

GWENT POLICE

VEHICLE RECOVERY **POLICY**



STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ IN PARTICULAR SECTION 1.2

This policy relates to the recovery, storage & disposal of vehicles by Contracted Recovery Operators in a professional and ethical manner.

The following aims and outcomes are to be achieved;

- Reduction of workload and improved efficiency within the Force Control Room.
- Increased level of support to front line officers and the motoring public.
- Speedy and efficient recovery of vehicles and their retention and ultimate disposal.
- Reduction of the inherent dangers to other road users.

Compliance with relevant legislation and case law.

The procedures to this policy are contained in the vehicle recovery procedure.

PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.

INDEX

1.0 Guidance, Procedures, Tactics

- 1.1 Risk Assessments and Health & Safety Considerations
- 1.2 Specific procedure

2.0 Procedure Statement & Intentions

- 2.1 Principle & Scope of Procedure
- 2.2 Aims of Procedure

3.0 Introduction

- 3.1 Origins / Background Information
- 3.2 Motivators/Driving Forces
- 3.3 The Legal Basis and Legitimate Aims
- 3.4 Appendices
- 3.5 Definitions

4.0 Implications of the Procedure

- 4.1 Financial Implications
- 4.2 Human Resources / Training
- 4.3 Strategic Plan Links
- 4.4 Diversity
- 4.5 Consultation

5.0 Human Rights Consideration Certification

- 5.1 Auditing for Potential Interference and Discrimination
- 5.2 Key Human Rights Principles
- 5.3 Rights, Publication, Audit and Inspection
- 5.4 Certificate of Compliance
- 5.5 Legal Vetting

6.0 Promotion and Distribution

7.0 Monitoring / Review

8.0 Procedure Identification Page

1.0 Policy Identification Page

Policy Title: Vehicle Recovery

Reference: 317/1 a issue 2

Historical Reference: Previously Removal of Vehicles Standing Order 317 dated 5/92

Underlying Documents: Vehicle Recovery Policy and Procedures

Policy Ownership: Director of Administration & Finance

Portfolio/Business Area Owner: Director of Administration & Finance

Policy Written By: Senior User

Department Responsible: Vehicle Recovery Unit

Policy Lead: Vehicle Recovery Liaison Officer

Links to other Policies: Data Protection; Information Security.

Policy Implementation Date: 1st issue authorised STCG 23rd November 2004.
Implementation 1st December 2004 reviewed June 2009 approved Dir Finance.

Policy Review Date: June 2011

2.0 Policy Statement & Intentions

2.1 Principle & Scope of Policy:

This policy relates to the recovery, storage & disposal of vehicles by Contracted Recovery Operators in a professional and ethical manner.

2.2 Aims of Policy

The following aims and outcomes are to be achieved;

- Reduction of workload and improved efficiency within the Force Control Room.
- Increased level of support to front line officers and the motoring public.
- Speedy and efficient recovery of vehicles and their retention and ultimate disposal.
- Reduction of the inherent dangers to other road users.
- Compliance with relevant legislation and case law.

3.0 Introduction

3.1 Origins/Background Information

In specific circumstances the Chief Constable has a duty of care for the recovery of vehicles.

Gwent Police has been progressive in achieving a standard which meets its aims and outcomes.

Acceptance of recommendations made by the Audit Commission in Wales has resulted in a robust interpretation of legislation and comprehensive implementation of internal procedures.

3.2 Motivators/Driving Forces

The achievement and continuation of high standards is a priority which cannot be disregarded. This procedure identifies the level of excellence Gwent Police will endeavour to meet.

3.3 The Legal Basis and Legitimate Aims

The legal basis are:

- Road Traffic Regulation Act 1984
- **Serious Organised Crime and Police Act 2005**
- **The Road Traffic Act 1988(Retention and Disposal of Seized Motor Vehicles) Regulations 2005**

- The Reform Act 2002 and the Police(Retention and Disposal of Motor Vehicles)(Amendment) Regulations 2005
- The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008
- Removal and Disposal of Vehicles Regulations 1986 as amended by the Removal and Disposal of Vehicles(Amendment)(Wales) Regulations 2005
- Police and Criminal Evidence Act 1984
- European Community Human Rights
- **Data Protection Act 1988**
- **Common Law**
- **End of life Regulations 2002**
- **Section 111 Local Government Act**
- **Police Reform Act Section 59**
- **Environmental Protection Act**
- **Local By-Laws**

3.4 The Procedures

Procedures 1-24, are attached to the vehicle recovery procedure document which is an additional document to this policy to provide guidance to operational officers.

3.5 Definitions

The definitions used in the Contracts for Vehicle Recovery are shown at Procedure 2 Vehicle Recovery Procedure.

4.0 Implications of the Policy

4.1 Financial Implications

There should be no additional financial implications with the introduction of this policy.

4.2 Human Resources/Training

There should be no additional training implications with the introduction of this policy.

4.3 Strategic Plan Links

Aiming to reduce crime and the fear of crime.
Contributing to delivering justice in a way which secures and maintains public confidence.

4.4 Diversity

In the application of this policy consideration must be given to the possible social impact of this policy on the community. An equality impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Equality impact assessments must be undertaken before and after the application of this policy.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met in its entirety.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this policy must be aware of the potential impact that this policy has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000
- Disability - Disability Discrimination Act 1995
- Gender – Sex Discrimination Act 1975
- Equal Pay Act 1970
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

4.5 Consultation

Police Authority
Chief Officers
Heads of Service Area
Information Security Officer/Data Protection Officer
Superintendents Association
Police Federation
UNISON Trade Union
Force Solicitor
Freedom of Information Officer
Gwent Police Women's Association
Gwent Black Police Association
Gwent Disability Network
Gwent Police Gay Support Network

5.0 Human Rights Consideration Certification

5.1 Auditing for potential interference and discrimination

Q1. What articles of the Human Rights Act 1998 may be engaged?

Articles 3, 6, 8, 9,10,11, 14.

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

As well as details of the potential to discriminate, the policy should include a generic statement.

" In the application of this policy the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".

5.2 Key Human Rights Principles

Q1. What is the legal basis for your policy?

See section 3.3

Q2. Does the policy provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this policy? Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:

1. National Security
2. Public Safety
3. The protection of health or morals
4. The prevention of disorder or crime; and
5. The protection of the rights of others.

This policy aims to provide clear aims and to prevent undue interference to individual rights.

Q3. How are staff made aware of the clearly defined decision making processes?

The procedure accompanying this policy outlines the relevant processes.

Q4. What are the minimum standards of documentation in relation to decision making?

These will be outlined in the procedure.

Q5. How does your policy provide guidance on the justification for actions and assessment as to whether the action is the least intrusive?

The justification for particular decisions taken in relation to the implementation of this policy must be 'relevant and sufficient' and the least intrusive. There must be a fair balance between the restrictions on individual rights and the interests of the community at large. Therefore restrictions on individual rights must be proportionate to the legitimate aim they pursue. It is important that where a right is restricted the authority restricting it does not go beyond what is strictly necessary to achieve that purpose.

5.3 Rights, Publication, Audit and Inspection

Q1 Are there any sections of the document which should not be disclosed to the public on the Force Publication Scheme; because they consist of tactical or operational procedures, that would inhibit the apprehension or prosecution of offenders if publicly known, or would compromise the ability of the force to carry out its duties?

This document can be disclosed to the public.

Q2. What rights to make representation and appeal process are available?

Persons who wish to make representations regarding the operation of this procedure will have recourse to both civil and criminal law. There is also the right to use both formal, informal and organisational complaints procedures in respect to the operation of this procedure.

Q3. What internal review and audit process is in place or is proposed?

This policy has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments.

Q4. What external independent scrutiny is recommended?

Independent audit can be through the Best Value Fundamental Performance Review regime/HMI/Audit Commission

5.4 Certification of Compliance

Consideration has been given to the compatibility of this policy and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

5.5 Legal Vetting

There are no issues in this policy under ECHR which cannot be resolved.

This policy has been vetted.

6.0 Promotion and Distribution

This policy will be promoted and distributed as follows:-

- General Orders
- Intranet
- Internet

7.0 Monitoring / Review

Periodic monitoring and review will be conducted to ensure the fair and transparent operation of the procedure.

The principles of the Race Relations Amendment Act must be adhered to in that any recognisable adverse impact should be identified and appropriate action taken.