Parking, Abandoned Vehicles and Vehicle Excise Licensing

Standard Operating Procedure

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1. **Purpose**

1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland, hereafter referred to as Police Scotland, Policy for – Local policing.

1.2 This SOP aims to give police officers and police staff guidance on responding to and dealing with parking complaints, abandoned vehicles and vehicle excise licensing. Police Scotland is open to engagement with partners and communities to identify parking concerns as a local priority. The context of the problem should always be explored and a balance achieved in maintaining our core function of keeping people safe. This document provides information that assists in ensuring that a standardised approach is taken to local decision making.

2. **Definition of a Road**

2.1 Whilst the definition of a ‘road’ does not seek to include access to private driveways there remains uncertainty about the interpretation of the statutory definition of ‘road’ as set out in section 151 of the Roads (Scotland) Act 1984. Because of this uncertainty, the correct identification of a ‘road’ is an issue that arises frequently.

2.2 The Roads (Scotland) Act 1984 defines a road as:

‘any way (other than a waterway) over which there is a public right of passage (by whatever means and whether subject to a toll or not) and includes the road’s verge; and any bridge (whether permanent or temporary) over which the road passes; and any tunnel through which the road passes; and any reference to a road includes a part thereof’.

2.3 Distinctions between public and private roads and between private roads and accesses may be misunderstood in an attempt to apply the facts in any particular case to the legal definition.

2.4 In assessing whether a particular route or track or way is a ‘road’, the statutory definition of ‘road’ must be applied to the facts of the case. Whether a particular area of land is or is not a road will come to be a matter of fact.

3. **Decriminalisation of Parking**

3.1 The Road Traffic Act 1991 establishes arrangements whereby Local Authorities can apply to the appropriate Secretary of State for an order decriminalising most parking offences within their Local Authority area. A table of Local Authorities who have decriminalised parking offences can be found within ‘Appendix B’.
3.2 Local Authorities who have decriminalised parking offences are now responsible for the enforcement of waiting and loading restrictions, as well as the control of on street parking within their Local Authority boundary.

3.4 The decriminalisation of parking does not preclude police officers from enforcing legislation in relation to parking that is considered to be either causing an obstruction or dangerous.

3.5 Police Scotland must only issue Fixed Penalty Notices (FPN’s) to vehicles in areas where parking has not been decriminalised. Where parking is decriminalised Local Authorities will have local Community Traffic Wardens (CTWs) to enforce all parking offences.

4. Operational Procedure

4.1 Decriminalised Local Authorities

4.1.1 Local Authorities who have decriminalised parking in the terms of the Road Traffic Act 1991 have responsibility for enforcement of parking offences committed within their authority area.

4.1.2 In these Local Authorities, in the first instance police officers will not attend or enforce instances of:
  - Parking on metered streets / pay and display
  - Parking around schools
  - Parking on double / single yellow lines

4.1.3 Preference will be made by call handlers to refer the complainer to Local Authority CTW’s to attend in the first instance. Where the vehicle is causing an obstruction to road users or is dangerously parked and likely to cause injury police officers will be required to attend.

4.1.4 Where a complaint is received by the Area Control Room (ACR) in respect of the parking of a vehicle - an entry should be made on the Command and Control System and managed in accordance with the Incident Prioritisation SOP.

4.2 Vehicle Obstructing Roadway / Dangerous Position

4.2.1 In instances where a vehicle is obstructing the roadway or has been parked in a dangerous position, police attendance can be requested for both criminalised and decriminalised parking authority areas. All other circumstances should be referred to local CTW’s.

4.2.2 On police attendance at such instances, each incident should be judged on its own merits and enquiries should be made with the driver of the vehicle if present to the reasoning for the positioning of the vehicle.
4.2.3 Regulation 103 of The Road Vehicles (Construction & Use) Regulations 1986 states:
‘No person in charge of a motor vehicle or trailer shall cause or permit the vehicle to stand on a road so as to cause any unnecessary obstruction of the road.’

4.2.4 In the presence of the driver / keeper of the vehicle a police officer may request the vehicle to be moved and the matter should be dealt with by the issue of a non-endorsable Conditional Offer of Fixed Penalty (COFPN) or submission of a Standard Prosecution Report (SPR).

4.2.5 Section 22 Road Traffic Act 1988 creates an offence:
‘If a person in charge of a vehicle causes or permits the vehicle or a trailer drawn by it to remain at rest on a road in such a position or in such condition or in such circumstances as to involve a danger of injury to other persons using the road, he is guilty of an offence’.

4.2.6 In the absence of the driver or keeper of the vehicle consideration should be made to have the vehicle removed should it be deemed necessary.

4.2.7 Section 99 Road Traffic Regulation Act 1984 permits police officers to remove a vehicle where it is causing an obstruction or is in a position likely to cause danger. The Seizure of Vehicles SOP contains further information on the removal of vehicles.

4.3 Private Driveways

4.3.1 Where a complaint received relates to the obstruction of a private driveway, the incident will initially be graded as ‘priority 5 - No Police Attendance’, the incident will be saved on command and control systems and re-graded if a police response is later required. The call-taker should explain the limitation of legislative powers available to police to deal with such complaints at the time of the report.

4.3.2 Where subsequent contact is made by the complainer, the call-taker should undertake telephone enquiries making use of police databases such as Police National Computer (PNC), command and control systems or Scottish Intelligence Database (SID) in an effort to resolve the complaint. If such enquiries prove negative, police attendance will be considered subject to normal attendance criteria.

4.3.3 If the complainer’s vehicle remains parked on the driveway and is being prevented from exiting, they should be encouraged to carry out local enquiries with neighbours and / or people at other premises in the vicinity to identify the errant driver.
NOT PROTECTIVELY MARKED

4.3.4 Each incident must be judged on its own merits and a common sense approach adopted when deciding how much time should be given to allow the driver to return before removal of the vehicle is considered. This will depend on the individual circumstances of each incident.

4.3.5 When in attendance, officers will make local enquiries and thorough use of police systems such as PNC, command and control systems or SID in an effort to trace the driver or owner of the vehicle.

4.3.6 Where efforts to trace the driver or keeper of the vehicle are unsuccessful, consideration should be made to removing the vehicle using police powers.

4.4 Other Roadway Obstructions

4.4.1 Where a complaint is received in relation to any other roadway obstruction, there will be a presumption in favour of the attendance by a CTW in the first instance. Their attendance may be supported by police assistance should this be deemed necessary.

4.4.2 Only where a CTW is not available and the call-taker is unable to resolve the complaint over the telephone will a police officer be dispatched to conduct local enquiries.

4.5 Parking on Footpaths

4.5.1 Where a complaint is received in relation to a vehicle being parked on a footpath but not causing any obstruction to other road users including pedestrians, there will be a presumption in favour of the attendance by a CTW.

4.5.2 Where a vehicle is parked either fully or partially on the footpath adjacent to a roadway governed by yellow road markings, a FPN may be issued in local authority areas where parking remains criminalised. The Traffic Regulation Order (TRO) in force must be clearly displayed.

4.5.3 The offence committed would have to be relevant e.g. No Loading / No Waiting. If Waiting is permitted then time would have to be given before issuing a FPN.

4.6 Parking of Caravans

4.6.1 Where a caravan occupies a lay-by or passing place on a narrow road and may be causing an obstruction, the driver should be asked to remove the vehicle / caravan and advised that failure to do so will render them liable to prosecution.
4.6.2 Caravans left on a public road are the responsibility of the Local Authority unless they are causing an obstruction. Local Authorities will carry out enquiries with a view to having the caravan removed subject to the terms of S.3 (1) (5) Refuse Disposal (Amenity) Act 1978. Police attendance should not be required.

4.7 Parking at Schools

4.7.1 Where a complaint is received in relation to a vehicle parked at a school crossing or within a controlled area there will be a presumption in favour of the attendance by a CTW.

4.7.2 In all instances the controlled area will be subject of a TRO and enforced by CTW’s. Relevant signage must be present to inform road users of the restrictions in force. Police may enforce parking offences by means of a FPN if a vehicle is parked on yellow lines. This only applies to Local Authority areas where parking remains criminalised.

4.7.3 Should a vehicle be causing an obstruction or parked in a dangerous manner, likely to cause safety implications to other road users, police attendance may be required.

4.7.4 Where a vehicle is parked and causing an obstruction near a school, removal should be considered on all occasions where the driver / keeper cannot be traced following local enquires and checks of available police systems.

Note: Police Scotland has a responsibility for the safety of vulnerable road users and police officers must remain at the locus until the roadway is safe and the vehicle is removed.

4.8 Parking Within Metered On-Street Parking Areas

4.8.1 Where on Street Parking is de-criminalised CTW’s are responsible for the enforcement of any parking restrictions.

4.8.2 Police officers retain the powers to deal with matters of parking where it has not been decriminalised. Common offences include but are not limited to:

- No valid pay and display ticket displayed
- Expired pay and display ticket displayed
- Parking out with a designated bay

4.8.3 All the information relating to any identified offence should be recorded within the police officer / CTWs notebook.
5. **Fixed Penalty Notices**

5.1 There are various offences detailed under the Road Traffic Offenders Act 1988 where a FPN may be completed and attached to the windscreen of a subject vehicle. These offences include but are not limited to:

- Parking on yellow lines where prohibited
- Parking in allocated bays at locations for a permitted length of time
- Parking within metered bays
- Parking within a Disabled Bay where parking is prohibited other than that of a permit holder.

5.2 These offences may only be enforced by police officers in local authority areas where parking remains criminalised.

5.3 **Parking on Double / Single Yellow Lines**

5.3.1 When responding to a report of a vehicle parked on either double or single yellow lines with a no loading restriction in place a FPN may be issued. The FPN should be completed.

5.3.2 Where a vehicle is parked within a regulated Disabled Bay without a permit, the FPN should be completed in the same way and the appropriate offence code selected.

5.3.3 Vehicles parked within a Pedestrian Favoured Precinct may also be issued a Fixed Penalty using the appropriate offence code.

5.4 **Parking Longer Than Permitted**

5.4.1 Regulated timed bays are normally situated in town centres and residential areas, with restricted time limits for free parking. Time limits can vary from 20 minutes to three hours.

5.4.2 The driver of a vehicle that remains within a regulated timed bay beyond the permitted time restriction may be issued a FPN.

5.4.3 Enforcement of parking longer than permitted is restricted to police officers in local authority areas where parking remains criminalised. In decriminalised areas consideration should be given to requesting a CTW to attend.

5.4.4 All relevant information in relation to the offence inclusive of any time checks should be recorded in the police officer’s notebook.
6. **Blue Badge Holders**

6.1 The Blue Badge Scheme was introduced on 01 January 2000. The Scheme provides a national arrangement of parking concessions for people with severe walking difficulties or other disabilities who travel either as a driver or passenger. The scheme also applies persons who are registered blind and/or have severe upper limb disabilities.

6.2 As the Blue Badge Scheme makes provisions for holders to park closer to their home or destination, Local Authorities can provide designated disabled parking bays.

6.3 Disabled parking bays are for use by legitimate Blue Badge holders who are permitted to use the designated disabled parking bay.

6.4 In general terms, the vehicles covered by the scheme include any vehicle (displaying a blue badge) which immediately before or after a period of waiting has been/is about to be:

- driven by a disabled person; or
- used to convey disabled persons who themselves must be the holder of the badge

6.5 Vehicles displaying a blue badge are permitted to wait without a limit on time on double or single yellow lines out with the loading ban times, providing the driver ensures that the vehicle does not cause an obstruction.

6.6 During loading ban times vehicles displaying a blue badge may be issued a FPN. In any instance where such a vehicle is issued with a notice the particulars of the badge displayed should be noted in the remarks column.

6.7 **Misuse of Blue Badge**

6.7.1 Section 35 Road Traffic Act 1991 states it is an offence to display a blue badge issued to an individual when a vehicle is being driven unless:

- The badge holder is either driving or being carried as a passenger in the vehicle;
- An able bodied person is driving a vehicle along a road where a disabled person's concession is available to moving vehicles and they are on the way to collect a disabled person or, having set down the disabled person, was leaving the vicinity of the place where the disabled person was disembarked.

6.7.2 Section 47 Road Traffic Regulation Act 1984 (1) (a) creates an offence for the driver of a vehicle to leave the vehicle in a designated parking place otherwise than as authorised.

6.7.3 Where an offender is identified a FPN may be issued by police in local authority areas where parking remains criminalised.
6.7.4 A Local Authority may refuse to issue a blue badge or require a blue badge to be surrendered where it has been misused by the holder or other persons with the holder's consent.

6.7.5 In each case, the badge must have been used improperly on at least three previous occasions in circumstances that have either resulted in a conviction or the issue of a FPN, or where the rules governing the use of badges have been clearly contravened.

6.7.6 In circumstances where an offence is suspected of being committed, police officers may contact the issuing Local Authority to obtain further information on the badge holder where it may assist them in their investigation. The Release of Personal Data Form (Force Form 052-003) may be required for data to be released by the Local Authority to Police Scotland.

6.7.7 The telephone numbers for each of the Local Authority Blue Badge Contacts can be found at Transport Scotland.

6.7.8 Where a parked vehicle displays a badge which appears to be of a form prescribed under Section 21 (4BA) of the Chronically Sick and Disabled Persons Act 1970 a police officer or enforcement officer may:

'Require any person using the vehicle, or in the vehicle, to produce the badge for examination.'

6.7.9 Any person who fails to produce a blue badge shall be guilty of an offence in the terms of Section 21 (4BB) of the Chronically Sick and Disabled Persons Act 1970. Consideration should be made to the submission of a Standard Prosecution Report (SPR) should an offender be identified.

6.7.10 A blue badge should be displayed within the vehicle by the holder when parking within a restricted disabled bay. The issuing Local Authority will provide guidance that the badge should be displayed when the vehicle is parked within a restricted disabled bay.

**Note:** There is no specific offence in relation to failure to display the badge. Where this occurs the issuing local authority should be notified as outlined above.

6.7.11 The Disabled Persons’ Parking Badges (Scotland) Act 2014 was introduced in March 2015 and grants power for Local Authority enforcement officers to enforce blue badge infringements in decriminalised Local Authority areas. Enforcement officers have been granted similar powers to that of a constable under Section 21 (4BB) of the Chronically Sick and Disabled Persons Act 1970.
7. **Vehicle Excise and Registration Act Offences**

7.1 On 01 October 2014 the requirement to display a Paper Tax Disc on a vehicle ceased. Information on the changes made can be found on Gov.uk.

7.2 With no visual check available Police Officers can search for a registration number on the Police National Computer (PNC).

7.3 It is important to note that the PNC marker ‘VEL: NOT HELD’ will currently appear on most records – however, it does not mean that there is no VEL, but rather that the tax class information has not been transferred, and is therefore not held on PNC.

7.4 If there is no tax held for the subject vehicle one of the following markers should be on the PNC record:

- **Declared Off-Road (Statutory Off-Road Notification (SORN))**
  Applicable to all vehicles taxed on or after 31 January 1998. The owner of any vehicle whose Vehicle Excise Licence expires on or after this date is required either to re-tax the vehicle or to declare it ‘off-road’. The expiry date of the declaration appears on the marker.

- **VEL Expired**
  Indicates that the Vehicle Excise Licence has expired. This marker is placed on a vehicle record by the Driver and Vehicle Licensing Agency (DVLA) three months after expiry of the licence.

- **VEL Void**
  Indicates that the Vehicle Excise Licence was purchased using a cheque that has subsequently been dishonoured. The licence is therefore no longer valid. This marker is not entered until after Post Office Counters or DVLA have written to the keeper giving them a chance to pay.

7.5 The absence of any of these markers should indicate that there is valid tax on a vehicle. In all instances where the presence of vehicle tax is being questioned, police officers should consider confirming whether or not the vehicle has road tax at the DVLA’s Vehicle Enquiry Website prior to the issue of any non-endorisable FPN.

7.6 There is no period of grace after buying a vehicle in which to get it taxed. From 01 October 2014 it will no longer be possible to transfer the benefit of vehicle tax to the new keeper when a vehicle is sold. As there is no paper disc to check, the vehicle tax will end when it is sold. This will remove any doubt for the person buying the vehicle as customers will always be certain of the need to obtain new vehicle tax.
7.7 The person buying a vehicle will be able to purchase vehicle tax by contacting the DVLA by telephone on 0300 123 4321 (24 hours), online at Gov.uk (24 hours) or at a local post office during working hours. Tax can be purchased with one of the following references:

- 16 digit reference number on the vehicle tax renewal letter (V11)
- 11 digit reference number on the log book (V5C)
- 12 digit reference number on the new keeper supplement (V5C/2), if the vehicle has recently been purchased.

7.8 Due to the abolition of the paper tax disc, the offence ‘Fail to display current Excise Licence’ (COFPN offence 302.001 and FPN) are no longer valid.

7.9 If an offender is identified as not having a valid vehicle excise license, an SPR should be completed and the appropriate form forwarded to DVLA.

Note: In every circumstance where a vehicle does not have excise licence, the DVLA must be informed.

8. Abandoned Vehicles

8.1 The Local Authority has responsibility to deal with vehicles which are abandoned under S.3 (1) (5) Refuse Disposal (Amenity) Act 1978. The Act prescribes that the vehicle must be on:

- ‘Roads’ (e.g. a highway or road to which the public has access; this will include adopted highways, footpaths, and estate access roads); or
- ‘Land’ in the open air where the occupier has been provided with appropriate notice and no subsequent objection has been made to the removal.

8.2 The local authority has the power to remove the vehicle from any ‘open air’ land if the occupier has been provided with appropriate notice and no subsequent objection has been made to the removal.

8.3 The Road Traffic act 1988 defines a vehicle as:

- Mechanically propelled vehicles intended or adapted for use on roads whether or not it is in a fit state for such use.
- Any trailer intended or adapted for use as an attachment to such a vehicle
- Any chassis or body with or without wheels, appearing to have formed part of such a vehicle or trailer (e.g. vehicles with flat tyres, wheels removed or broken windows).
- Anything attached to such a vehicle or trailer.
8.4 There is no definition in law for an abandoned vehicle, however the following characteristics are common to abandoned vehicles. One, or a combination of the following should be taken into account when deciding whether a vehicle should be treated as abandoned:

- Untaxed, with no current vehicle keeper on the DVLA record.
- Stationary for a significant amount of time.
- Significantly damaged, run down or un-roadworthy.
- Burnt out.
- Lacking one or more of its number plates
- Containing waste

8.5 The procedures for removal and disposal of abandoned vehicles is set out in ‘Appendix C’.

9. **Street to Street Removals**

9.1 Certain sporting and entertainment events often involve the implementation of a Temporary Traffic Regulation Order (TTRO) and associated coning schedule to maintain a clearway. In such circumstances, it may become necessary to remove vehicles which had been lawfully parked prior to the TTRO taking effect. For further guidance see Seizure of Vehicle PSoS SOP.

9.2 Where an event has a TTRO in place Local Authorities will, under most circumstances, be responsible for street to street removals. In this case PNC should be updated through local arrangements to show the vehicle removal and the location where it has been removed to.
Appendix ‘A’

List of Associated Legislation

- The Police and Fire Reform (Scotland) Act 2012
- The Roads (Scotland) Act 1984
- Refuse Disposal (Amenity) Act 1978
- The Road Traffic Regulation Act 1984
- The Road Traffic Act 1988
- The Road Vehicles (Construction & Use) Regulations 1986
- Disabled Persons’ Parking Badges Act 2013
- Chronically Sick and Disabled Persons Act 1970
- Disabled Persons’ Parking Badges (Scotland) Act 2014
### Appendix ‘B’

#### Criminalised and Decriminalised Local Authorities

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Appendix ‘C’

Summary of Removal Procedure

- If, in the attending police officer's opinion, the vehicle does not meet the criteria of an abandoned vehicle the vehicle will not be removed.
- If the vehicle is broken down or causing an obstruction police should make arrangements for its removal and no further Local Authority action is required.
- If the vehicle is not taxed, report it to the DVLA, no further Local Authority action required.
- If the attending police officer is of the opinion the vehicle does meet the criteria of an abandoned vehicle, then the Local Authority will undertake enquiries and make arrangements to have it removed.
- If the vehicle is on a 'road' or on land forming part of a highway the vehicle can be removed immediately (see disposal procedure).
- If the vehicle is not on a 'road' or on land forming part of a highway, but is on land which is occupied, then a fifteen-day notice is given to the occupier by the Local Authority (a notice does not have to be fixed to the vehicle).
- If the occupier gives permission for the vehicle to be removed then it will be removed immediately by the Local Authority (see disposal procedure).
- If the occupier objects, the objection must be resolved by the local authority.
- If the occupier does not object then the vehicle will be removed after expiry of the fifteen-day notice (see disposal procedure).