

REPORT FROM: Director of Resources
TO: Colne and District Committee
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Report Author: Tim Horsley
Tel. No: 07969 885265
E-mail: tim.horsley@pendle.gov.uk

Abandoned and Nuisance Vehicles

PURPOSE OF REPORT

To advise the Committee on abandoned and nuisance vehicles, the actions available to officers and arrangements for updating Committee in the future.

ISSUE

At its meeting of 5 January 2023, Committee sought further information and advice on how abandoned vehicles are dealt with by officers.

(1) Clarification be sought on the legislation for dealing with abandoned vehicles;

Under section 3(1) of the Refuse Disposal (Amenity) Act 1978 (RDA 1978), local authorities have a duty to remove vehicles that have been abandoned on a highway without lawful authority. The Council uses a 24 hour warning notice in these circumstances.

Where a vehicle has been abandoned on land that is private and occupied a local authority must give the occupier 15 days' notice that it intends to remove the abandoned vehicle (section 3(2), RDA 1978). If the occupier objects within the 15 days then the local authority cannot remove the vehicle.

Vehicles in a dangerous condition or causing an obstruction preventing use of the highway can be and are removed by the Police.

There is no statutory definition of what being an abandoned vehicle means. However, there are criteria commonly used by local authorities:

Qualifying Criteria - generally more than one will need to apply but rarely all:

- Not taxed
- No MOT
- Open to access

- Damage internally or externally
- Flat tyres
- Internal mould
- Containing excessive rubbish or car parts
- Grass or litter gathered around the wheels
- How long it has been left without moving

Disqualifying criteria – indicating there is a local keeper or the vehicle is in use rather than abandoned

- The vehicle has been recently moved
- The vehicle has a local keeper
- The vehicle has tax and MOT
- The vehicle is in good condition
- The vehicle is in the possession or care of a local garage
- The vehicle is covered by trade plates

Once abandoned vehicle status is confirmed officers can arrange for it to be removed and stored. The cost of lifting a vehicle is £150 and storage is £20 per day while keepers are given the opportunity to prove ownership, claim their vehicle and pay any charges.

A vehicle may not meet or may be disqualified by the criteria above in terms of the powers available to the Council but still be perceived as an abandoned vehicle by residents.

A more appropriate term for this is a nuisance vehicle.

Because anyone can check tax and MOT details there may be an assumption vehicles with no tax and MOT are abandoned without regard to their condition. They are not and responsibility for dealing with no tax and MOT rests with the DVLA, not the Council.

A vehicle may meet some of the qualifying criteria but have a local keeper. It may be parked outside their home full of mould and rubbish or it may be a number of commercial vehicles parked in a residential area.

If the actions of the owner or person in possession and care of the vehicle is detrimental to the quality of life of those in the locality and is persistent and continuing in nature it may be possible to use the Community Protection powers in the Anti Social Behaviour, Crime and Policing Act 2014.

However, what they are doing needs to be unreasonable not just annoying.

Again, a vehicle in reasonable condition with no tax and no MOT may be annoying to those who do pay their tax and MOT but is not detrimental to the quality of life.

A vehicle used for trade during the day and brought home at night may be detrimental to other road users but has every right to be there and is unlikely to be unreasonable.

A vehicle parked outside someone's home but in a filthy condition internally and externally is likely to be both detrimental and unreasonable.

The distinction between an abandoned vehicle and a nuisance vehicle is important to the understanding of the powers available. It is also important to note the Council only has access to DVLA keeper records for vehicles which demonstrably meet the abandoned vehicle criteria and not for nuisance vehicles.

(2) Should it be permitted under the legislation, the Council's Community Protection Coordinator be asked to serve notice for all cars currently abandoned in the Colne and District area;

In this context and following on from the discussion above, abandoned vehicles meeting the criteria will be dealt with as abandoned vehicles and will not need action under the Community Protection legislation.

Other than those recently reported by Members there are only four vehicles reported in Colne and District which have not been actioned under the abandoned vehicle legislation to date. Two are being monitored and two we will look at under the Community Protection legislation.

I have also agreed with Environmental Services that for the next three months we will work together on reported abandoned vehicles in Colne and District so that where they do not meet the criteria or after investigation are disqualified and if, other than for no tax or MOT, they may represent a nuisance I will investigate to see if a solution can be found or a Community Protection Warning is warranted in accordance with the legislation and statutory guidance.

(3) A database of abandoned vehicles be created.

All reports of abandoned vehicles are logged on the Council's Idox case management database.

A separate spreadsheet is now being maintained by Environmental Services for reports in Colne and District. It is understood Members are seeking regular updates on progress with vehicles reported as abandoned. Future Environmental Crime Reports, which are included quarterly in the Exempt Items part of the agenda, will include updates in future.

IMPLICATIONS

Policy: None

Financial: The cost of removing an abandoned vehicle is £150 with storage charges of £20 per day for up to four weeks.

Legal: Refuse Disposal (Amenity) Act 1978; Anti Social behavior, Crime and Policing Act 2014

Risk Management: The approach described in this report supports the Council's Risk Management Plan

Health and Safety: Lancashire Constabulary has powers to deal with vehicles posing a health and safety risk

Sustainability: None

Community Safety: The approach described in this report supports Pendle Community Safety Partnership's Partnership Plan.

Equality and Diversity: None