a Police Service uses an in house or a managed scheme.

The benefits/objectives of a secure site can be summarised as the following:

- Function effectively and ensure the confidence of its staff and the public we serve by creating a safe and secure environment for our staff and contractors to work in.
- Frustrate and disrupt the activities of those who seek to do us harm.
- Reduce the loss and waste of resources.
- Protecting Police Service assets.

Vehicles that have been recovered for any policing purpose, high value assets, or items of property may be stored on site. Additionally staff working on these sites will also need safeguarding due to the types of vehicles and members of public they encounter.

Police Services need to take reasonable precautions and implement measures to mitigate any incidents from occurring.

Below are some of the items that Police Services may want to consider having on premises, whether using an in house or a managed scheme. This is entirely a local Police Service decision.

- External CCTV.
- Alarmed premises (fence alarms) linked to Police control rooms.
- Site lighting (24/7 or sensor lighting).
- Controlled access via a vehicle airlock system.
- Covert access for vehicles (recovered for a serious crime) or officers / staff.
- Site security guards.
- Internal CCTV comprising of both video and audio for front counters.
- A separate secure area with further control of access for vehicles awaiting forensic examination.

- There is a limit to how secure any outdoor compound can be. Police Services should use alternative arrangements for vehicles at high risk of attack or interference; for example the use of police premises or covert locations for storage.

The above are especially relevant when considerations are made for storing vehicles involved in crime.

Management of Premises Security

The checklist below may assist Police Services in managing premises security:

- Complete an annual security inspection, pass to your Police Service Security Advisor for review and sign off. Ensure continuous monitoring of security throughout the year.
- Ensure personnel are cognisant of the UK and any local threat assessment and their personal responsibility to maintain security.
- Ensure personnel (including plain-clothes police officers) and all non – Police personnel wear their security passes inside Police buildings. Officers must display their warrant cards; it is not sufficient to display the armorial crest on its own.
- Ensure visitors are escorted at all times. Police Services will need to make appropriate local arrangements based on the associated risks. Visitors must not be allowed unescorted access to any part of a Police/Contractor building. This is as much a Health and Safety consideration as security.
- Where a temporary pass system exists; ensure individuals who cannot produce a valid Police Service security pass are booked in and out and issued a temporary visitors pass. This must be worn visibly.
- Ensure that temporary visitor passes:
 - Refer to a particular building.
 - Are valid on a single day only, the date to be marked clearly on the pass.
- Show the visitor's name.
- Be retrieved when the visitor leaves the building.
- Ensure the parking of vehicles in official car parks and station yards is controlled and monitored.
- Ensure drivers delivering goods or supplies report to the reception point. Drivers must be escorted if not in possession of a Police Service security pass.
- Before accepting deliveries ensure that the authenticity of the deliverer is established. Where the delivery is unexpected or suspicion arises then the item must be verified with the supplier and the addressee.
- Ensure all items of mail received are examined. All staff should be briefed at regular intervals on the safe handling of mail, the recognition of suspect packages and the actions to take in the event of receiving a suspicious package.
- Ensure any Police Service CCTV monitoring and recording equipment is well maintained and regularly checked to ensure the correct functioning of the system and quality of recorded images. Review the coverage of a CCTV system where there has been a change of use within a building, including the introduction of any specialised units.
- Ensure contingency plans are available to enable 'heightened' or 'exceptional' response levels to be implemented at short notice. The plans should be reviewed regularly.
- Consider taking additional precautions against terrorist activity where vehicles are stored at sufficiently prominent or symbolic locations.
- Ensure agreed site security standards are considered at time of procurement and site visits are undertaken prior to the award of any vehicle recovery/storage contract.





Recovery Requests

Upon receipt of a fast time recovery request control rooms should review the request, determine if it is in line with your Police Services' SOPs and if it can be brought into Police or managing agent premises.

Things for an officer(s) to consider when recovery is being requested:

- Location, i.e. where is recovery required to attend.
- Reason for recovery, i.e. no insurance, RTC, crime (specify what type), obstruction etc.
- What has the vehicle been involved in and is there a requirement to preserve evidence for examination (forensic, mechanical, auto-crime)? This will allow the control room / recovery contractor to allocate the appropriate recovery vehicle.
- Any hazards? If so what details need to be provided so they can be assessed before recovery is arranged, i.e. drugs, firearms/weapons, hazardous materials/chemicals etc. (these items may be required to be removed prior to arranging recovery).
- Any difficulties with access, position or restrictions that will affect recovery or affect how recovery accesses the vehicle, i.e. damage, wheels roll, obstruction, height/width restrictions etc. (Charging Grid will be applied based on this).
- Are there any special requirements such as recovery of a heavy goods vehicle?
- Any additional information that the officer believes will either assist the recovery agent and/or how it is to be recovered and stored once it is at the pound.
- Upon receipt of a fast time recovery request the control room desk will review the request, determine if it is in line with your Police Services' SOPs and if it can be brought into your

contractors storage facility/pound. If permitted, recovery will be processed and a suitable contractor allocated. The recovery contractor will require relevant information such as vehicle details, condition, incident location, reference numbers (STORM, CAD, OnCall, ELVIS or any other incident number) and if an examination is required. These factors will determine the fees as per the National Charging Grid.

- Any risks posed to the recovery operator such as risk of attack or interference when carrying out the recovery operation. In such instances should they offer to escort the recovery vehicle?

If after reviewing all the information, control room staff determine the vehicle is eligible for recovery, they will need to:

- Follow the Police Service SOP's.
- Create a record for removal, usually on a bespoke IT system.
- Allocate an appropriate recovery contractor.
- Provide all relevant information to the recovery contractor and officer on scene.
- Liaise with any other parties (internally and externally) as required.

Things to Note

- The above list is not exhaustive. Each request is reviewed, assessed, and recovery arranged in line with SOP's and policies.
- In some cases, additional information outside the "normal processes" may be requested to facilitate the appropriate recovery.
- Officers should always remain with the vehicle until recovery arrive and remain on scene to safeguard the recovery operator and the seized vehicle.
- In some circumstances, the officer(s) may be required to escort the vehicle back to Police or managing agent premises and remain with the vehicle.
- Officer(s) will be responsible for reviewing and updating of PNC reports. Some Police Services have automated PNC reports so no action will be required from officers.



Software for Managing Vehicles

Whilst each Police Service is responsible for the management of their vehicles, the acquisition of a suitable software solution is considered good management. This can be supplied to the Police Service directly for in house schemes or via the managed agent for managed schemes.

A number of software solutions exist for the management of vehicles. Each Police Service needs to ensure the entire life cycle of the vehicle from recovery to disposal or collection can be recorded, processed and managed via their software solution. In addition to this, a number of financial transactions will occur with each vehicle such as recovery and storage fees, disposal fees and collection fees.

Various types of data will be recorded on any software solution.

- Vehicles removed and their condition – this may include photographs.
- Date, time and place of removal.
- Recovery contractor's details.
- Reason for removal.
- Officers dealing.
- Drivers, owners, registered keepers, insurance companies and finance companies.
- Internal pound movements.
- Collection or disposal.
- Complaints and refunds.
- Property.
- Finance, including removal costs, payments received and disposal proceeds.

The data must be securely stored and disposed of as per the Data Protection Act (DPA) / General Data Protection Regulations (GDPR). In some cases data may be shared across various different software solutions such as an interface to reduce the need of manual entries. In these cases assessments need to be completed by the Police Service and reasonable steps taken to ensure the data is protected and securely shared.

Any IT system should cover the process from beginning to end. An essential feature will need to be the ability of recovery operator's staff to be able to use the system via a secure link. Best results are obtained when systems are within a police network and can be linked to other police systems, most importantly PNC. The absence of a PNC link introduces significant police staff cost in data entry. Such links are not available for systems provided by managing agents which is a significant drawback. Possibly, more importantly, retaining in-house databases means that Police Services are more able to move from one managing agent to another (increasing competition) as there is a reduced or removed reliance upon former managing agents to provide historical data. It also allows the Police Service to ensure compliance with DPA & GDPR, specifically the retention of data and the Management of Police Information (MoPI) rules and the necessary deletion of 'expired' personal data in some, but not all, cases.

Currently, two of the main software solutions used are ELVIS (Easy Link Vehicle Information System) provided by WPC and IMS (Incident Management System) provided by GRG. Police Services should follow local procurement processes to identify the best option for themselves.

VAT

VAT on Charges Payable by Motorists

The prescribed charges payable by motorists are out-of-scope of VAT. However, once these charges, or a proportion of them, are returned to the contractors to pay for their services, the payment becomes remuneration for a chargeable service and is then subject to VAT.

VAT for Vehicle Disposals (Auction, Dismantling and Scrapping)

Proceeds from the sale of auctioned vehicles and scrap metals are no longer subject to VAT following the HMRC ruling in 2017. The ruling stated that police authorities are operating under a special legal regime when selling property via public auction and are therefore non-taxable persons for the purposes of VAT in relation to those sales. Any VAT incurred in the disposal of vehicles can be treated as section 33 VAT and thus recoverable (VAT on auction fees, commission, preparation etc.).

Conclusion

Police Services should be aware of the application of VAT within this specialist area and of potential pitfalls and liabilities. Police Services should ensure that HMRC rules are being correctly applied, both by itself and by managing agents.

It is therefore incumbent upon Police Services to retain, or obtain, the necessary expertise in this area and to check the application of the HMRC rules by any agent. In extreme cases VAT avoidance can be considered criminal and criminal liability cannot be absolved by contract. It is imperative invoices are issued either by both parties or a self-billing arrangement is put in place to facilitate the accounting of both input and output tax in addition to record keeping.

Additional Charges “Gate Fees”

In 2008 new Regulations were passed to set a scale of charges for vehicles removed using police powers. Chief Constables have a lien over the vehicles and they are not released until the charges are paid or a genuine offer of payment is made, after which vehicles must be

released. The charges are payable to Chief Constables who have responsibility for decisions to set the correct level of charge.

Prior to 2008 the statutory charge was much lower and did not cover the cost of most removals, as a result it was common practice for recovery operators to add further charges, this was problematic and legally difficult hence the need for the updated Regulations.

From time to time since 2008 it has come to light that some operators have continued this practice often without the knowledge of the Police Service they are contracted to, examples have included; gate fees; loading charges; additional staff at scenes known as ‘Banksmen’; winching charges; and charges for equipment or specialist recovery vehicles. It is the view of the NPCC that additional charges should not be added other than in relatively exceptional circumstances as explained below.

Any charge that is not specified in the Regulations is governed by contract law so cannot be enforced unless agreed in advance by the owner or their insurer. There is an exception to this if the police can be shown to be acting as ‘Agents of Necessity’ on behalf of the owner; to do so requires that reasonable effort is made to contact the owner without success and that immediate action is necessary. Most cases where additional charges can be justified vehicles are off road in difficult locations and immediate action is not necessary. However, there are cases where this can apply, for example a high value load that may be at risk of theft. This is a complicated area of civil law and qualified legal advice may be required before taking action to secure payment. It should be borne in mind that the police powers are discretionary, if the cost of recovery is too high we can refer back to vehicle owners, insurers or in cases of abandoned vehicles local authorities.

There are situations where the statutory charges do not fully cover the cost of recovery and it is fair to seek additional payment, recognising that unless agreed in advance this cannot be enforced. There are also circumstances where a further charge at a compound may be justified, for example a haulier seeking assistance to collect a damaged vehicle that they are unable to load.



In the above circumstances operators may be permitted to ask owners or insurers to pay an additional charge, if this is not agreed in advance a request can be still be made but unless the Agent of Necessity provisions apply payment is effectively voluntary and the payer must be informed of this. This is not as unrealistic as it may sound, many insurers recognise the problems of acting quickly at the roadside and will pay additional charges that they consider to be reasonable, however many will not.

It is the view of the NPCC that charges over and above the statutory charges should not be added other than in the relatively exceptional circumstances above, whenever such charges are contemplated, the following should apply:

- Each case to be with the full knowledge and prior approval of the Police Service.
- If payment is not enforceable the payee must be informed that this is the case.
- If an operator undertakes to do additional work without prior agreement in the expectation of additional payment this is at the operator's risk, no payment should be expected from the police.
- If a recovery cannot be done at the cost specified in the statutory charges, Police Services should not expect contractors to risk non-payment if they are unwilling to do so, consider declining to act and referring to the owner, land owner or local authority.

The responsibility for Police Service contractors lies with the Police Service. They cannot delegate this risk. The expectation is that audits and/or 'spot checks' take place on a regular basis to ensure that the contractor is not including additional fees. Police Services need to be mindful they will be held liable if a complaint in relation to any un-prescribed fees is raised.

Section 99 Road Traffic Regulation Act 1984 – Statutory Charges

In April 2021 both the Daily Mail and The Sun newspapers published articles concerning the unlawful charging of fees in respect of the recovery of vehicles by the police and local authorities due to drafting errors in legislation dating back to 1991.

It was stated that changes made to section 102(2) of The Road Traffic Regulations Act 1984 (RTRA 1984) by section 68 of the Road Traffic Act 1991 (RTA 1991) and later schedule 11, paragraph 4(2) of the Traffic Management Act 2004 (TMA 2004) inadvertently removed the ability of the Chief Officers to charge for the removal, storage and disposal of vehicles removed for offences as detailed in section 99 RTRA 1984.

This information came to light through legislative amendments put forward by the Home Office as part of the Police, Crime, Sentencing and Courts Bill 2021.

Section 99 RTRA 1984 affords powers to the police to remove illegally (section 99(1)(a)), dangerously or obstructively parked, or broken down (section 99(1)(b)), or abandoned vehicles (section 99(1)(c)).

It is understood that the charging of "statutory fees" for the removal and storage of vehicles under section 101A RTRA 1984, which specifically relates to abandoned vehicles seized under section 99(1)(c) RTRA 1984, was unaffected by the drafting errors. However, Amendments made by the TMA 2004 did inadvertently removed the ability of the Chief Officers to recover "statutory charges" as detailed in section 102 RTRA 1984.

The ability of the police to physically remove, store and dispose of vehicles removed under section 99 RTRA 1984 was unaffected by the drafting errors.

The Home Office stated at the time that police services have been within their right to charge a statutory fee for the removal and storage of vehicles under the RTRA 1984. They believe that these powers fall within the regularity and propriety principles that are set out in Managing Public Money and are arranged to meet the costs of vehicle recovery charges.

It is their view that the responsibility to reclaim a vehicle should rest with the claimant and not the taxpayer.

Furthermore, if the police were unable to deal with vehicle removal, damaged immovable vehicles a significant inconvenience to the travelling public and commerce caused by vehicles obstructing highways would result in considerable danger to the public. The consequent negative impact of this on the UK economy is also a very real concern.

The NPCC issued guidance to both VRG members and Chief Officers following consultation with the Home Office. The position was and remains that Police Services should continue to remove vehicles under section 99 RTRA 1984 and apply the “statutory charges” under section 102 RTRA 1984.

Whilst the changes put forward in the Police, Crime, Sentencing and Courts Bill 2021, which will hopefully pass into law in early 2022, will mitigate the risk of claims after this date, there remains some ambiguity as to ownership of any liability arising from the unlawful application of statutory charges since the 31st March 2008, which is when the amendments from the TMA 2004 came into force.

Home Office Statutory Fee Consultation

In May 2021 the Home Office released their public consultation on “Removal, Storage and Disposal Vehicle Charges”. This represents the most comprehensive review by the Home Office of vehicle recovery legislation since 2008 and is the culmination of a significant amount of work undertaken with the Home Office by a number of VRG members and NPCC leads.

The consultations primary aim is to address the significant disparity that currently exists between vehicle removal statutory fees and the actual cost of recovery in England and Wales. While costs (both land and operational) have increased through both inflation and significant changes to the operational environment, there has been no increase in the statutory charges since 2008. This has left many police services in tenuous relationships with their vehicle recovery contractors and worse still with some coming close to being unable to offer a viable recovery contract without having to absorb the cost of the recoveries.

The UK Government has always maintained that the provision of the statutory fees is neither punitive or an income generator, which is wholeheartedly supported by forces. Instead the fees should allow the police to operate a virtually cost neutral recovery function which is also viable for recovery operators.

Were the situation left unresolved police services would be unable to operate a viable recovery function which would have an impact on the police’s ability to prevent:

- Theft of the vehicles.
- Vehicles being used for crime or becoming a focus for crime.



- Vehicles being driven in a dangerous condition.
- Vehicles being driven by uninsured or unlicensed persons and the associated insurance implications for society.
- Environmental degradation, through the number of abandoned vehicles.

The consultation looks to revise the fees associated with the following statutory instruments (secondary legislation):

- Section 99 removals: The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008.
- Section 165A removals: The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008.
- Section 59 PRA removals: The Police (Retention and Disposal of Motor Vehicles) (Amendment) Regulations 2008.

There are four proposed options:

- **Option 1** – Do nothing.
- **Option 2** – Increase current charges according to the rate of inflation since 2008.
- **Option 3** – Full cost of recovery.
- **Option 4** – Increase current charges according to the rate of inflation since 2008 (option 2) and apply a 30% London factor for vehicle recoveries and apply a 48% London property storage rate of per day.

The consultation also seeks opinion as to whether or not the vehicle recovery fees in the Police (Retention & Disposal of Vehicles) Regulations 1995, which covers vehicles seized under the Criminal Justice and Public Order Act 1994 (illegal raves and trespassers to land), should be kept parallel to the matrix table of charges under the other Statutory Instruments. The fees in his instance not having been reviewed since 1995.

Outside of the issue of the statutory fees the consultation does look at other possible changes to the supporting Statutory Instruments:

- Review of the £350 charge for vehicles exceeding 18 tonnes MAM.

- Change the definition of “substantially damaged” to “difficult to recover”.
- Change the requirement within regulation 5(1) (a) of The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 to only allow a claim to be made by the registered keeper, or owner of the vehicle at the time the vehicle was seized.
- The explicit provision for the use of an electronic version of the seizure notice.

The NPCC VRG will be co-ordinating the response on behalf of police services in England and Wales. At the time of writing this document consultation is currently being sought from VRG members.

Finance & Leasing Association – ‘Crushwatch’

The finance company remains the owner of a vehicle and is included within the definition of ‘owner’ within the Regulations. For hire purchase, personal contract payment plans or lease hire, until finance is cleared, notification (in the prescribed format) is also a legal requirement under Section 165. Where a vehicle with finance is seized under section 165A, it is agreed best practice between the NPCC and the Finance & Leasing Association (FLA) that notification will be provided to its members, the finance company.

Using Crushwatch, a scheme operated by CAP HPI Ltd, electronic notification will be provided to the respective company. This will allow the company to arrange collection of the vehicle as

soon as possible only should they wish to do so. The various Data Protection laws governing the sharing of information must be complied with to ensure the data is securely shared. Each Police Service should consider having its own individual agreement with HPI Ltd to fulfil their requirements.

The electronic notification via Crushwatch does not replace the requirement to serve an official notice to the finance company by Registered Post and is still required under Section 165.

This postal service no longer exists but the Home Office advises that Recorded Delivery meets the definition of Registered Post specified in the legislation.

Police Services should consider the potential for income, with the aim of providing a cost neutral service to its respective force.

Police Authorised Data Downloads (PADDs)

PADDs is an electronic notification system that shares information between the Police Service and the insurer. PADDs was developed by Emergent Network Intelligence (ENI), which has since been acquired by Verisk Analytics Inc.³

The use of PADDs is entirely a matter for each Police Service.

Advice suggests that we can share data with PADDs because it 'fulfils a policing purpose'. Other Police Services suggest that this is not really a policing purpose per se, as there is no investigation of an offence – as there is no offence.

General Data Protection Regulations (GDPR)

A challenge on GDPR grounds could still be possible.

Some Police Services have a practice of emailing insurance companies. Police Services who currently undertake this process are urged to review this practice on the grounds of GDPR. A data sharing agreement must be in place.

Sharing data through PADDs is safer because the contracts include a data sharing agreement, which PADDs should update in line with the new legislation.

The only way we should be notifying insurers is when there is a data sharing agreement in place, along the lines of a PADDs agreement. The ideal solution would be for all PADDs participant insurers to include suitable wording in their policies and to get full consent from the data owner. It should be noted that consent could be withdrawn at any stage.

Summary

As aforementioned, the use of PADDs is a decision for each individual Police Service. There is a commercial aspect to PADDs whereby information shared by the police holds value to an insurance company. Whilst there is no cost for the police to use PADDs, Police Services may want to consider if a commercial agreement with ENI is appropriate.

³ <https://www.verisk.com/en-gb/insurance/products/police-authorized-data-downloads/>



Disclosure to Insurers

The previous Chair and Secretary of the VRG, in consultation with the NPCC Data Protection Group, made a decision, based on insurance policy wording, that all incidents following the recovery of vehicles involved in Road Traffic Collisions and lost or stolen were to be notified to the insurance company. This was undertaken under the pretext of implied consent.

The approval was conditional upon being satisfied about the data owners' consent to share the data with insurers. The NPCC proceeded on the basis that every insurance policy contract obliged policyholders to notify insurer of a claimable loss, regardless of whether or not they wished to claim. By inference, we were only doing the notification for the insured by implied consent. Under GDPR, implied consent is no longer acceptable, bringing the justification for NPCC authority into some doubt.

Implied Consent

The matter of implied consent was raised with the NPCC Data Protection Officer. The following is a summary of their response.

Three possible options were outlined:

1. Can powers from the Road Traffic Act infer a reasonable power to share data with insurers? It was suggested this would be difficult to prove as the obligations to share information are contained within the insurance contract, which we would not see.
2. Whether rules around using Legitimate Interests exclusively could be utilised to share data. This would be extremely challenging in practice.
3. Whether it was possible to justify the use of the Police Reform and Social Responsibility Act

(PRsRA) 2011. This grants the Chief Constable powers to do anything they deem necessary for the functioning of their Police Service (in line with the joint responsibility of the Chief Constable and Police and Crime Commissioner (PCC) to run an efficient and effective police service). This is similar to the powers under Legitimate Interests (Article 6(1) (f) condition for processing personal data). A reasonable use of personal data is undertaken to reduce the burden on police resources thus delivering an effective and efficient service. The minimum necessary data is sent to the insurer such as "VRM ABC123" has been recovered to this site. You are currently showing as the insurer.

Police Reform and Social Responsibility Act (PRsRA) is a broad power which must be used responsibly and transparently.

For all of the aforementioned, there would be an obligation to let the data subject know that we have both their car and their data, at the earliest opportunity, unless we have collected the vehicle under a law enforcement (relating to crime or public safety measures) purpose.

NCA

A national agreement has been put in place between the National Crime Agency (NCA) and NPCC to reposition vehicles or remove them at their request to a pound. The request for removal must be made by an NCA officer.

Vehicles containing hazardous items (such as chemicals, fuel or biohazards) or prohibited items (such as drugs, firearms, weapons and large quantities of cash) will not be removed unless deemed safe to do so by the Police Service in accordance with their policies. These items may need to be removed by the NCA officers or contractors prior to removal taking place. If a forensic examination is due to take place, the NCA officer must provide this information prior to recovery being arranged to ensure appropriate measures are taken.



An NCA officer must remain with the vehicle throughout the period of recovery, and if required escort the vehicle to its new location.

Vehicle and premises security must be considered when processing removals for the NCA. If required, premises with a higher level of security should be used to store vehicles removed for the NCA.

The NCA will be charged for the removal or repositioning of any vehicle as per the tariff in **Appendix B**.

The NCA will be charged as per the tariff if the vehicle is not collected within 5 days. No payment will be taken from the NCA contractor at the time of collection. Instead, the NCA will be invoiced directly.

The agreement between the NCA and the NPCC can be found in **Appendix C**.

DVLA

Police Services may utilise devolved powers from the DVLA under The Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 (as amended) to seize vehicles where:

- UK vehicle is stopped, including vehicles recorded as “in trade”; Vehicle Excise Licence (VEL) has been expired for more than 2 months and a day, or the vehicle is being driven in contravention of a SORN (Statutory off Road Notification).
- UK vehicle found at the roadside (unattended); VEL expired for more than 2 months and a day, or parked in contravention of a SORN
- Foreign vehicle stopped at the roadside that has overstayed the exemption time (vehicle brought temporarily into the UK is exempt from UK licensing and registration for up to 6 months in a 12-month period, which excludes foreign students), or the driver is found to be a UK resident. An offence under section 29 of the Vehicle Excise and Registration Act 1994 is detected.

Once the officer has identified a vehicle is in scope for seizure, the officer must inform the driver (if present) that the vehicle has been seized and that the vehicle will need to have a valid VEL before it is released or a surety taken. It is important to note that the power cannot be used to remove abandoned vehicles (the local authority are responsible for removing abandoned vehicles). At this point, the officer can:

- Clamp the vehicle at the roadside.
- Remove the vehicle to a pound.
- Or clamp and then remove the vehicle if payment is not forthcoming.

Police Services will require a formal agreement with DVLA, which will include the sharing of data, prior to utilising these powers.

Fees

The fees for the release of the vehicle from a clamp or from the pound are:

- Within 24 hours of the time of finding £100.
- After 24 hours from the time of finding £200.
- Storage is charged at £21 per day (nothing due for the first 24 hours).

There is also a surety against them correctly taxing the vehicle which is refundable to the driver on production of valid VEL for the vehicle. The surety is refundable up to 15 days (56 days for foreign vehicles) from the time of clamping/removal.

- Motorcycles, cars and anything up to 3500kg – £160.
- Buses, recovery vehicles and up to 7500kg – £330.
- Anything else – £700.

The Police Service retain any release and storage fees, unredeemed surety fees and any proceeds following disposal.



Disposal

The sale of vehicle can only be carried out with the permission of DVLA.

- Vehicles that are valued at under £1000 – disposal after 7 days.
- Vehicles that are valued at over £1000 – disposal after 14 days.
- Foreign vehicles – if they have previously been registered in the UK, they can be auctioned otherwise they must be dismantled or scrapped.

Stolen Vehicles

The Government and courts⁴ have each endorsed the practice of using the powers of removal under the Removal & Disposal of Vehicles Regulations in order to recover vehicles which have been stolen and subsequently abandoned by the thief. It is considered good practice to recover such vehicles and to subject them to forensic examination prior to their return to the owner.

The charges payable under the Regulations cannot be enforced against the owner of a stolen vehicle as, in the case of abandonment, liability remains with the 'person responsible' i.e. the thief. However, the Police Service is not obliged to return the vehicle unless the charges are paid. Ministers endorse the use of these powers provided there is a policy in place that the Police Service will, where possible, inform the loser of stolen vehicles that there are charges applicable, either at the time of reporting or soon afterwards. Where it is not possible to make the notification of charges due to prevailing circumstance, this would not normally be considered to be a bar to charges, as the overall policy to do so remains in place.

Vehicles should not be recovered or retained against the wishes of the owner unless the Police

Service is prepared to seize them using powers of seizure such as PACE. Under the Removal & Disposal of Vehicles Regulations, there is an obligation to return the vehicle once statutory fees are paid, or a genuine offer to pay has been made.

It is not considered good practice to levy prescribed storage charges for any period where a vehicle is not returned to the owner whilst it is subject to forensic examination or is retained, with the consent of the owner, pending court proceedings. Where there is no such consent, the vehicle should be seized using powers such as section 19 PACE or Common Law.

The legal basis for using the Removal & Disposal of Vehicles Regulations for the recovery of stolen vehicles is discussed in the Appendix A.

The Home Office has advised in this respect: *“Ministers consider that there are good reasons for the police to remove stolen vehicles using their s99 powers. The vehicles will usually be recovered as abandoned. Ministers have also decided that the substantial cost associated with such recoveries should not fall on the public purse. An owner may therefore be required to pay the statutory charges before the vehicle is returned. This position is established by the case of Service Motor Policies at Lloyds v City Recovery Ltd, heard in the Court of Appeal (Civil Division) on 9 June 1997. If, however, the owner declines to pay the vehicle may be disposed of and sufficient of the proceeds retained to meet the removal and storage charges applicable.”*

Abandoned Vehicles

There is a statutory duty under the Refuse Disposal (Amenity) Act 1978, requiring that local authorities remove vehicles which have been abandoned without lawful authority on any land in the open air or on any highway.

⁴ Service Motor Policies at Lloyds vs City Recovery Limited [1997] EWCA Civ 2073

However, the Road Traffic Regulation Act and the Removal & Disposal of Vehicles Regulations provide the power to both police officers and the local authority to remove abandoned vehicles. Under some circumstances, working in partnership with local authorities might provide benefits to both parties, by both removing unsightly waste whilst ensuring that opportunities to disrupt criminal behaviour is not overlooked.

It has been held that abandoned stolen vehicles may also be removed after having been abandoned by the thief⁵. Vehicles might therefore also be said to have been abandoned, for example, at the scene of a crime. Should this be the case and where the Regulations apply, removal of that vehicle might legitimately be carried out by exercise of the Removal Regulations, thereby allowing the charging of the prescribed removal charges before releasing it.

PACE / Crime Vehicles

This heading refers to cases where the vehicle is recovered in connection with an offence under investigation, where the provisions of the Removal & Disposal of Vehicles Regulations do not apply, or cannot be applied.

It is a widely accepted doctrine that the police may not levy charges unless the charge is specifically authorised by law⁶. In cases where there is no order of the court, there is probably no legal facility to charge the vehicle owner for the costs of recovering a vehicle where it has been seized using only powers granted by section 19 PACE or Common Law. It might be considered that the costs of seizure are a legitimate prosecution cost and recompense for the force

may only be achievable by application to, and at the discretion of, the court.

It may, however, be legitimate to combine powers of seizure with powers to remove under other legislation, for example, those under the Road Traffic Regulation Act (see the discussion in the Appendix concerning the exercise of a power of seizure under section 19 PACE when not 'lawfully on premises'). Where the provisions of the Road Traffic Regulation Act and the Removal Regulations also apply, it may be possible to use the alternative powers of removal and therefore make a charge.

Where a vehicle, seized under PACE, has been released from the need to retain, but the owner fails to collect or remove it, forces may deal with such a vehicle under the provisions of the Police Property Act.

The principles of the Torts (Interference with Goods) Act 1977 might also be applied, to prevent the force from any liability for the civil tort (wrong) of 'conversion' by disposing of (or 'converting') another person's property. Such tort can be avoided by serving a notice, in the form prescribed by the Act, upon the owner, thereby creating upon them a legal duty to collect the vehicle 'within a reasonable time'.

Provided there are no charges outstanding at the time of the service of the notice, the force may then move to dispose of the vehicle at the expiry of the notice period and may move the vehicle to commercial (payable) storage after the reasonable period for collection has expired and pending disposal of the vehicle. The 'reasonable period' has not been defined and force policy should be adhered to.

In the unlikely event that financial charges are outstanding when the notice is served, a minimum period of three months' notice must be given before disposing of the vehicle.

⁵ Service Motor Policies at Lloyds vs City Recovery Limited [1997] EWCA Civ 2073

⁶ Attorney General v Wilts United Dairies [1921] and McCarthy & Stone Developments Limited v. Richmond Upon Thames London Borough Council [1992]



Collision Damaged Vehicles

Following road traffic incidents, officers typically use their powers under regulation 4 of the Removal & Disposal of Vehicles Regulations 1986. The powers enable officers to remove vehicles which have broken down or permitted to remain at rest on the road or other land in such position or such condition or such circumstances as to cause obstruction to persons using the road, or be likely to cause danger to those persons – or appears to have been abandoned without lawful authority.

Following removal, the law envisages that prescribed charges may be payable before the vehicle is released. The Regulations also allow that the 'owner', for obstructions etc., or the "person responsible" for abandoned vehicles, may be pursued for unpaid charges as a civil debt.

Application of the matrix scale of charges for collision damaged vehicles also depends upon the size of vehicle, its position on the road or otherwise, and whether laden or not. Interpretation of the Regulations can sometimes be difficult and some advice was provided by the Home Office when the fees Regulations were published in 2008. That, and supplementary advice is included at Appendix A.

It is recommended that forces monitor closely the application of charges where recovery operators collect them on behalf of the force. The correct application of the charges is the responsibility of the Chief Officer and any overcharging is therefore also the responsibility of the force and not the

recovery garage or a managing agent. Forces should ensure that those applying the charges understand the correct definitions within the legislation. For example, 'a Road', has a statutory definition which may not generally accord with the common understanding of the word.

Vehicles involved in a serious or fatal collisions might, where the Regulations permit, also be removed using the powers under the Removal Regulations. If the Regulations do not apply, or a demand is subsequently made by a person for the return of the vehicle accompanied by a genuine offer to pay the charges, it may then be necessary to exercise seizure powers under section 19 PACE or Common Law.

Whilst it is lawful to do so, it is not considered appropriate or good practice to charge storage charges for the period when a vehicle, removed under the Removal Regulations, is being kept in connection with an offence under investigation or for forensic examination.

Charges for the recovery, and for the period of storage incurred after the release of such a vehicle, is considered proportionate and reasonable.





Forensic Examination

Vehicles stolen by means of burglary or robbery, or involved in more serious criminal investigations, are recovered under PACE for a forensic examination. The level of examination will vary according to local Police Service policies; the strategy having been agreed with the Senior Investigating Officer and according to the specific details of the offence. Trace evidence could be required from both the outside and inside of the vehicle, dependant on the circumstances, and must always be a consideration during recovery and storage.

The forensic agreement between Police Services are for vehicles stolen by burglary or robbery to be examined by the Finder Police Service on behalf of the owner Police Service, and if requested by the Investigating Officer. Any vehicles involved in more serious crime types, such as violent crime or complex cases, will either be decanted back to the Owner Police Service for examination or access allowed for the owner Police Service forensic team to visit the premises and carry out the examination.

Reference should be made to Police Services policies and procedures for handling forensic evidence when writing the specification for contracts for vehicle removal and storage services. Anti-contamination procedures must be followed for recovery of crime vehicles. Police officers entering the vehicle to carry out a cursory search prior to recovery should wear full PPE at all times and limit handling of any items within the vehicle. Any dangerous or illicit items found must be recovered by police prior to recovery. It is advisable that vehicle doors are sealed prior to recovery if no keys are available to lock the vehicle. Seals should be placed across the bottom

of each opening door and reference numbers documented to prevent further unauthorised entry prior to forensic examination and thus preserve the continuity and integrity of any potential evidence.

The vehicle should be recovered using an authorised full lift in order to limit contact between the recovery vehicle and target vehicle. Under no circumstances should the recovery driver touch or enter the crime vehicle.

A vehicle record which details key information such as the vehicle information, condition, damage and movements must be created and accompany the vehicle from the recovery location to the police or managing agent premises. This record must also provide the details of any persons who have had contact with the vehicle.

The premises the vehicle is being recovered to should be undercover and secure, and there should be procedures in place to prevent unauthorised access or interference to the vehicle.





ISO Forensic Standards

“ISO/IEC 17025⁷”

enables laboratories to demonstrate that they operate competently and generate valid results, thereby promoting confidence in their work both nationally and around the world.

It also helps facilitate cooperation between laboratories and other bodies by generating wider acceptance of results between countries. Test reports and certificates can be accepted from one country to another without the need for further testing, which, in turn, improves international trade”.

“ISO/IEC 17020:2012⁸”

specifies requirements for the competence of bodies performing inspection and for the impartiality and consistency of their inspection activities.

It applies to inspection bodies of type A, B or C, as defined in ISO/IEC 17020:2012, and it applies to any stage of inspection”.

Laboratory accreditation bodies use the ISO 17025 standard specifically to assess factors relevant to a laboratory's ability to produce precise, accurate test and calibration data; including: Traceability of measurements and calibrations to national standards and the technical competence of staff.

Although both ISO 9001:2015 and ISO 17025:2017 are quality management systems applicable to any industry, their scope is significantly different. ISO 17025 is only for calibration and testing laboratories whereas ISO 9001 can be applied to any organisation.

Police Services will need to consult and comply with their individual Service requirements and ISO Forensic Standards.

FCIN – Collision Investigation Standards

The Forensic Collision Investigation Network (FCIN) recently developed a Standard Operating Procedures for accommodation requirements, FCIN-SOP-501 relates.

The purpose of the SOP is to describe the measures and processes put in place within the FCI working environment at Force Collision Investigation Bases to protect the integrity and security of information, documents, equipment and exhibits handled by the FCIs, whilst ensuring that Health and Safety regulations are adhered to.

This new SOP, which many Chief Officers have now ratified, imposes a requirement to supply certain levels of accommodation to ensure the integrity and impartiality of FCI led investigations.

These include, but are not limited to:

- FCI staff shall not be co-located within the same office as any other staff that may be considered customers, for instance Family Liaison Officers, Investigative Officers, or Case Builders.
- A separate, secured and controlled exhibit storage facility.
- A separate, secured and controlled store for critical equipment. This includes a separate store for defective critical equipment.
- Access to the accommodation shall be secure, controlled and auditable.
- A consumables storage area. This is a separate room or lockable storage area within the base.

It currently isn't known what impact the provision of such facilities will have on individual forces.

⁷ <https://www.iso.org/standard/66912.html>

⁸ <https://www.iso.org/standard/52994.html>

Searching and Inspecting Vehicles

The majority of vehicles removed by Police Services are not subject to a search by police officers using PACE or other statutory powers. Firearms, drugs and other criminal property are regularly found in vehicles by compound staff and there have been occasions when firearms or large quantities of drugs have been found after vehicles have been sent for disposal. As a guide, about 8% of section 165A RTA 1988 vehicles recovered by the MPS contain such items.

A number of dangerous and illicit items have been found inside vehicles recovered by Police Services such as:

- Drugs
- Guns
- Ammunition
- Explosives
- Knives
- Material used to express terrorist views

Whilst police staff and managing agents do not have any statutory powers to search vehicles and seize any items they find, given that these vehicles are temporarily in the custody and control of the Police Service, it is appropriate for an inspection to be undertaken to ensure that all reasonable steps are taken to ensure that nothing in the vehicle interferes with its safekeeping.

There is a sound legal basis for this practice. There is a power and duty of safekeeping for those categories of vehicles seized or recovered

under statutory powers. Regulation 3(2) of the RTA 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 states:

“While the vehicle is in the custody of the authorised person, the authorised person shall be under a duty to take such steps as are reasonably necessary for its safe keeping”.

Similar wording is afforded within regulation 3 of The Police (Retention and Disposal of Motor Vehicles) Regulations 2002 for vehicles seized pursuant to section 59 Police Reform Act 2002 and section 100(4) RTRA 1984 concerning those vehicle removed pursuant to section 99 RTRA 1984.

The inspection is necessary to identify:

- Anything that could interfere with the safekeeping of the vehicle while it is in police custody, such as corrosive, flammable or combustible materials, faulty wiring, water ingress etc.
- Items that might pose a hazards to officers, police staff or contractors, such as used needles.
- Perishable items.
- Items of value removed by the owner or left in the vehicle, all of which should be recorded.
- Existing internal damage.

The power to inspect a vehicle is much wider ranging than any power of search, because there is no requirement to:

- Look for anything in particular.
- Suspect that any prohibited item, stolen item or evidence of a crime may be found.

The duty of safekeeping is applicable to both the officer at the roadside or staff or contractors acting on the authority of the Chief Officer. Any vehicle that has previously been searched under a statutory search power would not be precluded from an inspection by pound staff as the search is specific, not general. If during the course of this inspection the officer obtains ‘reasonable grounds’ to suspect that such items are present, a search can be undertaken by invoking the relevant powers under other legislation, such as section 1 of PACE 1984 or section 23 of the Misuse of Drugs Act 1971.



It is entirely arguable that the same duty of safekeeping can be applied to PACE / Common Law seized vehicles, where that action does not interfere with the integrity / continuity of the exhibit. This would be under a duty to care for the property as a bailee.

It is suggested that a court would be unlikely to criticise the police for inspecting vehicles. Therefore the risk of undertaking an inspection in such circumstances was deemed to be low, for both the police and any managing agents acting on their Chief Officer's authority.

All inspections must be documented and where any property is removed from a vehicle it must be dealt with in accordance with any national or local property policies and procedures.

It will be for individual forces to determine whether or not an inspection, or inspections – as the duty of safekeeping is continuous and not momentary – are reasonable and proportionate.

Checks of the contents of vehicles should be carried out, preferably on receipt at the compound, and certainly before they are sent for sale or disposal to a third party.

Contracts for vehicle recovery and storage should include protocols on searching / inspecting vehicles, removing and recording their contents. Police Services should provide contracted disposal agents with protocols to follow in the event of finding any of the items listed above or anything that may be deemed dangerous or illicit. If in doubt, the disposal agent should make contact with the relevant Police Service for further guidance and support.

The adoption of vehicle inspections at the roadside and / or at the car pounds would:

- Increase crime detection as a result of a vehicle stop and seizure.
- Reduce the number of lost prosecution, arising from evidential continuity issues.
- Reduce the risk of attacks on recovery drivers on route to the pound.
- Reduce the physical risk to police staff, recovery operators, recovery vehicles, pound premises and other vehicles in the pounds.

R v GMP, AA (Farnworth) Ltd and Century Motors.

There is further support for this view in the case of R v GMP, AA (Farnworth) Ltd and Century Motors that dealt with several aspects of police vehicle removal contracts.

There is no specific power to enter and search a vehicle brought into police possession, including those seized under section 19 PACE. A vehicle is considered to be 'premises' for the purposes of PACE and must be treated as such.

In the case of R v GMP, AA (Farnworth) Ltd and Century Motors the Appeal Court ruled that no-one has power to carry out a "search" of premises or motor vehicles of the sort referred to under PACE, except in accordance with the requirements of that Act. For the purpose of safeguarding, the property found in an abandoned, broken down or stolen vehicle, "search" is merely a synonym for "look for" and necessarily precedes the taking into safe custody of any property in the vehicle so that it may be preserved until the owner is found.

The disposal of property removed from a vehicle would in these circumstances, and indeed the disposal of the vehicle itself might, be undertaken pursuant to the provisions of the Police (Property) Act 1897. Where no claim to such property is made and no application is made to a Magistrates Court, the property must be dealt with under the Police (Disposal of Property) Regulations 1975, reg. 4.

When disposing of property, which has been removed from a vehicle, Police Services should adhere to their own policies in this regard and, where appointed, the Police Service Property Manager should be consulted and a common practice agreed in respect of the disposal of all property, which has come into the custody of the Police Service concerned, from whatever source.



Health and Safety within Police and Contractor Compounds

There is a legal duty on employers under the Health and Safety at Work Act 1974 (HASAWA) to provide a safe working environment for employees. To enable a safe working environment there are a number of areas which should be considered. The following list is not exhaustive but highlights some of the key areas. The risk ultimately remains with the Police Service and cannot be delegated to the managing agent.

Risk Assessments

The Management of Health and Safety at Work Regulations 1999 (MHSWR) require all activities to be risk assessed. When carrying out a risk assessment you should identify any hazards, decide who is potentially at harm from them, evaluate the risks of the hazards and if necessary put control measures in place to mitigate the risks. A record of the risk assessment should be kept detailing any significant findings. Risk assessments should be reviewed regularly so that they remain up to date and in line with current policies.

COSHH Assessments

The Control of Substances Hazardous to Health Regulations 2002 (COSHH) require all hazardous substances in the work place to be risk assessed. When carrying out a COSHH assessment you should walk around the work place to identify any hazardous substances or processes that

produce hazardous substances that may be hazardous to health, decide who is potentially at harm from them, refer to any manufacturer safety data sheets (MSDS), evaluate the risks of the substances or processes and put control measures in place to mitigate any risks. A record of the COSHH assessment should be kept detailing any findings. COSHH assessments should be reviewed regularly so that they remain up to date and in line with current policies and manufacturer safety data sheets.

Method Statements

It is good practice to complete method statements (also referred to as safe systems of work) for complex tasks. A method statement should be made up of detailed systematic instructions showing how a particular task should be carried out.

Contractors, other departments or agencies operating on your premises – It is good practice to share risk assessments, COSHH assessments, method statements, site hazards and evacuation plans with contractors, other departments or agencies that have use of your premises. This will help make them aware of any significant risks or hazards and will allow for a common approach when dealing with those hazards.

Fire Safety

The Regulatory Reform (Fire Safety) Order 2005 places responsibility on the employer to comply with fire safety law. Some things to consider when reviewing your fire safety.

- Has a fire risk assessment been completed and control measures implemented?
- Is fire equipment such as smoke alarms, emergency call points, fire extinguishers etc., readily available and suitably maintained?
- Are there any substances stored on the premises, which would create a hazard in the event of a fire?
- Are there adequate numbers of trained fire wardens that can evacuate the premises in the event of an emergency?
- Are evacuation procedures in place including assembly points?

- Are there any members of staff that would need assistance during an evacuation? If so is a personal evacuation plan required?
- Conduct regular checks to ensure compliance of any measures put in place.
- Conduct regular reviews of fire risk assessment and any measures put in place to ensure that they are still suitable.

Electricity at work

The Electricity at Work Regulations 1989 places responsibility on the employer to ensure that all work activities that use or are affected by electricity are carried out safely. Particular attention should be paid to any activities involving the use of electrical equipment, inspecting and PAT testing electrical equipment and handling electric and hybrid vehicles.

Personal Protective Equipment (PPE)

PPE should be considered as a last resort. If there is still a significant risk, after all other control measures have been considered then PPE should be issued to enable a task to be carried out safely. PPE should be chosen carefully, it should be suitable to the task, CE marked in accordance with the Personal Protective Equipment Regulations 2002, it must be suitable to the person wearing it and they must be trained in its use. Keep in mind that some items of PPE require regular maintenance and have expiry dates.

Reporting accidents

A system should be in place for reporting any incidents, which result in injury or illness. These incidents should always be investigated. At the conclusion of the investigation, any learning should be taken into consideration and any associated risk assessments should be reviewed.

PUWER

Provision and Use of Work Equipment Regulations 1998 requires equipment that is provided for use at work to be fit for purpose and suitable to the task. Equipment must be suitably marked with a CE marking. Equipment must only be used by those staff who have been adequately

trained or instructed in its use. Equipment must be accompanied by safety measures such as emergency stop buttons, isolation controls and warning labels where necessary. Equipment must be regularly inspected and suitably maintained.

LOLER

The Lifting Operations and Lifting Equipment Regulations 1998 requires lifting equipment to be fit for purpose and suitable to the task. Equipment must be suitably marked with the safe working load (SWL) and a CE marking. Equipment must be suitably maintained and thoroughly examined by a competent person at periodic intervals. Thorough examinations must be carried out prior to first use and then every 6 months or 12 months depending on the type of equipment and the conditions that it is exposed to. Equipment that is subject to LOLER regulations will also be subject to PUWER regulations.

Monitoring

Any control measures or processes that are put into place to allow a safe working environment are great but will be of no use if nobody is complying with them. It is good practice to carry out regular monitoring to ensure that all employees are complying with any health and safety measures put in place.

Incident Manager

Consideration should be given to the need for a trained Incident Manager. In the event of a major incident where complex recovery is required, an incident manager would attend the scene, assess the situation, identify any hazards and risks, identify a safe method of recovery and communicate with employees and other agencies at scene. Having a trained incident manager can help control any risks at major incidents and enable the safe recovery of the vehicle.



Handling Electric and Hybrid Vehicles (E&HV's)

The volume of E&HV's on the road is rapidly increasing and contact with these types of vehicles will only become more frequent. While E&HV's do not pose an immediate risk when in good working condition, they can pose a significant risk if they are substantially damaged as a result of an RTC. Substantially damaged E&HV's have an increased risk of fire or electric shock. Extreme caution should be taken when dealing with E&HV's involved in RTC's.

Consider making substantially damaged E&HV's safe by isolating the high voltage system prior to recovery. Isolation of the high voltage system must only be carried out by someone who is suitably trained.

Institute of the Motor Industry (IMI) recommended training when dealing with E&HV's is:

- Basic hazard awareness – Suitable for compound staff or first responders who are coming into contact with vehicle.
- IMI Level 2 or equivalent – Suitable for staff who make the vehicle safe by isolating the high voltage system.
- IMI Level 3 or equivalent – Suitable for staff who make the vehicle safe by isolating the high voltage system and remove high voltage components as part of servicing, repair or collision investigation.

IMI recommended PPE and equipment PPE and equipment when isolating high voltage systems on E&HV's is, (This list is not exhaustive and other equipment is available):

- Insulated gloves Class 0 (1000v).
- Cotton gloves to be worn inside insulated gloves.
- Leather gauntlets to be worn over insulated gloves.
- Rubber mat Class 0 (1000v).
- Insulated tools Class 0 (1000v).
- Insulated rescue hook (Minimum 1000v).

- Lock out tags.
- Lock out padlocks.
- Full face visor with electric arc protection.
- Insulation tester CATIII (1000v).
- Chain cordon kit for cordoning off vehicles.
- Safety signs such as "Danger Risk of Electric Shock".

Good practice when dealing with substantially damaged E&HV's:

- Consider making these vehicles safe by isolating the high voltage system prior to recovery.
- These vehicles should be inspected upon arrival at compounds to ensure that the high voltage system has been isolated and that the vehicle does not have any obvious significant hazards. Where the high voltage system has not been isolated, it should be isolated immediately upon arrival at the compound. Where it is not possible to isolate the vehicle or there are significant hazards, the vehicle should be cordoned off and suitably marked with warning signs to make others aware of the hazards.
- Staff who isolate these vehicles must be suitably trained.
- Suitable PPE must be identified and provided to staff who isolate these vehicles.
- Isolating high voltage systems should be carried out in pairs so that first aid can be administered in event of electric shock.
- Signage or suitable identifiers should be placed on the vehicle to show that the high voltage system has been isolated.
- A designated area should be identified at compounds for storing these vehicles. By storing them together, it is easier to control any risks associated with them. Be mindful of any recommended separation distances between stored vehicles. The relevant equipment and PPE can be stored in close proximity to the designated area so that it is easily accessible if required. The designated area should be clearly sign posted with the relevant warning signs displayed.

- Keys must be removed from the vehicle along with the service plug, which is removed from the high voltage system. They should be stored away from the vehicle in a suitable key cabinet.

Handling Fire Damaged Vehicles

Fire damaged vehicles present a number of hazards including burns, electric shock, contamination and re-ignition. Great care should be taken when dealing with them.

Due to the extreme temperatures of vehicle fires, any metal surfaces on the vehicle may remain hot for a prolonged period of time; this should be taken into consideration when processing them at the scene and recovering the vehicle.

When processing these vehicles for recovery, if the fire brigade are on scene they should be asked to disconnect the 12V battery prior to recovery. It may be possible to come to an agreement with your local fire department so that they disconnect the 12V battery on all fire-damaged vehicles. The reason for disconnecting the battery is because if it is already fire damaged then there is an increased risk that it may reignite. In the case of electric and hybrid vehicles, the 12V battery should be disconnected and the high voltage battery should be isolated prior to recovery where possible. High voltage batteries must only be disconnected by someone who is suitably trained to disconnect high voltage systems.

Touching or entering these vehicles should be avoided if possible and this should only be done in exceptional circumstances such as retrieving evidence or forensic examination. Where touching or entering the vehicle is unavoidable, a risk assessment should be conducted and suitable PPE identified and provided.

It is good practice to store these vehicles in a designated area within compounds, away from areas, which are frequented by staff or visitors. This reduces the risk of injury from damaged vehicle parts and sharp edges and also helps prevent staff or visitors from breathing in any dust and fumes. These vehicles should never be stored in confined spaces or inside garages or buildings.

Vehicles Containing Drugs

Where drugs are found in a vehicle prior to recovery they should be removed and not left in the vehicle. Leaving significant quantities of drugs in vehicles during recovery places the recovery operator at unnecessary risk of attack.

When drugs are found in a vehicle a dynamic risk assessment should be conducted prior to handling or removing the drugs to ensure that it is safe to do so. If the drugs are securely packaged and deemed safe to remove then the correct PPE should be worn when handling and removing them from the vehicle. Where the drugs are not securely packaged specialist advice should be sought from your CBRN unit on how to proceed.

When removing drugs from vehicles they should be deposited directly into an evidence bag, sealed and not handled more than necessary. Never open any drugs packages or smell the contents to try and identify the substance.

If drugs cannot be removed at the scene of recovery, the vehicle should be escorted to the pound by officers who should remain with the vehicle until such time the drugs can be removed.

Guidance should be sought from your exhibits department on how to store or dispose of drugs.

Vehicles Containing Explosives Including Fireworks

Where explosives, including display fireworks, are found in a vehicle the appropriate team who are explosives trained should be contacted so that the item can be safely removed from the vehicle and if necessary disarmed.

Domestic fireworks, such as the type that you can buy over the counter, are relatively safe. If they are discovered prior to recovery then they should be removed from the vehicle and given to the driver. Where they are discovered after the vehicle has been recovered they should be removed from the vehicle and stored in a secure location or locked cabinet designated for storing fireworks, which is marked with appropriate warning labels, is dry and



away from any heat or ignition sources. Attempts should be made to restore the fireworks to the owner or driver or safely dispose of as soon as possible so that they are not stored unnecessarily.

Under the Explosive Regulations 2014, depending on the hazard type of the firework, there are limits on the amount of explosives and how long they can legally be stored. This should be considered when storing large amounts of domestic fireworks.

Fireworks must be disposed of safely and in accordance with any waste regulations. Guidance should be sought from your exhibits department, environmental department, the manufacturer or local waste authority.

Vehicles Containing Firearms

Where firearms are found in a vehicle prior to recovery they should always be removed and not left in the vehicle. Leaving firearms in vehicles during recovery places the recovery operator, Police officer and the public at unnecessary risk of attack or injury.

When firearms are found in a vehicle they should not be handled or removed by staff that are not firearms trained. Removal of the firearms should be arranged immediately upon finding and a member of staff should stay with the firearm for continuity purposes and to prevent anyone from accessing the vehicle. The firearms should be left in situ until a suitably trained officer can attend to make the firearms safe, securely package them and remove them from the vehicle.

As a minimum, firearms that cannot be removed at the scene of recovery must be placed in an appropriate ballistic bag. Furthermore, the vehicle must be escorted to the pound or other designated location by officers who must remain with the vehicle until such time the firearms can be removed.

Firearms must not be stored at police pounds or managing agent premises. They should only be stored at locations that have suitable facilities and authorised to store firearms.

Vehicles Containing Hazardous Substances, Including Bodily Fluids

When dealing with hazardous substances in vehicles, expert advice should be sought prior to recovery. If hazardous substances are stored in sealed containers, they should be removed from the vehicle prior to recovery by someone who is suitably trained and wearing appropriate PPE. Where hazardous substances are not stored in sealed containers and it is not possible to remove them from the vehicle prior to recovery, such as spilt chemicals or bodily fluids, then expert advice should be sought to determine whether it is safe to recover and store the vehicle or if any additional actions should be taken. Where it is safe to recover and store the vehicle, warning signs should be placed on the vehicle to make others aware of the hazards.

When storing vehicles at compounds that contain hazardous substances it is good practice to store them in a designated area, away from areas which are frequented by staff or visitors. This reduces the risk of injury or contamination to anyone who comes into contact with the vehicle. These vehicles should be cordoned off and suitably marked with warning signs to make others aware of the hazards.

Prior to entering any vehicle containing hazardous substances a risk assessment should be completed to determine if the vehicle is safe to enter and if any PPE is required.

If the vehicle still contains hazardous substances when being restored then the person collecting should be made aware so that they can carry out their own risk assessment and take any necessary precautions.



Vehicles Containing Insecure Loads

When processing a vehicle for recovery, which contains an insecure load, the load should be secured prior to recovery. This can be achieved in a number of ways depending on the load, such as applying additional retaining straps, redistributing the load or unloading the vehicle and allowing the driver or owner to place the load onto another vehicle.

It is the duty of the recovering agent to ensure all loads are secured prior to recovery. In the event of not being able to secure a load, an Incident Manger should attend the scene with the view to assessing the most appropriate method of removal.

Vehicles Involved in Acid Attacks

Due to the recent rise in acid attacks there is an increasing number of vehicles being recovered to compounds that are contaminated with acid. There are significant risks including burns and permanent damage to the eyes and skin if coming into contact with acid. Great care should be taken when dealing with these types of vehicles.

When processing these vehicles for recovery, if the fire brigade are on scene they should be asked to hose down the exterior of the vehicle to dilute and wash away any acid residue to prevent future risk of injury to anyone who comes into contact with the vehicle. It may be possible to come to an agreement with your local fire department so that they hose down the exterior of vehicles contaminated with acid.

If there are bottles of acid located within the vehicle, these should be removed by officers with appropriate PPE prior to recovery.

Touching or entering these vehicles should be avoided if possible and this should only be done in exceptional circumstances such as retrieving evidence or forensic examination. Where touching or entering the vehicle is unavoidable, a risk assessment should be conducted and suitable PPE worn.

It is good practice to store these vehicles in a designated area within compounds, away from areas, which are frequented by staff or visitors. This reduces the risk of injury to anyone who comes into contact with the vehicle and also helps prevent staff or visitors from breathing in any fumes. These vehicles should be cordoned off and suitably marked with warning signs to make others aware of the hazards.

When restoring these vehicles the person collecting should be made aware that it is contaminated with acid so that they can carry out their own risk assessment and take any necessary precautions.

Private Recovery Operators Collecting From Police Premises

Forces must be careful not to endorse or recommend any private recovery operators.

In addition to the normal checks carried out when releasing a vehicle, such as checks on driving licences, MOT and vehicle insurance, some forces carry out spot checks on private recovery operators collecting vehicles from police or police contractor's premises. These checks are to ensure that they possess the correct driving documents, are competent, able to load and recover the vehicle safely and that the equipment and the vehicle that they are using are serviceable and safe to use.

These checks are carried out as there is a legal duty under the Health and Safety at Work Act 1974 (HASAWA) for employers to provide a safe working environment for employees at the premises, but there is also a duty of care to the public to ensure that any vehicles released from police possession are done so safely and in accordance with any relevant legislation. In the event of an issue being identified during the spot check and depending on the severity of the issue, recovery operators are sometimes prevented from collecting from the premises until they can demonstrate that the issue has been rectified. The following points may be considered when carrying out spot checks:



- Are risk assessments available for the operation being carried out?
- Is the recovery operator wearing the correct PPE for the operation being carried out?
- Does the recovery operator require an operator's licence? (Non-disabled vehicles only)
- Does the recovery operator have a CPC? (Recovery vehicles in excess of 3500kg)
- Does the recovery operator have their digital driver card and are they within their tacho hours? (Recovery vehicles in excess of 3500kg)
- Has the recovery operator received any formal training for recovering vehicles?
- Does the recovery operator have public liability insurance?
- Does the recovery operator have employer liability insurance? (Where they employ one of more members of staff)
- What is the condition of the recovery vehicle? Is it roadworthy and safe to use?
- Is the recovery vehicle compliant with all national or local regulations? (Such as LEZ, ULEZ, Safer Lorry Scheme)
- Is the recovery vehicle suitable for the type of recovery? Check gross vehicle weight, axle weights (Especially the front axle) and overhang.
- What is the condition of the recovery equipment is it serviceable and safe to use? Is lifting equipment suitably marked and are the relevant LOLER or PUWER inspection reports readily available and in date?

Equipment

Employees and contractors should be given the correct equipment to enable them to carry out their role safely and to the required standard. For Vehicle Recovery Operatives, refer to PAS43, section 17 and local Police Service Policies.

To be eligible for police contracts operators should have ISO 9001 and PAS 43 as a minimum requirement, it is recommended that Police Services require their contractors to hold certification for National Highways Sector Scheme (NHSS) 17B. These standards have specifications for equipment but it is recommended that Police Services consider whether they should specify additional equipment in their contracts.



Torts (Interference with Goods) Act – Vehicles Seized under PACE or Common Law

The process for the disposal of property, including vehicles, is governed by either the Police (Property) Act 1897 (PPA) or the Torts (Interference with Goods) Act 1977. The prescribed retention period under the PPA may persuade Police Services that an alternative means of disposal might be preferable.

Generally, the legal position concerning the disposing of vehicles, those which have been seized under PACE or Common Law, assumes the owner will simply collect the vehicle when released. There is no easy statutory route for disposing of unclaimed property.

Where vehicles remain unclaimed, the police may not simply dispose of someone else's property. If they do so, they would be guilty of the civil Tort of 'Conversion' – i.e. assuming the rights of the owner.

Following the processes set out in the Torts (Interference with Goods) Act 1977 provides a rebuttal to any later claim against the Police Service for 'conversion'.

The process is in two parts although, in most police cases, the two parts of the procedure can be combined.

Firstly, the owner must be given a reasonable time within which the property must be collected. The PPA does not define what should be a 'reasonable time'. However, the RTA 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 gives an owner 14 days to collect a vehicle, so this period might be construed as 'reasonable'. Once the stipulated collection date has been communicated to the owner by notice, posted by normal mail, it creates a legally based obligation upon the owner to collect.

If the vehicle remains uncollected and if the police subsequently wish to sell it (selling for scrap is selling), then a second notice must be served by recorded delivery. If there are any outstanding charges, at the point of service of this notice letter, at least three months' notice must be given before sale can take place. However, there is no such requirement for a three-month notice period if there are no outstanding charges.

As vehicles seized under PACE do not normally attract charges, and there is not typically anything to pay upon collection, there is not generally any requirement to give the extended period of notice. Accordingly, the aforementioned two stages can be combined – but only where there are no outstanding charges.

The process is combined by sending a single letter by recorded delivery, giving the owner a 'reasonable time within which to collect'. The letter also states that if they fail to do so, and provided there are no outstanding charges, the Police Service may dispose of the vehicle after the expiry of the stated 'reasonable period' of notice. Previous MPS legal advice states that this period should be a minimum of 28 days.

It may also be possible to recover the recovery, storage and disposal costs incurred in administering the vehicle after the 'reasonable period' has elapsed from the proceeds of any sale. These charges would not be prescribed; and thus subject to VAT.

It is also important to note that where any vehicle is disposed of though the provisions of the Torts (Interference with Goods) Act 1977 there is no time limit upon which a claim for the proceeds of the sale can be made by the owner.





Section 165A

Road Traffic Act

1988

The best practice surrounding vehicles seized because they are uninsured or the driver unlicensed is contained in specific ACPO (NPCC) advice, published in 2014. Reference should be made to this document for comprehensive practical guidance on the seizure, release and disposal of vehicles.

Since the powers of seizure were introduced in 2005, experience has shown that careful scrutiny of the returns process has been beneficial. It has proven to be a useful tool in depriving criminals the use of the roads or denying them the benefit of profiting from illegal gains.

It is essential that in each Police Service there is one central point of contact, known to all staff, where advice on legislation and local procedures is retained. With the responsibility for the return of vehicles from recovery agents, Vehicle Recovery Managers or their equivalents may be able to provide a suitable focus for this central point. This will ensure there is a consistent approach to processing vehicles seized under these powers.

Police Services should consider how the information on the seizure notice is managed. Is the information only visible to the officer or is it shared with the managing agent or recovery driver.

Police Services should consider how information recorded on the seizure notice is managed. Who has access to this information and what is it used for. Is it a case the managing agent and / or recovery operator has access to the information on the seizure notice (whether this is left in the seized vehicle or given to the managing agent and / or recovery operator by the officer) and should they have access to this information. Steps should

be taken to ensure only information relevant to the managing agent and / or recovery operator can be accessed and viewed.

Police Services could for example:

- Design the seizure notice so only relevant information is exposed to the managing agent and / or recovery operator.
- Ensure the seizure notice is only accessible by Police personnel.
- Complete data processing contracts between the Police Service and the managing agent and / or recovery operator.
- If any sub-contractors are used by the managing agent and / or recovery operator, separate data processing contracts will be required between managing agent and / or recovery operator and each sub-contractor.

Police Services should ensure compliance with the relevant DPA guidance as per their service policies.



Powered Transporters or Personal Light Electric Vehicles (PLEV)

The terms Powered Transporters or Personal Light Electric Vehicles (PLEV) cover a variety of novel personal transport devices which are mechanically propelled (propelled by a motor) as well as or instead of being manually propelled. It includes e-Scooters, Segways, hoverboards, go-peds (combustion engine-powered kick-scooters), powered unicycles, u-wheels and e-bikes. They come in many variants, either single wheel unicycles, two or three wheeled. Many of these devices are legally classified as being “motor vehicles” and thus subject to the plethora of Road Traffic Act requirements.

However, there are exemptions afforded to those devices which comply with the requirement of the Electrically Assisted Pedal Cycle (EAPC) Regulations 1983 (Amended 2015).

Electrically Assisted Pedal Cycles (EAPC)

The UK's Electrically Assisted Pedal Cycle (EAPC) Regulations 1983 (Amended 2015) ensure legislative parity with the EU regulatory instrument concerning type approval requirements for two or three-wheel vehicles and

quadricycles – Regulations (EU) No. 168/2013. Chapter 1, Article 2 (h) sets out the details of an exemption to type approval for those vehicles that are otherwise defined as being EAPCs. The EAPC regulations set out a series of requirements in UK law, which if met, precludes certain types of powered transporters from being treated as a motor vehicle (the exemption is covered in section 140 of the Road Traffic Regulations Act 1984).

The requirements that needs to be met are:

- Must be a bicycle with two or more wheels.
- Must be fitted with pedal that are capable of propelling it.
- Have an electric motor with a maximum continuous rated power which does not exceed 0.25KW (250W). “maximum continuous rated power” – which has the same meaning as in Regulation (EU) No. 168/2013.
- The electrical assistance must not be capable of assisting to propel the bike in excess of 15.5 mph.

Where propulsive assistance is given to any form of powered transporter that does not fit the EAPC criteria then it will invariably fall into the definition of a motor vehicle. The definition being “any mechanically propelled vehicle intended or adapted for use on roads.”

The following case law supports this interpretation:

1. DPP v Saddington – [2000] EWHC 409 (Admin) The High Court found that a Go-Ped, which is a scooter powered by an internal combustion engine, was a motor vehicle in the statutory framework. Mr Saddington was therefore required by law to have a driving licence and third party insurance when using one on the road.
2. Winter v DPP – [2002] EWHC 1524 (Admin) The High Court considered the use of a ‘City Bug’ electric scooter, and whether its user was bound by the compulsory insurance requirements. It found that it was and that the appellant had been properly convicted of the offence of driving a vehicle without insurance.

3. DPP v King [2008] EWHC 447 (Admin)
King was stopped by police whilst riding a "City Mantis" electric scooter on a public road. The scooter looked like a bicycle except that it did not have any pedals or other means of manual propulsion and it was capable of speeds up to 10 miles per hour. It was held that the scooter was a motor vehicle.
4. DPP v Hay [2005] EWHC 1395 (Admin)
It was held that once the prosecution has proved that the defendant drove the motor vehicle on a road, it is then for the defendant to show that he held a driving licence and that there was in force an appropriate policy of insurance, since these are matters that are peculiarly within his knowledge.
5. Coates v Crown Prosecution Service – [2011] EWHC 2032 (Admin)
The High Court considered the situation of Segways in the statutory framework. It found that the appellant had been properly convicted under the Highway Act 1835 of "riding" on the footway, or of "driving or leading a carriage" on the footway. The Segway was a carriage either by analogy to other forms of carriage (like bicycles) or because it was a motor vehicle, which by operation of statute is a carriage.

All pedal cycles, including EAPCs, also have to comply with the requirements of the Pedal Cycles (Construction and Use) Regulations 1983 (Amended 2015). The requirements for an EAPC under these regulations are:

- Must have a securely fitted plate in a conspicuous and readily accessible position showing:
 - The name of the manufacturer of the vehicle; and
 - Nominal voltage of the battery; and
 - The continuous rated output of the motor.
- Is fitted with a battery that does not leak; and
- A device biased to the off position which allows power to come from the motor only when the device is operated as to achieve that result.
- A series of braking requirements.

There are penalties associated with any breach of these regulations, although importantly any vehicle solely in breach of these regulations cannot automatically be assumed to be a motor vehicle. To be deemed a motor vehicle, and not an EAPC, the vehicle will need to be in breach of the EAPC Regulations.

Rickshaws and Pedi-Cabs

Rickshaws and pedi-cabs are seen predominantly in central London but appear to be widening the services they offer across the country and at major events and festivals. They are three wheeled and have conventional pedals fitted. In London they are mainly used to convey tourists around at highly inflated prices. In London only, they are defined as a 'Stage Carriage' for the purposes of section 4 of the Metropolitan Public Carriage Act 1869. They have a conventional cycle saddle and then a bench seat that is over the rear axle. Often these rickshaws are fitted with electric motors to propel them.

If the rickshaw has no electrical assistance then it fits within the definition of a pedal cycle and therefore a stage carriage for those that are ridden within the Metropolitan Police District.

Outside London, rickshaws are classified as Hackney Carriages and have to be licenced as such in accordance with the Town Police Clauses Act 1847. In the court of appeal (R V Cambridge City Council ex parte Lane (1999)) rickshaws were held (even without electrical assistance) to be a Hackney Carriage. Outside of London, this has effectively removed their use.

Where a rickshaw is fitted with electrical assistance they must comply with the requirements of the EAPC and Pedal Cycle (Construction and Use) Regulations. Any breach of the EAPC Regulations would mean the vehicle would fall within the definition of a motor vehicle and be bound by the legal requirements for their use. This would also allow for the consideration of seizing the vehicle under section 165A RTA.



E-Scooters

The use of e-Scooters, legally or otherwise, is a growing issue for many police services throughout the UK. Anecdotally there is an increasing trend in the use of e-Scooters to facilitate offending such as drug supply and personal robbery. This is coupled with the increase in theft and personal robbery offences where e-Scooters are stolen.

Ambiguity has existed amongst the public as to the legality of the use of such vehicles for some time. This was exacerbated by the decision to legalise the use of e-Scooters used as part of the rental trials, which was seen by many members of the public as an endorsement as to the legality of their use in general. The tragic deaths of Emily Hartridge in London in July 2019 and Shakur Amoy Pinnock in Wolverhampton in June 2021 highlight the risks associated with the increase in sales and use of these types of vehicle.

Only e-Scooters which are part of the official DfT / Local Authority rental trials and subsequent schemes have been afforded an exemption from current Road Traffic legislation.

Personal e-Scooters should be viewed much in the same way as any other powered two wheeled mechanically propelled vehicle (mini-moto, scrambler bike etc.). Accordingly offences such as no insurance and driving otherwise than in accordance with a licence may be considered to anyone riding one on a road, this would be in addition to the seizure of the vehicle under section 165A RTA.

There is currently no consistency in how Forces police e-Scooter use. Many have adopted an escalating approach to e-Scooter use and enforcement. Initially seeking to educate users and slowly working towards overt enforcement. Enforcement action usually being undertaken where there is repeat offending or where the behaviour or use of the e-Scooter poses a particular risk.

In early 2021 ACC Andy Prophet from Essex Police, on behalf of the NPCC, hosted a national meeting to discuss the issue of e-Scooter use and enforcement.

The Home Office has also been subject to a number of questions from the House of Lords and House of Commons on the issue of illegal

e-Scooter use. At the time of writing this document the Home Office Police Powers Unit are in the process of consulting with key stakeholders including the NPCC and DfT on the issue of increasing illegal e-Scooter use.

Seizure of Personal Transporters

Where a vehicle fits the definition of a motor vehicle (and is not an EAPC), the driver will require insurance against third party risks (section 143 RTA) and the appropriate licence for the category of vehicle (section 87(1) RTA). There are other offences, such as construction and use and vehicle licensing that are beyond the scope of this document.

If a suitable licence or insurance cannot be shown or produced, the threshold for a section 165A RTA seizure is met once a suitable warning has been given. The MIB have verified that at this time valid insurance cannot be obtained for these vehicles.

Public liability insurance is not a suitable or appropriate replacement. Under a strict interpretation of the RTA 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005 this will also mean following seizure, the vehicle cannot be restored and will have to be disposed of.

Information obtained by the NPCC, with regards to restoration practices for seized e-Scooters, identified an even split between those forces that robustly enforced the requirements of the regulations and those who afforded some discretion in respect of insurance and driving licence requirements.

To avoid a scenarios where a claimant has no ability to recover their seized property, a few forces have chosen to serve a letter on the claimant in respect of making a claim under the Police (Property) Act 1897 (PPA). The letter affords them a period of 14 days from the date in which the letter is issued to take legal advice and notify the relevant force as to the submission of a claim. At the time of making the request for information, no such claim under the PPA had ever been made.

In addition to this, one Force requires the claimant to sign a disclaimers as part of the

restoration. These disclaimers outline the legality of the use of the device and serve to remove any liability to the Chief Constable arising from any further illegal use of the device.

Ultimately any decision to seize vehicles under the provisions of section 165A RTA, or robustly enforce the requirements of the associated Regulatory requirements remain a matter for individual police services.

DfT Advice to the NPCC on the E-Scooter Trials

The following advice was provided to the NPCC by the DfT in July 2020, pending the start of the national trials.

General safety and other rules for trial e-Scooter users

An e-Scooter will continue to fall within the statutory definition of a motor vehicle.

Rental e-Scooters should only be used within the local area hosting the trial. Please refer to the local authorities who are hosting the e-Scooter trials for geographical boundaries.

Please note that the legal changes, only apply to e-Scooters hired from rental operators and being used in trials. All of the current legal requirements for motor vehicles will continue to apply to privately owned e-Scooters i.e. motor vehicle insurance, vehicle licensing and registration and display of plates, wearing of a motor-bicycle helmet, stricter driving licence requirements and construction and use and vehicle type approval. It will therefore be unlikely that the owner of a privately owned e-Scooter will be able to meet the legal requirements for motor vehicles on public roads.

Motor vehicle insurance will be provided by the e-Scooter rental company for each trial, which will cover users.

E-Scooters should be used by one person at a time. It will be illegal for a provisional licence holder to carry passengers [Regulation 16 Motor Vehicle (Driving Licences) Regulations 1999]. Also of note, the legal changes only relax the

motorcycle helmet requirement for the driver of an e-Scooter. It is likely to be a term of the hire too that only one person may use an e-Scooter at one time.

E-Scooters must not tow anything. [Regulation 84 Construction and Use Regulations 1986].

A mobile phone must not be used when using an e-Scooter. [Section 110 Construction and Use Regulations 1986].

A screen to display navigation information may be used, but this must be set up prior to setting off. [Section 111 Construction and Use Regulations 1986].

Users should always ensure bags or other small items carried will not cause a danger to the user or others around them – for example, hanging them from the handlebars.

A user should not ride an e-Scooter while drunk or otherwise intoxicated; the user may be prosecuted under Section 4 and 5 Road Traffic Act 1988 drink and drug driving laws. THIS APPLIES TO ALL E-SCOOTERS, PLEASE REFER TO LOCAL FORCE POLICY. Careless and dangerous driving offences also apply to users of e-Scooters [Section 2 and 3 Road Traffic Act 1988].

The user should also refer to the terms of use of the e-Scooter operator before renting a trial e-Scooter.

Helmets are recommended but are not a legal requirement for the lawful driver of a rental e-Scooter.

E-Scooters are exempt from vehicle registration, so there will not be a central DVLA database. Each e-Scooter used in the trial will have a (manufacturers) sticker with a unique ID to identify the scooter, which enforcement officials can use. **Please refer to local briefing for details.**

Driving licence requirement

A full or provisional UK licence for categories AM, A or B includes entitlement for category Q so, if a person has one of these licences, they can use an e-Scooter.

If a user has a provisional licence, they do not need to show L plates when using an e-Scooter.



If a user has an overseas driving licence, they can use an e-Scooter if they:

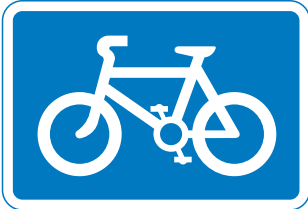
- Have a valid full licence from an EU or EEA country (so long as this does not prohibit the driver from driving low-speed mopeds and motorcycles).
- Have a valid full licence from another country that entitles you to drive a small vehicle (for example, cars, mopeds or motorcycles) for the first 12 months after entering the UK.

Where users are allowed to use a trial e-Scooter

A trial e-Scooter may be used on the road (except motorways) and in cycle lanes, within the approved trial geographical area, unless not authorised by the local area, as signposted to users. **Please refer to local briefing for details.**

A user must not use an e-Scooter on the pavement.

Signs with this cycle symbol apply to e-Scooters (unless a sign is displayed prohibiting e-Scooters from that particular cycle way):



E-Scooter vehicle design: current position

An e-Scooter will continue to fall within the statutory definition of a motor vehicle. DfT have defined the sub-category of an e-Scooter as being a motor vehicle that:

- is fitted with no motor other than an electric motor with a maximum continuous power rating of 500W and is not fitted with pedals that are capable of propelling the vehicle
- is designed to carry no more than one person
- has a maximum speed not exceeding 15.5 mph
- has 2 wheels, 1 front and 1 rear, aligned along the direction of travel

- has a mass including the battery, but excluding the rider, not exceeding 55kg
- has means of directional control via the use of handlebars that are mechanically linked to the steered wheel
- has means of controlling the speed via hand controls and a power control that defaults to the 'off' position

Other Questions

Please direct these to your Force / Area SPOC who will have been working with the local area authority in agreeing with the specifics of the trial. These may differ between local areas.



Removal, Storage and Disposal

The operator selected by the Police Service or their managing agent must be properly skilled and equipped to carry out the operation. There are a number of standards (and certifications) available to ensure the operator meets the Police Service requirements.

Inspections and audits to verify the professional capability of the operator should be carried out prior to awarding any contract as well as throughout the contract term. This will ensure standards set are adhered to and any issues identified are suitably dealt with. These inspections can be carried out through a UK Accreditation Service (UKAS) approved inspection body, the Police Service themselves or their managing agent.

The NPCC recommends the below are considered when selecting and managing removal, storage and disposal operators.

- Documentation maintained in accordance with NPCC guidance on the Management of Police Information (MOPI).
- ICT requirements, Data held and processed in compliance with Police Service policies.
- Business Continuity Provisions.
- Discrimination and Equality policy.
- Data Protection and Confidentiality.
- Ability to deal with complaints in a suitable and reasonable manner.

- Vetting levels (see section on Vetting).
- **ISO9001**⁹ certification.
- Compliance with **LOLER**¹⁰ (Lifting Operations and Lifting Equipment Regulations 1998) and **PUWER**¹¹ (Provision and Use of Work Equipment Regulations 1998). This will extend to the operators vehicles, equipment, health and safety of staff.
- The equipment the operator uses and the quantities.
- Ability to process vehicles recovered under different powers (PACE, Section 165, Court Seizures, S.99 RTRA, DVLA, S59 Police Reform Act etc.).
- Ability to process different kinds of vehicles and property (cars, motorcycles, electric, hybrid, HGV, plant, vehicle parts, etc.).
- Ensuring the Police Service receives best value.

There are further recommendations below relevant specifically to the removal, storage and disposal operator.

Removal

The NPCC recommends the below are considered when selecting and managing a removal operator. Some of these, only apply to the specific area in which the removal operation takes place. However, these schemes may spread nationally. Police Services should consider during the tender and procurement process future proofing any recovery contracts to account for the below.

- **PAS 43 (2018) Certification**¹²
“People working on motorway hard shoulders and high speed carriageways have a dangerous job. As a result of six fatal accidents in one year, PAS 43 was developed to improve the safety of UK roadside assistance operators”. PAS43 is the specification created by the SURVIVE Group for the safe working of breakdown and recovery operations.

⁹ <https://www.iso.org/iso-9001-quality-management.html>

¹⁰ <https://www.hse.gov.uk/work-equipment-machinery/loler.htm>

¹¹ <https://www.hse.gov.uk/work-equipment-machinery/puwer.htm>

- **NHSS17B (National highway Sector Scheme 17B)¹³**
 “National Highways Sector Schemes (NHSS) are bespoke quality management systems for organisations working on the UK road network. They are based on the ISO9001:2008 standards, but do not duplicate them”.
- **SURVIVE Group Industry Guidelines¹⁴**
 “The SURVIVE Group is a partnership between Highways England, the National Police Chiefs' Council, the breakdown/recovery industry and other service providers. The SURVIVE Group has been established to improve the safety of those who work on the road network and the travelling public and is also dedicated to the promotion of driving safety”.
- **DVSA Guidance Running a vehicle recovery business: driver and vehicle safety rules¹⁵**
 “This guide addresses some basic questions to help recovery vehicle operators and drivers”.
- **Safer Lorry Scheme¹⁶**
 “This scheme uses a combination of powers held by these bodies to deliver a simple, quick and complete solution across all roads in London. It ensures that only Lorries with basic safety equipment fitted will be allowed on London's roads. Under London's scheme, most vehicles that are currently exempt from national legislation for basic safety equipment will have to be retrofitted. This includes construction vehicles, which are involved in a disproportionate number of fatal collisions involving cyclists and pedestrians”.
- **ULEZ (Ultra Low Emission Zone)¹⁷**
 “To help improve air quality, an Ultra Low Emission Zone (ULEZ) operates 24 hours a day, 7 days a week, every day of the year, except Christmas Day, within the same area of central London as the Congestion Charge. Most vehicles, including cars and vans, need to meet the ULEZ emissions standards or their drivers must pay a daily charge to drive within the zone”.
- **LEZ (Low Emission Zone)¹⁸**
 “The Low Emission Zone (LEZ) operates to encourage the most polluting heavy diesel vehicles driving in London to become cleaner. The LEZ covers most of Greater London and is in operation 24 hours a day, every day of the year. Tougher LEZ standards are coming on 26 October 2020 for heavy vehicles including HGVs, Lorries, vans, buses, coaches, minibuses and other specialist diesel vehicles. The LEZ is separate from the Ultra Low Emission Zone (ULEZ) which is in place in central London and operates 24 hours a day, every day of the year except Christmas Day”.
- **DVS and HGV Permit (Direct Vision Standard and HGV Safety Permit)¹⁹**
 “The Direct Vision Standard (DVS) and safety permit for heavy goods vehicles (HGVs) requires all lorries over 12 tonnes gross vehicle weight to be granted a permit to enter or operate in Greater London. The scheme was created to improve the safety of all road users, including pedestrians, cyclists and motorcyclists. The Direct Vision Standard measures how much an HGV driver can see directly through their

¹² <https://shop.bsigroup.com/ProductDetail/?pid=000000000030371092>

¹³ <https://www.gov.uk/guidance/national-highway-sector-schemes-certification-for-contractors-and-subcontractors>

¹⁴ <http://www.survivegroup.org/pages/home>

¹⁵ <https://www.gov.uk/government/publications/guide-for-recovery-operations/running-a-vehicle-recovery-business-driver-and-vehicle-safety-rules>

¹⁶ <https://tfl.gov.uk/info-for/deliveries-in-london/delivering-safely/safer-lorry-scheme>

¹⁷ <https://tfl.gov.uk/modes/driving/ultra-low-emission-zone>

¹⁸ <https://tfl.gov.uk/modes/driving/low-emission-zone>

¹⁹ <https://tfl.gov.uk/info-for/deliveries-in-london/delivering-safely/direct-vision-in-heavy-goods-vehicles>



cab windows. This indicates the level of risk to vulnerable road users, such as people walking and cycling, near the vehicle. From 26 October 2020, all HGVs more than 12 tonnes (GVW) entering or operating in Greater London will need to hold a valid HGV Safety Permit”.

Provision of a 24/7 365 – day recovery service with targets. Performance of the contractor will need to be closely monitored and appropriate action taken where there is a service failure.

Number of vehicles and types of vehicles in the removal operators fleet (a vehicle that requires a forensic or mechanical examination will require a different type of removal to a Section 165 seizure).

Storage

The NPCC recommends the below are considered when selecting and managing a storage operator:

- Security (see section on Security).
- Facilities for examination areas.
- Under cover storage.
- Access and facilities for members of the public or collection agents when vehicles or property are restored.
- Access for Police Service staff and officers for investigative or audit purposes.
- Capability for processing payments for vehicle restoration (cash, card, cheque, BACs or telephone payments).
- Capacity for long term storage.

Disposal

Police Services may dispose of vehicles through auction, scrap or dismantling for parts. The following considerations should be made prior to vehicle disposal:

- The need to destroy some vehicles regardless of value; e.g. due their mechanical history (e.g. vehicles made up of more than one) or involvement in serious or sensitive crime.
- Obtaining best value for the vehicle. There is a duty of care to the owner as most net proceeds can be subject to a claim for 12 months after the disposal.

- Compliance with all relevant legislation i.e. has the vehicle been stored for the correct amount of time and have all the relevant enquiries been completed prior to disposal (notices sent to owners or claimants, release from officers etc.).
- Accounting correctly for the VAT.
- Notifying DVLA of the destruction of vehicles by submission of a Certificate of Final Destruction (or notice of final destruction for those vehicles to which the Certificate does not apply, e.g. motorcycles and large commercial vehicles).
- The limitations applied on the sale of vehicles by DVLA.

Police Services can decide whether to use single or multiple contractors to collect and dispose of vehicles in the most efficient manner. This will include a service, which minimises costs incurred and maximises returns.

The NPCC recommends the below are considered when selecting and managing a disposal agent:

- Utilising the commodities pricing index from sources such as www.letsrecycle.com (metal prices).
- Changes in the pricing index and how these fluctuations will affect the amount received by the Police Service for the duration of the contract.
- The fees payable to the disposal contractor for the services provided.
- The disposal contractor:
 - Be registered with the Environmental Agency and have an Environmental permit.
 - Have an Authorised Treatment Facility.
 - Be registered with Local Authorities as a dealer under the Scrap Metal Dealers Act 2013.
- Can submit Certificate of Final Destruction (or notice of final destruction for those vehicles to which the Certificate does not apply, e.g. motorcycles and large commercial vehicles) directly to DVLA for any vehicles disposed of on behalf of the Police Service.

- How often will vehicles be collected for disposal from the storage facility (this ensure vehicle space and costs are efficiently managed)?
- Number and types of vehicles on the disposal agents' fleet. This will affect how many vehicles are collected on a daily basis.
- Access for Police Service staff and officers for investigative or audit purposes.
- Driver qualification and identification schemes or an in house equivalent.

Police Services should provide contracted disposal agents with protocols to follow in the event of finding any dangerous or illicit items (as detailed in the Searching and Inspecting section). If in doubt, the disposal agent should make contact with the Police Service for further guidance and support.





Training

Employees should be given training to provide them the knowledge and expertise to carry out their role safely and to the required standard. The below list is not exhaustive but highlights the minimum training standards expected for vehicle recovery operatives and compound staff.

It is important that training provided by recovery operators for their staff involved in the removal of vehicles is accredited; unaccredited internal company training alone should not be relied upon. The main body currently providing such training is the Institute for Vehicle Recovery (IVR), this or similar training is a requirement for the National Highways Sector Scheme 17B which is recommended as a requirement for working on police contracts. It is recommended that Police Services include accredited training as a requirement in their contract specification.

Vehicle Recovery Operatives

- Health and safety
- Customer service
- Assessing the roadside situation
- Ancillary equipment
- Manual handling including manual handling motorcycles
- Winching vehicles
- Preservation of evidence
- First aid at work
- Fire safety awareness
- Electric and hybrid vehicle safety awareness
- If using specialised equipment such as spec lifts, lorry loaders, rotators etc., or carrying out specialised recovery such as heavy, vehicles in floodwater, vehicles off-road etc., then specific training must be given in the use of that equipment.

Compound Staff

- Health and safety
- Customer service
- Manual handling including manual handling motorcycles
- Preservation of evidence
- First aid at work
- Self-defence familiarisation to protect themselves from hostile members of the public
- Fire safety awareness
- Electric and hybrid vehicle safety awareness
- Basic search training
- Compound supervisor
- If using specialised equipment such as forklifts, vehicle movers, vehicles skates, vehicle lifting equipment etc., then specific training must be given in the use of that equipment.

Other specialist training that should be considered

- Incident Manager
- Vehicle Inspector
- Recovery impact protection vehicle
- Advanced electric and hybrid vehicle training to allow vehicles to be isolated
- Risk Assessor
- COSHH Assessor
- NEBOSH Accident investigation (or equivalent)
- NEBOSH Health and safety leadership (or equivalent)
- NEBOSH general certificate (or equivalent)
- Fire Warden



Vetting

As an organisation, national security, public safety and confidence are key for our success. Ensuring all our staff hold current and relevant vetting levels helps us maintain internal safety and protect us all in our daily work.

Each Police Service may opt for an in-house or managed scheme. Whilst each Police Service can make a decision around the vetting levels assigned to their managing agents or recovery operators, the NPCC recommend the following:

- For non-crime vehicle recoveries (such as section 165 seizures or non-injury collisions) – Vetting level of NPPV1 (Non-Police Personnel Vetting).
- All crime vehicle recoveries (such as forensic, NCA or lost / stolen recoveries) – minimum vetting level of NPPV1, although consideration should be given to NPPV2 (Police Services may wish to consider CTC – Counter Terrorism Check).
- Disposal contractors – Vetting level of NPPV1.
- Manager and administrative staff – Vetting level of NPPV2 plus CTC.
- Locksmith – NPPV2 plus CTC.

For police officer and police staff, please follow the guidance as per your Police Service requirements. Counter Terrorism Check vetting is required for staff, police officers and police special colleagues, which is valid for 10 years.

Police Services should ensure regular documented audits are undertaken throughout the duration of the contract. Contracted partners should be reminded to review and update the information supplied to Police Services on a regular basis.

Police Services should refer to their own Service vetting requirements for further information.

Operation Tutelage

Operation Tutelage is an innovative project and collaboration between UK policing and the Motor Insurers' Bureau (MIB). It has been in operation since January 2020 and now has the full engagement of all UK Police Services. Uninsured drivers are disproportionately representative in the number of injury and fatal road traffic collisions, with over 130 people killed by an uninsured or untraced 'hit and run' driver each year. The primary objective of Operation Tutelage is to decrease the number of uninsured vehicles on our roads.

There are a number of benefits of reducing uninsured driving levels in terms of safer roads and the financial cost to society. An additional benefit of this initiative is that improving available data accuracy increases the efficiency of officers by reducing the amount of time spent investigating a possible no insurance offence which is the result of administrative error.

Method

- The operation is primarily driven by roadside ANPR technologies, recording vehicles where no record of current insurance record is held on the Motor Insurers Database (MID)
- This data is manually evaluated to ensure that the recorded Vehicle Registration Mark (VRM) has been recorded correctly.
- Each VRM is then checked against the PNC to check for any existing police interest and to obtain Registered Keeper details.



Where a Registered Keeper is Identified

- A letter is sent to them pointing out that there may be an issue with the insurance status of the vehicle. The letter explains that there may be several reasons for this including administration errors (such as incorrect registration numbers etc.).
- After a specified time period, the MID is rechecked to ascertain if the vehicle is now indicating as insured.
- Around 70% of the letters sent to keepers result in a positive outcome in terms of the vehicle subsequently identifying on the MID as insured.
- Vehicles continuing to identify as uninsured become subject to inclusion on a single national 'Tutelage' Vehicle of Interest (VoI) list for enforcement action.
- The 'Tutelage' VoI list is refreshed, updated and reissued to all UK police forces on a daily basis.

Operation TutelagePlus (Compliant Vehicle Initiative (CVI))

Launched on the 1st June 2021, this initiative provides an additional level of priority and focus for operational policing, the current 'Tutelage' VoI list has been enhanced through the production of a 'TutelagePLUS' VoI list which is refreshed, updated and reissued to all police services in an identical manner.

The TutelagePLUS VoI list contains all vehicles within the Tutelage VoI list that are also identifying as not having a current MOT and VED or are notified as SORN. This is currently estimated to cover 1,000 vehicles.

Operational policing colleagues are reporting significantly enhanced outcomes from roadside stop checks linked to Operation Tutelage, VoI list activations. With around 85% resulting in vehicle seizures. Whilst 'TutelagePLUS' is in its early stages of implementation, the project team have been informed of around 100 vehicle seizures, with a 100% seizure rate.





Appendix A – Legislation and Stated Cases

Appendix A

Legislation and Stated Cases

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Section 19 of the Police and Criminal Evidence Act 1984 & Common Law – A discussion

Section 1 of the Police and Criminal Evidence Act 1984 contains a general power to stop and search persons and vehicles in public places. In certain circumstances, sections 18 and 32 of PACE give power to search a vehicle and seize a vehicle from premises following arrest. Sections 19 & S22 of the PACE give powers of seizure and retention to an officer. It is noted, however, that the Section 19 power is restricted to an officer who is “lawfully on any premises”. Some experts suggest that use of this Section 19 power may therefore not extend to a public place.

Common Law

There is a common law power to seize items for which there are reasonable grounds for believing to be stolen goods, material evidence, or the instrument by which a crime has been committed (see *McLorie –v- Oxford* [1982]). It is the common law which gives power to seize a vehicle, when not on premises, without prior arrest for an indictable offence.

The case of *Ghani –v- Jones* 1969 sets out conditions on the use of the Common Law powers and in order to justify the taking possession of an article where no one had been arrested or charged:-

- the police must have reasonable grounds for believing that a serious crime had been committed;
- they must have reasonable grounds for believing that the article was either the fruit of the crime or the instrument by which it was committed or was material evidence to prove its commission;
- the police must have reasonable grounds to believe that the person in possession of the article had committed the crime or was implicated in it;
- the police must not keep the article or prevent

its removal for any longer than was reasonably necessary to complete their investigations or preserve it for evidence; and

- the lawfulness of the conduct of the police must be judged at the time and not by what happened afterwards.

Common Law, Section 19 PACE versus Road Traffic Regulation Act

It is a well-established principle that a rule of the common law is not extinguished by a statute unless the statute makes this clear by express provision or by clear implication. Therefore, the existence of (and arguably exercise of) a statutory power, does not preclude the existence (or arguably simultaneous exercise) of a co extensive common law power.

Assuming that the criteria within the Road Traffic Regulation Act (RTRA) (and Regulation 4 of the Removal & Disposal of Vehicles Regulations) are met, it is a matter of fact that there is a power to remove, or to seize if using Common Law, a vehicle from the road or other land. The argument relates to which power is more appropriate.

If there are (or become) reasonable grounds to suspect that a vehicle is stolen or material evidence etc., then it is arguable that it is open to a police officer to simultaneously exercise his/her powers e.g. under Regulation 4 and at Common Law.

There is the factor of the cost involved when considering the most appropriate power. The Home Office has, during the reasoning when reviewing the fees in 2008, opined that the costs of moving vehicles, where the Regulations apply, ‘should not fall to the public purse’. It could therefore be argued that, simply because a serious injury or fatality has occurred, it is inequitable that the driver should avoid that general principle and for the costs to ‘fall to the public purse’, when those charges would normally apply in less serious incidents. There is no facility to levy any charges for the recovery of vehicles which have been seized under Common Law (or PACE).

The Association of British Insurers has not sought to challenge the application of statutory charges to vehicles removed from serious collisions and,



at a meeting of their Motor Committee, has expressed an opinion that they are currently content with the current regime of using the powers of removal granted by the Road Traffic Regulation Act and Removal Regs; provided statutory charges are correctly applied.

Any vehicle, which could normally have warranted recovery and fall within the provisions of the RTRA, could be removed (not seized) from the scene using the powers of removal under the RTRA. Vehicles which are found in situations which fall outside the criteria of the RTRA, and which are still required as evidence, could typically be seized.

Following removal under the RTRA, the power of seizure may only be necessary if the owner of the vehicle demands its return and makes an offer to pay the relevant charges whereupon, under the provisions of that Act, the vehicle must be given back. Whilst it is legally possible to charge the motorist a daily storage charge, it is not typical for forces to do so whilst vehicles are retained for police purposes. It is therefore most unlikely that a vehicle owner, or their insurer, would so request the return of the vehicle. Should such a demand be made, only at that stage might a seizure be necessary.

Stolen Vehicles

Vehicles which are stolen and left abandoned by the thief are considered 'abandoned vehicles' for the purposes of the Regulations and may be recovered under Regulation 4 Removal & Disposal of Vehicles Regulations. The legality of such a procedure was endorsed in the stated case of Service Motor Policies at Lloyds –v- City Recovery 1997. The charges for recovering such vehicles are payable by the owner before the police are obliged to return the vehicle although, unlike other charges under the Removal and Disposal of Vehicles Regulations, charges are not enforceable as a civil debt against anyone other than the person who abandoned the vehicle – the thief. (Surrey Breakdown –v- Knight 1998)

Although an abandoned vehicle, recovery also becomes a service provided by the force to the loser to prevent the re-theft and/or damage of the vehicle prior to it being reclaimed by the owner. If the recovery is for the purposes of

forensic examination only, there is probably no legal authority to demand payment from the owner for the recovery as this is not one of the reasons which grants a right of removal within the Removal & Disposal of Vehicles Regulations.

Powers to Remove Vehicles from Roads and Elsewhere

Please note that this section does not offer legal advice or an interpretation of the law but is a list of the most commonly encountered pieces of legislation which police recovery schemes might encounter.

It is important that matters of law and their interpretation are referred to a legal professional and/or referenced to the Police National Legal Database.

The Road Traffic Regulation Act 1984 and the Removal & Disposal of Vehicles Regulations 1986

These Regulations permit a police officer to:

Regulation 3 – Require the owner, driver or other person responsible to remove as soon as practicable; or

Regulation 4 – Arrange for the immediate removal him/herself of any vehicle which has:

- has broken down, or been permitted to remain at rest, on a road or other land in such a position or in such condition or in such circumstances as to cause obstruction to persons using the road or land concerned or as to be likely to cause danger to such persons; or
- been permitted to remain at rest on a road or other land, in such a position, or in such condition, or in such circumstances as to cause obstruction; or
- which is likely to cause danger to persons using the road or other land; or
- been permitted to remain at rest on a road or other land in contravention of any restriction mentioned in Schedule 1 to the Regulations (including the placing of police no waiting cones).

A vehicle for the purposes of these Regulations is:

“Any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.”

An officer may, however, assist a driver in arranging their own recovery; a so called ‘Owner’s Request’, but typically this would be reserved for circumstances where the officer would otherwise be content for a vehicle to remain in situ in the longer-term, (n.b. NPCC policy dictates that vehicles should not be allowed to stay on the hard shoulder of a motorway or major strategic road) and:

- the owner or driver specifically approaches the officer for help to call a suitable garage to assist them in the removal of their own vehicle – for their own reasons.
- a police scheme recovery garage may be recommended.
- The driver must accept responsibility for all charges.
- Owners’ request recoveries are a private contract between the owner and the garage and the provision of police data, including DVLA and/or PNC data, to the garage to assist them in dealing with the administration or disposal of the vehicle is not disclosure for an authorised purpose.

General Notes on Road Traffic Regulation Act Powers

- The costs chargeable for ‘statutory powers’ recoveries are capped to reflect the fact that the owner’s choice has been removed.
- Statutory fees are payable to the Chief Officer but collected by the garage on his/her behalf. They are not subject to VAT.
- The owner/person responsible remains responsible for statutory charges although the insurer may choose to indemnify him/her under the terms of their insurance policy.

- As with the exercise of powers of arrest, even if officers have the power, the use of that power should be measured and proportionate. E.g. If the person in possession of a stolen vehicle is apparently innocent, it might be prudent to consider service of a Code B PACE retention notice rather than seizing it.
- Where it is evident from the outset that an ownership dispute may follow recovery, it may be prudent to avoid recovery at all. Protracted and expensive Magistrates Court Police Property Act proceedings may be necessary once the vehicle has been brought into police possession. The Act only applies to property in the possession of the police.
- Abandoned stolen vehicles should not generally be recovered against the specific wishes of the owner unless there is a pressing operational need to do so. Officers should be advised not to seize vehicles for forensic examination where it is evident there won’t be any forensic evidence to harvest.
- Removing abandoned vehicles is the statutory responsibility of the local authority and should typically be left for them – unless they are causing a danger to other road users or immediate and significant obstruction to the free flow of traffic.
- Burnt out vehicles might best be dealt with by the local authority unless they are causing a danger to other road users or immediate and significant obstruction to the free flow of traffic – even if they are stolen. A burnt out stolen vehicle may yield no forensic evidence but is hazardous waste.
- Section 22 PACE and Common Law place restrictions on the retention of vehicles. CPS advises that vehicles, once forensically examined and photographed, should normally be returned to the owner.
- The person from whom property is taken, even a suspected thief, has:
 - a basic Human Right to peaceful enjoyment of their property; and
 - good possessory title to any property unless someone with better title, such as the true owner, can be identified (R –v- Jason Costello).



The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges.) Regulations 2008

These regulations specify the prescribed charges which can be levied by the Police following the removal of vehicles under the Road Traffic Regulation Act 1984.

Section 165A Road Traffic Act 1988

NPCC Vehicle Recovery has produced a Best Practice Guide for dealing with Section 165A Road Traffic Act seizures. Please refer to this guide for all matters relating to seizures and returns under this Act.

The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) (Amendment) Regulations 2008

These regulations regulate the charges that may be levied following the removal of a vehicle under Section 165A Road Traffic Act.

The Regulations largely mirror the charges which may be levied for the return of vehicles seized under the Removal and Disposal of Vehicles Regulations and a similar alignment occurs with Section 59 Police Reform Act.

The fees payable under Section 62 of the Criminal Justice and Public Order Act are NOT so aligned.

Police Reform Act 2002 – Section 59

Section 59 of this act allows police to seize vehicles used in anti-social behaviour, and refers to vehicles being used in a manner which causes alarm distress or annoyance. The Act allows for charges in relation to the removal and storage of these vehicles.

A constable in uniform shall have the powers set out in subsection 3 of the Act where s/he has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which –

- contravenes section 3 or 34 of the Road Traffic Act 1988 (careless and inconsiderate driving and prohibition of off-road driving); and
- is causing, or is likely to cause, alarm, distress or annoyance to members of the public.

A constable in uniform shall also have the powers set out in subsection 3 where he has reasonable grounds for believing that a motor vehicle has been used on any occasion in a manner as above.

Those powers are –

- the power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;
- the power to seize and remove the motor vehicle;
- the power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;
- the power to use reasonable force, if necessary, in the exercise of any power conferred by any of the paragraphs above.

A constable shall not seize a motor vehicle in the exercise of the powers conferred on him by this section unless –

- s/he has warned the person that he will seize it, if that use continues or is repeated; and

- it appears to him/her that the use has continued or been repeated after the warning.

n.b. A motor vehicle for the purposes of this Act means a mechanically propelled vehicle, regardless of whether or not it was intended for use on a road.

The Police (Retention and Disposal of Motor Vehicles) (Amendment) Regulations 2008

These regulations set out the charges that may be levied following the removal of a vehicle under Section 59 of the Police Reform Act (nuisance or antisocial use). The Regulations largely, but not totally, align the charges which may be levied for the return of vehicles seized under the Removal & Disposal of Vehicles Regulations, Section 59 Police Reform Act and Section 165A Road Traffic Act.

The fees payable under Section 62 of the Criminal Justice and Public Order Act are not so aligned.

Vehicles Excise Duty (Immobilisation, Removal & Disposal) of Vehicles Regulations 1997, as amended

Some forces have adopted devolved powers granted to the Driver and Vehicle Licensing Agency (DVLA) which empowers DVLA, and thus officers in forces adopting devolved powers, to immobilise and seize vehicles which are being used on a public road (in this legislation a road is one which is maintainable at public expense) without Vehicles Excise Duty having been paid.

Following seizure, the vehicle may be returned upon payment of the appropriate fees, with either a surety being paid or evidence that the Vehicles Excise Duty (VED) has been paid. The surety will be returned if proof of payment of the outstanding VED is produced within 14 days.

DVLA confirms that these powers can be used for enforcement against overstaying foreign vehicles which generally lose their exemption from VED after 6 months or when the keeper becomes a resident in the UK.

The powers may also be used against vehicles 'in trade' if the vehicle is not displaying 'Trade Plates'; subject to the VED being more than 2 months and a day overdue.

Section 62 Criminal Justice and Public Order Act 1994

Section 61 of the Criminal Justice and Public Order Act 1994 allows the senior police officer attending the scene of an incident involving a trespass or nuisance on land to order trespassers to leave the land and to remove their vehicles as soon as reasonably practicable.

If a direction has been given under section 61 and a constable reasonably suspects that any person to whom the direction applies has, without reasonable excuse –

- failed to remove any vehicle on the land which appears to the constable to belong to him or to be in his possession or under his control; or
- entered the land as a trespasser with a vehicle within the period of three months beginning with the day on which the direction was given,

the constable may seize and remove that vehicle.

For the purposes of this Act, the term vehicle includes:

- any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle; and
- a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960.



The Police (Retention and Disposal of Vehicles) Regulations 1995

This Regulation provides the police with the power to charge for the removal, storage and disposal of vehicles which have been seized at events or from trespassers on land causing a nuisance under Section 62 Criminal Justice and Public Order Act 1994. This Regulation was NOT updated in 2008, when the others were, and charge rates remain at those set in 1995.

Road Safety Act 2006

Authorised police officers may prohibit an unroadworthy vehicle and may, under specified circumstances, seize it. The law currently requires that any garage to which the vehicle is taken be authorised by the Secretary of State.

Government lawyers advise that such agreement between the garages and the Secretary of State may be devolved by the garages to the Chief Officer by contractual agreement, allowing the Chief Officer to obtain authorisation for each of the garages under his/her contractor.

Road Safety (Immobilisation, Removal and Disposal of Vehicles) Regulations 2009

Set out the conditions of removal, conditions for reclaim and the fees payable for vehicles removed under the provisions of the Road Safety Act.

Refuse Disposal (Amenity) Act 1978

This Act was amended by the Clean Neighbourhoods and Environment Act. Section 12 provides powers and guidance on the disposal of abandoned vehicles which have been removed by officers using powers under the Removal & Disposal of Vehicles Regs 1986.

In simple terms, a vehicle which has no value nor displaying registration marks can be disposed of immediately. Conditions apply to the disposal of others.

Section 3 of this Act places a statutory duty upon local authorities to deal with abandoned vehicles.

Home Office Advice

The following advice was issued on 15th September 2008 and dealt with the interpretation of the Removal, Storage and Disposal (Prescribed Sums and Charges) Regulations 2008.

On 1 October 2008 new statutory charges come into effect for the removal, storage and disposal of vehicles by the police (or in certain circumstances the local authority) when using their powers under section 99 of the Road Traffic Regulation Act 1984 ('RTRA') or the Refuse Disposal (Amenity) Act 1978. The charges are prescribed by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008 (Statutory Instrument 2008 No 2095).

This paper seeks to offer advice on the circumstances when the Regulations apply and how they are intended to be interpreted. Please note that this material is not conclusive or definitive and that final interpretation of the law is exclusively a matter for the courts.

Removals etc. under RTRA

Section 99 of the RTRA empowers the police to remove vehicles that are illegally, dangerously or obstructively parked, or broken down, or abandoned. A removal is any taking of the vehicle from one place to another, however any party may choose to describe it (e.g. as a "recovery").

The decision to order a removal is an operational matter for the police. They alone will decide whether, though they could use their powers, it is appropriate not to do so, but to leave the vehicle owner/driver to make removal arrangements. Owners/drivers cannot insist on making their own arrangements since these may not be satisfactory for police purposes.

Prescribed Sums

The sums prescribed by the Regulations apply only to s99 removals, etc and those under the Refuse Disposal (Amenity) Act 1978. In other cases, where operators remove a vehicle other than on police instructions, the charges payable are a matter between recovery operators, vehicle owners and vehicle owners' insurers.

A vehicle removed under RTRA powers must, under s101 of the RTRA, be released to its owner once the prescribed sums are paid (unless the police are able to retain the vehicle under other powers e.g. under the Police and Criminal Evidence Act 1984).

When RTRA powers are used, the police are entitled to recover from the responsible person all the statutory charges that apply, whether for removal, storage or disposal. Owners cannot avoid paying the removal, storage and disposal charges simply by disclaiming the vehicle.

The Regulations are concerned only with the sums the police are empowered to require from an owner before they must release a vehicle. Arrangements as to the handling of such payments, any additional payments by the police to a recovery operator, and any mutual obligations between police and operators, including the operation of a management scheme, are commercial and contractual matters between the parties.

Terms used in the Regulations

Road

Interpretation of the word "road" is important, since one of the main determinants of the appropriate removal charge is whether the vehicle is on road or off road. Regulation 3 defines "road" as "any length of highway or of any other road to which the public has access, and includes bridges over which a road passes."

Further guidance as to how the word should be interpreted can be found in case law. Many lay people might distinguish the road intended for vehicle use from a grass verge at its side or the pavement intended for pedestrian use. A road has, however, been held generally to include grass verges and any pavements (see *Worth v Brooks* [1959] Crim LR 8850). Where any part of a vehicle is on a road, even where it is partly on private land, it has been held that the vehicle is to be treated as being on a road for the purposes of all relevant road traffic legislation (see *Randall V Motor Insurers' Bureau* [1969] 1All ER21).

The courts have also held that what is a "road" will depend on the circumstances. A road normally extends to the whole space between fences at its side, and a grass verge between a roadside pavement and fence has been held to be part of the road. Nevertheless, the mere fact that a road runs between fences or hedges does not give rise to a presumption that the fence or hedges constitute the road boundary, unless the fence has been put up by reference to the highway rather than for some other reason.

It is impossible in the Regulations to give a more precise definition of "road" that will satisfy all possible situations. Ultimately, where there is a dispute, it will be necessary for the courts to decide. To avoid such disputes, it would be good practice, in genuine cases of doubt, to apply the lower of two possible charges. The distinction between on-road and off-road charges is intended to reflect only genuine differences in difficulty of removal.

In a letter dated 19 May 2009 the Home Office added 'clarification'.



On the road – Added 2009

If a vehicle is positioned on a hardstanding (e.g. hard shoulder, carriageway, lay-by) then it may be deemed to be on the road. A vehicle that is positioned on a grass verge or other soft surface but within the overall limits of the highway (fence line or other boundary) may be deemed to be off the road.

Vehicle

Regulation 3(1) defines "vehicle" by reference to section 99(5) of the Act, which states that a vehicle means "any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to such a vehicle".

In determining, for charging purposes, whether a vehicle is on road or off road, it is therefore to be regarded as on road if any part of the vehicle itself or of any attachment to it or any load on it is on the road.

A load or part of a load that has been shed and is no longer in contact with the vehicle that had been carrying it is not part of the vehicle and is therefore not relevant to deciding whether on road or off road charges should apply.

The relevant charge applies to the vehicle as it presents itself when a recovery operator arrives at the scene. If the load is at that time still on the vehicle, but the operator decides to remove it before moving the vehicle itself that does not affect the charge that is appropriate. That is likewise the case with a trailer or other attachment to a vehicle.

Upright

For the purposes of Regulation 4, a vehicle is upright only if it remains entirely upright. The word "upright" should be given its natural meaning. The intention is that this will exclude situations where, for example, a vehicle is leaning at an angle against a wall into which it has crashed, has turned completely upside down and is resting on its roof, or is hanging from a bridge. Vehicles in such positions should not be seen as upright.

Upright – added in 2009

This means the vehicle is in its normal position – in most cases this means all wheels in contact with the ground. If it is on its side or hanging from a bridge it is not considered to be upright.

Load

While a detailed definition of "load" is given in Regulation 3, the broad intention is that what is seen as a load will be goods in transit carried in a commercial goods vehicle. A commercial goods vehicle that has discharged its load but is still carrying the driver's personal effects, such as a suitcase, and/or any containers used for holding the load will be unladen.

Shed loads – Added in 2009

The Regulations define "vehicle" by reference to section 99(5) of the Act. This states that a vehicle means "any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to such a vehicle." A load or part of a load, that has been shed is not carried by or attached to the vehicle. The statutory removal charge therefore does not include removing a shed load. Any additional payment to a recovery operator or managing agent for such removal is a separate contractual matter or agreement between the contracting authority (such as the police) and operator or managing agent.

Two wheeled vehicle

This expression has been used in preference to "motor-cycle" as this category is not intended to include three-wheeled motor-cycles or other vehicles such as quad bikes.

Substantially damaged – The basis for a constable's reasonable opinion that a vehicle is unsafe to drive on the road will be for the constable to decide. It may, however, be based on a view as to whether the vehicle can be safely moved by a person making use solely of its internal control and guidance mechanisms. It is likely that a substantially damaged vehicle will either be a write-off or require complete replacement of

significant parts before return to viable use. The definition is not intended to cover, e.g. a vehicle that has simply had a headlight smashed.

Substantially damaged – added in 2009

This means a vehicle that is either beyond repair or likely to require complete replacement of significant parts before it can safely be driven again. It may help to think about this in the context of the type of removal that will be required for the vehicle in question. For example, a vehicle that has only a damaged headlight or broken windscreen should not be considered 'substantially damaged' as this will not affect the ability of a vehicle recovery operator to remove the vehicle. A vehicle written off, e.g. because it is not worth the cost of repair, should likewise not be regarded as substantially damaged if it is not unsafe and does not present additional difficulty of removal.

Charges for vehicles removed for forensic purposes

The statutory charges prescribed by these Regulations are payable only in respect of a vehicle removed under the RTRA 1984 or Refuse Disposal (Amenity) Act 1978. Any vehicle that is dangerously, obstructively or illegally parked, or broken down, or abandoned can be removed under these powers. If, however, the police remove a vehicle, solely for forensic purposes, that is not in such a situation, they do so under the Police and Criminal Evidence Act 1984 (PACE) or Common Law, not under either of these Acts and there is no power to levy a charge for the removal. Similarly, PACE has no provision to charge owners for the storage or disposal of vehicles kept for forensic purposes. The Regulations do not apply to vehicles dealt with under PACE.

Storage – Home Office advice added in 2009

The statutory storage charges apply only when a vehicle has been removed under RTRA and is being stored under the removal, storage and disposal of vehicles Regulations. Such vehicles must be released upon payment of the statutory charge. The police can conduct forensic tests whilst holding the vehicle under the Regulations. If, however, the police wish to keep a vehicle longer, eg for continuing forensic or for evidential purposes, they are no longer holding it under the Regulations. The statutory charges do not apply and remuneration for the extra period is a matter between operators and police.

Decision as to charges applicable

The intention is that it should be immediately clear which charge applies, since the size, condition and position of the vehicle should be clear. Should there be a lack, or claimed, lack of clarity, the matter should be referred to the local police liaison officer for decision. Any continuing dispute would require final resolution through the courts.

Stolen vehicles

Ministers consider that there are good reasons for the police to remove stolen vehicles using their s99 powers. The vehicles will usually be recovered as abandoned. Ministers have also decided that the substantial cost associated with such recoveries should not fall on the public purse. An owner may therefore be required to pay the statutory charges before the vehicle is returned. This position is established by the case of Service Motor Policies at Lloyds v City Recovery Ltd, heard in the Court of Appeal (Civil Division) on 9 June 1997. If, however, the owner declines to pay the vehicle maybe disposed of and sufficient of the proceeds retained to meet the removal and storage charges applicable.

It has been a cause of complaint that owners might in such circumstances be required to pay for return of their own property. The number of



such complaints made to the HO has however fallen significantly since an agreement on best practice was reached with ACPO.

Recording details of a removal

In case there may be disputes as to the need for a removal using s99 powers and as to the charges made, police and recovery operators may find it good practice to photograph the scene, recording the vehicle, any identifying mark, its position and the position of any load. They may also wish to record the time of the incident, time of call to recovery operator, time of operator attendance, time of operator return to storage facility, and contacts with the vehicle driver, owner and owner's insurers or other interested parties.

This information will also be helpful for future reviews of charges.





Appendix B – NCA Charges

NCA Charges and Financial arrangements

Support task (Weight relates to Maximum Authorised Mass) MAM)	Charge £	Note	
Reposition vehicle	Two wheels	150	
	Under 3.5 tonnes	150	
	Over 3.5 tonnes but not exceeding 7.5 tonnes	230	
	Over 7.5 tonnes but not exceeding 18 tonnes	380	
	Over exceeding 18 tonnes	380	
	Obstruction eg skips; caravans; boats; trailers etc. (Only if time allows)		Depending upon condition, weight etc.
Remove vehicle and restore to owner (storage not included)	Two wheels	230.32	
	Under 3.5 tonnes	230.32	
	Over 3.5 tonnes but not exceeding 7.5 tonnes	310.32	
	Over 7.5 tonnes but not exceeding 18 tonnes	460.32	
	Over exceeding 18 tonnes	460.32	
	Obstruction eg skips; caravans; boats; trailers etc. (Only if time allows)		Depending upon condition, weight etc.
Remove and dispose of vehicle (storage not included)	Two wheels	375.02	
	Under 3.5 tonnes	375.02	
	Over 3.5 tonnes but not exceeding 7.5 tonnes	455.02	
	Over 7.5 tonnes but not exceeding 18 tonnes	605.02	
	Over exceeding 18 tonnes	605.02	
	Obstruction eg skips; caravans; boats; trailers etc. (Only if time allows)		Depending upon condition, weight etc.
Sundries	Removal and storage of property	25	Personal items only
	Locksmiths (open one door only)	300	
	Car Cover	55	
Storage (per day) 1-5 days	Two wheels	10	
	Under 3.5 tonnes	20	
	Over 3.5 tonnes but not exceeding 7.5 tonnes	25	
	Over 7.5 tonnes but not exceeding 18 tonnes	30	
	Over exceeding 18 tonnes	35	
Storage (per day) 6+ days	Two wheels	30	
	Under 3.5 tonnes	60	
	Over 3.5 tonnes but not exceeding 7.5 tonnes	75	
	Over 7.5 tonnes but not exceeding 18 tonnes	90	
	Over exceeding 18 tonnes	105	





Appendix C – Service Agreement between the NCA and NPCC

Service agreement between National Police Chiefs Council (NPCC) and National Crime Agency (NCA) for the provision of removals services

1. Introduction

- 1.1** This document sets out the agreement between National Crime Agency (NCA) and the National Police Chiefs Council (NPCC) Vehicle Recovery Group (VRG) for the provision of removals services from UK's roads.

2. Timescales and review

- 2.1** The processes, procedures and tariffs outlined in this document will be reviewed 6 months from approval and on an annual basis thereafter.

3. Service Provider obligations

- 3.1** The service provider shall endeavour to ensure that the appropriate level of service can be provided in accordance with the agreed processes for NCA Removals as set out in Appendix 1.
- 3.2** No limitation is set on the number of vehicles for which removals may be requested however it is unlikely that this number will exceed 200 nationally per annum.
- 3.3** The VRG will provide specialist removal vehicles and skilled personnel (via in house expertise or recovery contractors) for the removal of vehicles between the hours of 00:00 to 23:59, 7 days per week for the term of this agreement.
- 3.4** Removal vehicles are expected to attend an incident within 60 minutes of a request being made to Force Control Rooms

(applicable to vehicles under 18t only). Appropriate removal vehicles will be expected to attend incidents in which the removal of a vehicle over 18t is required within 90 minutes of a request being made.

4. Costs

The cost chargeable to National Crime Agency for each removal (or aborted removal), vehicle storage and/or disposal will be in accordance with the tariff as set out in Appendix 2. Payment will be made within 30 days of receipt of invoice.

Authorising officer, National Crime Agency

February 2019

Authorising officer, National Police Chiefs Council

February 2019

Appendix 1 – Removal request processes

1. Types of removal

Source	Description
Vehicle Removal (Roadside)	Vehicles involved in serious crime (Common Law/PACE)

- 1.2** NCA does not stipulate a priority order for removal types. All NCA requested removal types should be considered at the same priority for the removal contractor i.e. high. In circumstances where a removal is considered to be required urgently this will be communicated to the Force Control Room.

2. Removal Request Process

- 2.1** The decision to request a vehicle removal will be made by the NCA Operational Commander. NCA will be fully accountable for the decision to remove a vehicle based on the information available at the time.



2.2 Vehicle removal request

The NCA are to request a removal through the local Force Control Room covering the location of the vehicle that requires removal.

- 2.3** When requesting a removal, the NCA will provide as many of the following details to the Force Control Room as is possible:
- Make of vehicle
 - Model of vehicle
 - Colour of vehicle
 - Height of vehicle
 - VRM (Vehicle Registration Mark)
 - Estimated weight of vehicle
 - If an HGV the unladen weight (If known)
 - If an HGV full freighted (If known)
 - If the vehicle is stuck in gear or air brakes are locked on
 - The exact location
 - Any special circumstances of the location (in a stream, off the highway etc)
 - Manual or automatic gearbox
 - Four wheel drive
 - CAD or unique reference number
 - Operation Name (if applicable)
 - Full details with contact number of office in the case
 - Whether NCA will forensically examine vehicle

3. Removals processes

- 3.1** Removal to pound will be considered the default sanction, however where it is deemed more appropriate, the relocation of the vehicle may take place instead of removal. A breakdown should be considered as an example of a situation where it would be inappropriate to remove to pound. Each Force will retain operational discretion in relation to the decision to remove to pound or relocate.

- 3.2** The compounds used by police forces are predominately those of contracted recovery operators. They are secure to the extent that they typically have high fencing, lighting and CCTV, however they vary considerably in size and facilities, they are not permanently staffed and are vulnerable to determined attacks. It is for the NCA to assess the level of risk of vehicles being attacked or tampered with on route to compounds and when stored in compounds. If necessary recovery vehicles should be escorted and if a higher level of security is required NCA are to negotiate with the seizing force control room and an alternative location should be found, for example an alternative operator with better security, use of police premises or direct transport to NCA premises. The MPS in London has two premises (Charlton & Perivale) which are category A storage (high security) and available 24/7 365)

- 3.3** The NCA will be present throughout the period of recovery.

- 3.4** VRG removal contractors will utilise a Removal and Condition Report (Appendix 3 for a car, motor cycle and van) to record the condition of the vehicle at the point of removal. Examples of suitable reports are provided in Appendix 3. This report should then be checked for discrepancies upon arrival of the vehicle at the contractor pound – this should constitute an independent damage check. NCA will consider this report to be acceptable proof of condition.

- 3.5** A vehicle should be deemed to be removed once a single wheel has left the original parking position.

- 3.6** NCA considers the type of removal truck and the method of removal utilised to be at the discretion of the contractor. The contractor will be liable for any damage caused as a result of the removal process.

- 3.7** A contractor should only enter a vehicle being removed under exceptional circumstances. If a vehicle is unable to be removed without entry taking place then the authorising NCA officer at the

scene will assess the situation in order to ascertain whether the removal of the vehicle is required to prevent an obstruction or danger to other road users.

- 3.8** Contractor vehicles may be given permission to use Bus Lanes or Motorway hard shoulders when attending NCA requested removals. **This is solely upon the direction of the NCA.** This does not amount to a blanket exemption and will only apply to those circumstances when a removal has been requested by NCA. It will also only apply to the outbound portion of the journey i.e. going to the removal location. If a Penalty Notice is issued for driving in a Bus Lane or using the hard shoulder on a Motorway then the contractor will be required to appeal the ticket citing details of the incident including the CAD or unique reference number and the fact that it was operating at NCA's request.
- 3.9** Removal should not be requested until the safety and well-being of all the occupants of the vehicles have been considered. Adequate arrangements must be made if children, people with special needs and animals were travelling in the vehicle.
- 3.10** Vehicles containing hazardous items (such as chemicals, fuel or biohazards) or prohibited items (such as drugs, firearms, weapons and large quantities of cash) will not be removed unless deemed safe to do so by the police, in accordance with force policy. Removal of these items by the NCA officers or contractors may be required prior to any removal taking place. In some cases, NCA officers may be required to escort the vehicle to the pound, to ensure the safety of the recovery operator.

4. Vehicle storage & Release

- 4.1** NCA requires all removed vehicles to be kept in a secure environment. The NCA is required to undertake a dynamic risk assessment to ensure the appropriateness of the storage facility being offered as there are different levels of security for each contractor's premises. The security of the vehicle should be considered the responsibility of the removal contractor. All pounds must have adequate perimeter fencing and lighting to avoid the possibility of theft from or damage to vehicles. Pounds should also be safe environments. The pound operator will retain liability for any injuries to the person or damage of/missing vehicles or property in the pound environment.
- 4.2** NCA does not consider insecure vehicles to require additional security above and beyond that which will be provided by the pound itself. The fencing and other security procedures should be considered adequate to ensure the security of the vehicle and any property contained within. Car covers or indoor storage should be utilised for those vehicles which may be at risk of damage due to weather conditions i.e. convertibles, those with broken windows. This will be at the discretion of the pound operator for which there will be an additional charge.
- 4.3** Pound employees should only enter a vehicle being stored on behalf of NCA in exceptional circumstances or to prevent damage to a vehicle i.e. to secure the vehicle via the closure of windows.



4.4 If it transpires that there is police interest in vehicles removed on behalf of the NCA the police may take responsibility for these subject to negotiation with the NCA as to the best method of preserving evidence and managing subsequent cases. At this point responsibility for the vehicle and any property contained within, its storage, and its disposal will become the responsibility and liability of the Police. All related costs will also become the responsibility of the Police. Examples of situations when a vehicle may become of interest to the Police include but are not limited to the following:

- Incorrect VRM
- Possible involvement in a crime or terrorism related offences
- Vehicle has been identified as stolen

If NCA intend to forensically examine a vehicle after removal, this information must be given to the force control room when the removal is requested. The police will then provide a forensic recovery to preserve evidence and will cover the vehicle when it arrives at the police pound. A police SOCO will not remove the vehicle to a police facility for examination.

If there is policed interest in a vehicle which warrants a forensic examination, the vehicle will be removed to a police forensic facility. The police SOCO and OiC will liaise with the NCA before deciding upon a forensic strategy.

4.5 NCA will collect the vehicle within 5 days (including weekends). Failure to collect within this timescale will incur additional fees as per the tariff.

4.6 Each Force will require a written Release Notice – either a NCA email or NCA letter to release a vehicle to their contractor.

4.7 Promissory notices will not be issued for vehicles removed on behalf of NCA.

5. Communications

5.1 The removal and storage or relocation of a vehicle will be recorded by each police Force in conjunction with the NCA Control Room using either CAD or Unique Reference Number (URN).

5.2 NCA will require each police Force Control Room to create a CAD/URN entry each time a removal request is made. Para 2.3 contains the type of information required.

5.3 The CAD/URN record should be updated once the removal has been actioned with the identity of the authorising officer.

5.4 NCA will take responsibility for the requesting of keeper details and the notification of vehicle owners.

5.5 NCA will be the initial point of contact for any vehicle removed at their request. If a query or complaint relates to the vehicle or seizing officers then this will be dealt with via NCA through the NCA Control Centre (03704967622).

5.6 Any Freedom of Information Requests (FOIA) will be dealt with by the NCA.

5.7 NCA Control Centre 08704 960 093, NCAControlCentre@nca.x.gsi.gov.uk should be considered as the single point of contact for any issues relating to NCA removals. A set of relevant contacts will be provided to VRG and their respective contractors.

5.8 This agreement will be distributed to the VRG for onward transmission to each Force Control Room.

6. Payment Mechanism

6.1 Each Force will make payment to the relevant contractor for NCA removals.

6.2. Once payment is made the force will raise an invoice and supply it to the NCA with the cost of service to allow NCA to raise the necessary internal Purchase Order.

6.3 Upon receipt of a Force invoice the NCA will make payment within 30 days.

- 6.4** Invoices are to be submitted to Accounts Payable by email to accounts.payable@nca.x.gsi.gov.uk

All invoices presented must contain, or be supported by, the following information:-

- NCA Reference number acquired from NCA Control Centre & Force CAD/URN
- Full details of the charges, including a detailed breakdown.
- Lead Officer
- Branch

7. Performance Management

- 7.1** NCA will work with VRG to review the reporting requirements on a frequent basis.
- 7.2** Any identified issues will be resolved by discussion at minuted meetings between NPCC VRG Chair/Secretary and NCA.

8. Vetting

- 8.1** Contractors involved in the removal process will be vetted to a minimum of NPPV1. For removals that require a forensic examination, NPPV2 vetted personnel will be used. The decision re vetting level will be at the NCA's discretion following a dynamic risk assessment.

Appendix 2: Costs and financial arrangements
Appendix 3: Condition Reports





Appendix D – NPCC VRG Cross Border Agreement

National Roads Policing Vehicle Recovery Group

Review and update of an agreement concerning mutuality in respect of the recovery costs of vehicles seized for other forces and the responsibility for Police Property Act proceedings in relation to vehicles

1. Introduction

- 1.1** On 7th May 2009, at a meeting in Stirling, the ACPO Roads Policing Operations Forum agreed that forces would not seek to cross charge the initial costs of recovering a vehicle which had been seized at the request of another force. That principle has been in effective operation since that time.
- 1.2** Since 2009, several forces have had to deal with, and pay for, Police Property Act (PPA) proceedings which were necessary to resolve ownership disputes involving vehicles which only came into their custody following a request from another force and in which they otherwise had no policing interest.
- 1.3** This agreement seeks to establish an agreed principle that forces which instigate the seizure and recovery of a vehicle will subsequently take responsibility for its management, including establishing correct ownership of it through PPA processes if necessary.

2. Background

- 2.1** All forces have a vehicle recovery scheme. Some are managed by forces themselves and some through management companies. Each force has a Vehicle Recovery Manager/Liaison Officer.
- 2.2** The manner in which forces finance their recovery schemes varies between forces but it is a common position that forces pay for the

recovery of vehicles at a contract rate where they are seized in connection with crime, generally by virtue of Section 19 PACE. Such vehicles will be referred to as 'Crime/PACE' vehicles.

- 2.3** Vehicles which have been stolen and recovered when abandoned by the thief are typically recovered using powers granted by the Road Traffic Regulation Act 1984 and are therefore not included in the category of Crime/PACE vehicles.
- 2.4** Where vehicles are recovered by one force on behalf of officers from another, Vehicle Recovery Managers are often not informed and adequate management of these vehicles is denied to either force.
- 2.5** The costs of a simple recovery for Crime/PACE vehicles are generally set within the terms of individual forces' police recovery contract at a defined and similar rate.
- 2.6** Initial storage is often provided at no cost to the force scheme. The costs involved in recharging expenses to other forces may outweigh the value of the charge.
- 2.7** There is a communication network established amongst Recovery Managers.

3 Scope

- 3.1** The agreement will only apply to motorcycles, cars and light goods vehicles up to 3,500Kgs, which have been recovered under a force recovery scheme at the specific request of another force and which fall within the definition of a Crime/PACE vehicle under this agreement.

4 Proposal

- 4.1** Where one force ("the Recovering Force") recovers a vehicle at the request of another ("the Requesting Force"), however the request is made (ie whether directly or indirectly or by a PNC marker being applied), the Recovering Force will not seek to recover the costs of the recovery itself from the Requesting Force, subject to any written agreement between the Vehicle Recovery Managers of the two forces to the contrary.



4.2 The Recovering Force will not seek to recharge to the Requesting Force the costs of storing the vehicle (if any) for a period of 7 days following recovery, subject to any written agreement between the Vehicle Recovery Managers of the two forces to the contrary.

4.3 Whilst, following seizure, the Recovering Force will have responsibility for the safe custody of the seized vehicle, responsibility for the management of the vehicle, including decisions as to retention, examination and/or disposal, remains at all times with the Requesting Force.

4.4 The Vehicle Recovery Manager in the Requesting Force is to be informed by the Recovering Force, as soon as reasonably practicable, that the vehicle has been seized. Subject to any written agreement between the Vehicle Recovery Managers of the two forces to the contrary, within 7 days of the seizure of the vehicle, the Requesting Force shall take physical custody of the vehicle or give written directions to the Recovering Force as to its final disposal.

5 Police Property Act

5.1 Police Property Act procedures can be costly and take many months to resolve. As a matter of principle, the force whose enquiries into an offence led to the seizure of the vehicle should carry the burden of those procedures and the associated costs. It should not be for the Recovering Force to have to shoulder the burden of those costs – even if there is evidence that offences (such as the sale of stolen property) may have been committed in the Recovering Force’s area.

5.2 Police Property Act procedures may be necessary to establish ownership of a vehicle once it comes into police possession. Unless necessary for police enquiries into an offence, forces should avoid bringing vehicles into the possession of the police and should always consider alternatives.

5.3 Other than by mutual written agreement between the Requesting and Recovering Forces, any procedures (including under the Police Property Act) to determine ownership

of a seized vehicle will be dealt with, and paid for, by the Requesting Force and that force shall take possession of the vehicle.

6 Recommendations

6.1 That National Roads Policing considers the renewal of, and amendment to, the national agreement that:

6.1.1 Forces will not seek to charge another for the recovery of a vehicle which has been seized on behalf of that other force

6.1.2 The scope of the proposed agreement is limited to the cost of recovering a light vehicle and up to 7 (seven) days storage

6.1.3 Other than by prior written agreement to the contrary, responsibility for any Police Property Act proceedings will rest with the force which requests the seizure of the vehicle

6.1.4 Vehicle Recovery managers of the recovering force make contact with the Vehicle Recovery Manager of the requesting force as soon as practicable and pass management of the vehicle to the requesting force

Agreed by NPCC Roads Policing Strategy Group at a meeting held 5th May 2016



