



Abandoned Vehicles and the Impact of the Clean Neighbourhoods and Environment Act 2005

RECOMMENDATION

1. To approve the use of measures relating to the removal and disposal of abandoned vehicles contained in The Clean Neighbourhoods and Environment Act 2005.

SUPPORTING INFORMATION

- 2.1 The Clean Neighbourhoods and Environment Act 2005 contains some provisions relating to abandoned vehicle enforcement. It amends some parts of the Refuse Disposal (Amenity) Act 1978, the Road Traffic Regulation Act 1984 and the Removal and Disposal of Vehicles Regulations 1986.
- 2.2 Sections 11, 12, 13, 15, 16 and 17 relating to abandoned vehicles commenced on 18 October 2005. These provisions relate to the removal and disposal of vehicles and will impact on the way in which the Council's abandoned vehicle section operates.
- 2.3 In summary these provisions allow for:
 - the immediate removal of vehicles that are 'fit for destruction' and their immediate disposal.
 - the reduction of the storage period for vehicles that are not 'fit for destruction' to 7 days. If the keeper cannot be found or fails to claim the vehicle from storage within this time the vehicle can be disposed of.
 - the removal of the need to store taxed vehicles until the tax period expires.
 - taxed vehicles that do not display registration plates and do not have a registered keeper, to be disposed of immediately after removal.
- 2.4 Most abandoned vehicles are served with a 24-hour removal notice at present. This was the prescribed notice period contained in the Removal and Disposal of Vehicles Regulations 1986.

- 2.5 At the present time the Council already removes certain abandoned vehicles without notice. The Council has previously made the decision to remove certain vehicles that have been burnt out, heavily vandalised or present a community safety hazard. Although there was previously no legal basis for doing this, the benefits outweighed the risks and it was agreed that this course of action could be taken. The changes to the legislation legitimise this action.
- 2.6 However, there are issues that need to be considered, given that the legislation now allows any abandoned vehicle to be removed immediately and without notice. Whilst there may be circumstances where it will be desirable to remove a vehicle immediately there are also cases where this may not be the case.
- 2.7 Although these new provisions allow for the immediate removal and disposal of vehicles, the actions taken in respect of vehicle removal must be shown to be reasonable. In some cases vehicles are removed, presumably by the owner, during the 24-hour notice period. Occasions also arise where a vehicle is removed by the Council, but the owner subsequently makes contact protesting that the vehicle was not in fact abandoned.
- 2.8 It is proposed that the Council will, where justified, remove abandoned vehicles that are fit for destruction without notice and arrange for their immediate disposal. In some cases, although the visiting Officer may be satisfied that the vehicle appears to be abandoned, circumstances may dictate that immediate removal is not the most appropriate way of dealing with the vehicle. This also applies to vehicles that may not be 'fit for destruction'. In these circumstances a 24-hour removal notice will still be issued before removal.
- 2.9 If all vehicles were removed immediately and without notice it is highly likely that there will be an increase in the number of complaints from vehicle owners. It may also increase the potential for litigation from aggrieved owners.
- 2.10 Guidance is produced in Appendix 2, which outlines the steps to be taken in the case of vehicles reported as abandoned. This outlines the actions to be taken by the visiting Officer for the initial removal of vehicles. Appendix 3 gives guidance on the disposal of vehicles.

For more information contact:	Ian Donnelly. Telephone: 71 5219. E-mail: ian.donnelly@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Guidance on removal of vehicles Appendix 3 – Guidance on disposal of vehicles

IMPLICATIONS

Financial

1. The storage period for vehicles has been reduced. This will have some impact as the amount of storage costs should reduce. However, the extent of this will only become apparent when the new provisions are in use.

Legal

2. None. The provisions of the Clean Neighbourhoods and Environment Act 2005 amend existing legislation. Officers are already authorised under these existing provisions.

Personnel

3. None.

Equalities impact

4. None

Corporate objectives and priorities for change

- 5.1 This proposal comes under the Council's objectives of **healthy, safe and independent communities**; and **a diverse, attractive and healthy environment**.
- 5.2 This proposal furthers the Council's priorities of **improving customer service, in the city centre and locally**.

PROCEDURES FOR VEHICLE REMOVAL

1. Vehicles that can be removed without prior notice

- 1.1 A vehicle that is fit for destruction appears to be abandoned and displays one or more of the following characteristics:
- Vehicle that is a total burn out
 - Vehicle with no registration plates and/or no registered keeper.
 - Vehicles that have been badly vandalised
 - Vehicles that contain waste, particularly items such as gas cylinders.
 - Vehicles that are, in the opinion of the visiting officer, abandoned and present a community safety risk. This can include vehicles in known fire 'hotspots', vehicles leaking fuel etc.
- 1.2 Vehicles that are not fit for destruction may be removed without notice to a place of safe keeping for storage. However guidance must be taken before this course of action is taken. This action would generally only be taken if the vehicle appeared to be at risk of damage, did not display registration plates or had no registered keeper.

2. Vehicles that should receive a 24 hour notice

- 2.1 A vehicle that appears to be abandoned and displays one or more of the following characteristics:
- A vehicle that is fit for destruction but has registration plates and/or a registered keeper and does not fall within category 1 above.
 - A vehicle that is not fit for destruction but appears to be abandoned after investigation by the Abandoned Vehicle Officer.

PROCEDURES FOR VEHICLE DISPOSAL

1. Vehicles 'Fit for Destruction'

- 1.1 Vehicles that are fit for destruction may be disposed of immediately, even if they are taxed. Guidance indicates that there is no need to trace or contact the owner prior to disposal.
- 1.2 Vehicles that are fit for destruction may be disposed of immediately even if they are taxed. Guidance indicates that there is no need to trace or contact the owner prior to disposal.
- 1.3 The abandoned vehicle officer may if he/she thinks necessary, store a vehicle in this category.

2. Vehicles 'Not Fit for Destruction'

- 2.1 If the vehicle is not fit for destruction, does not display current tax and does not have registration plates it can be disposed of at any time after its removal. Guidance indicates that there is no need to trace or contact the owner prior to disposal.
- 2.2 A vehicle that is not fit for destruction will be stored. Where known, the registered keeper will be written to, giving them 7 days to collect the car. If the owner fails to make contact within this time the vehicle will be disposed of. This will still usually be by scrapping the vehicle. This now includes vehicles that are taxed – there is now no need to wait for the tax to expire once enquiries have been made to find the owner.

NOTE

In all cases if the visiting officer is unsure of the most appropriate course of action, advice should be sought from the Senior Environmental Services Technician or Team Leader, Public Health.