

## GWENT POLICE

# VEHICLE RECOVERY PROCEDURES



## SUMMARY

**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 1.2.**

This procedure relates to the recovery, storage & disposal of vehicles by Contracted Recovery Operators which should be conducted in a professional and ethical manner.

e.g. Road Traffic Regulation Act 1984 (Statutory Recoveries and Vehicles Recovered for the collection of evidence in criminal proceedings).

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.

**The detailed procedures to this document are contained in the appendices on page 3. The flow chart for the statutory recovery of abandoned vehicles is contained in PROCEDURE 6 and will be of particular interest to operational officers.**

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

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**PROCEDURE 1**

**GENERAL INFORMATION & GUIDANCE**

- a) The provision of a 24-hour, 365-day Recovery, Storage and Disposal Service, on demand falls contractually to
- i. **Hillcroft Garage**, Unit 10 Newquay Road, Felnex Industrial Estate Newport, Gwent, NP19 4PL.  
Tel 01633 271700 fax 01633 280784

Light Recovery < 3.5t MAW

Heavy Recovery > 3.5t MAW  
Motorway Recovery Light and Heavy  
Police Vehicle Recovery Light and Heavy

- ii. **Chris Spiteri & Son**, 15 Ponthir Road, Caerleon, Newport, Gwent, NP18 3NN  
Tel: 01633 430006 fax 01633 430106

Light Recovery < 3.5t MAW  
Heavy Recovery > 3.5t MAW  
Motorway Recovery Light and Heavy

- iii. **County Motor Services Ltd**, Alderney Street, Newport, Gwent, NP20 5NH  
Tel 01633 853813 fax 01633 821850

Light Recovery < 3.5t MAW

- iv. **BT Motors**, Brooklands Garage, Shingrig Road, Nelson, Mid Glam.,CF43 6DU  
Tel 01443 451751 fax 01443 450661

Light Recovery < 3.5t MAW

- v. **David Taylor (Garages) Ltd**, Granada Park Motors, Llangattock Crickhowell, Powys, NP8 1 DN  
Tel 01873 810304 fax 01873 811320

Light Recovery < 3.5t MAW

- vi. **Walls Truck Services Ltd**, Unit 6 Port Road, Maesglas Industrial Estate, Newport, NP20 2NS  
Tel 01633 246622 fax 01633 246808

Light Recovery < 3.5t MAW  
Heavy Recovery >3.5t MAW  
Motorway Recovery Light and Heavy

- b) An initial request for the Services of a Contracted Recovery Operator must be channelled through the Force Control Room where a log will be opened.

The Control Room should be informed if the vehicle has left the road, is in a field, stream, down an embankment etc and the approximate distance it is from the road.

Additionally specific instructions e.g. "wheels should not be turned" must be passed as early as possible.

- c) A Vehicle Recovery Liaison Officer has been appointed within the Force to oversee the various processes applicable to the Services provided under the Scheme. Contact details at PROCEDURE 22.
- d) Officers should not indicate to the Control Room Operator that a particular type of removal is required. E.g. Full Lift, Front Suspended Tow. However details of the condition and location of the vehicle is vitally important. The Recovery Operator will decide on the type of recovery needed when he attends the scene. **Ignition keys MUST remain with the vehicle.**
- e) Ownership of the Schemes rest with the Director of Administration & Finance.
- f) A paper based administrative procedure using Gwent Police forms 300/35, 36 & 37 will be used.

The Liaison Officer is able to provide advice and guidance on the correct application of procedures.

- g) Owner or keeper details from the Police National Computer will be passed to the Contracted Recovery Operator to facilitate early release of the vehicle. In such circumstances the Contracted Recovery Operator is deemed by legislation to be acting on behalf of the Chief Constable (Data Protection Act).
- h) Police Officers must maintain active dialogue each and every month with the Vehicle Recovery Liaison Officer in respect of retained “vehicles” to ensure that ultimate release and disposal is not unnecessarily extended.
- i) Unless urgently re-deployed the Officer in the case will remain with the vehicle to be recovered at the scene until the Contracted Vehicle Recovery Operator arrives and has recovered the casualty vehicle.
- j) Where an Officer discovers a vehicle, which has been apparently abandoned, is not causing a danger or obstruction nor is suspected or confirmed as a stolen vehicle, diligent enquiries to trace the owner will be made and if they are unsuccessful, the Local Authority will be advised.
- k) The practice of accepting a disclaimer from the owner of the vehicle by a Police Officer is not acceptable and must not be followed. If a vehicle is disclaimed to a Police Officer, Gwent Police becomes the owner of the vehicle and may become liable for recovery and storage charges.
- l) When a vehicle needs to be recovered from a neighbouring Police Force Area, that Force will recover it on our behalf. The Gwent Vehicle Recovery Liaison Officer must be notified of this action at the earliest opportunity so that the vehicle can be released as quickly as possible.

There is a cross border agreement in place as regards recovering vehicles in other Force areas, which is administered by the Vehicle Recovery Liaison Officer. Should the Senior Investigating Officer require the recovery of the vehicle to a Gwent Recovery Operator’s premises, a request must be made via the Force Control Room where an incident log will be created and a Recovery Operator called out on the CIV rota. The Vehicle Recovery Liaison Officer must be notified as soon as is practicable.

- m) Where an Operational Order is prepared and Officers identify that vehicles may need to be recovered by Contracted Vehicle Recovery Operators, the Officer in charge must enter into dialogue with the Vehicle Recovery Liaison Officer at Headquarters ext. 3985, in order that procedures, the Contract and legislation are complied with.
- n) When Officers attend the scene of a fatal collision, one involving potentially serious injuries or the recovery of an apparently abandoned stolen vehicle from a roadwork site where a free recovery service is in operation, statutory powers will be invoked by Officers at the scene where the requirements of Sec 99 Road Traffic Regulation Act 1984 are fully met.

In these circumstances an official contracted Recovery Operator will be called and the free recovery service **should not** be used or anyone who is not contracted to Gwent Police to recover vehicles.

- o) Code B7.4 of the Codes of Practice PACE Act 1984 revised 1<sup>st</sup> April 2003 provides that an Officer may decide it is not appropriate to seize property because of an explanation from the person holding it but may nevertheless have reasonable grounds for believing it was obtained in consequence of an offence by some person. In these circumstances, the Officer should identify the property to the holder, inform the holder of their suspicions and explain that the holder may be

liable to civil or criminal proceedings if they dispose of, alter or destroy the property.

The use of this power may apply to the recovery of vehicles from other police areas; when appropriate it has significant savings in financial and resource terms but may not be implemented if the circumstances require urgent action to recover evidence.

- p) Vehicles recovered by Gwent Police may be subject to an alert on Sirene – Gateway to the Schengen Information System. Attention is directed to PROCEDURE 23 and advice and guidance should be sought from the Control Room Inspector.
- q) Employees of Gwent Police will not discuss charges levied nor give advice to enquirers on recovery or storage charges. Neither will they promise or indicate that the Force will pay accounts on behalf of a third party. **Only the Vehicle Recovery Liaison Officer holds this authority.**
- r) Under no circumstances will a Police Officer or a member of Police Staff make a personal recommendation for a Vehicle Recovery Operator or the services they provide. Failure to comply with this instruction could render the Chief Constable liable for civil claim or loss or damage and discipline procedures may result from such action.
- s) The Vehicle Recovery Policy and Procedures is an internal Force document, which is published on the Force Intranet site. Hard copies of the documents can be provided on request to the Vehicle Recovery Liaison Officer. It is suitable for public disclosure.
- t) Following implementation of Contract(s) and at a time to be agreed by the Police Authority, the District Auditor will be asked to conduct an audit of the contractual arrangements employed in the Scheme.
- u) The Policy and Procedures will be subject of continual internal Force Audit by the Vehicle Recovery Liaison Officer in order that it can evolve as issues are tackled and resolved.
- v) The Vehicle Recovery Liaison Officer is the arbiter in cases of dispute. Appropriate advice and guidance should always be sought on principles of law from the Solicitor representing the Force (see paragraph z).
- w) The Vehicle Recovery Liaison Officer will deal with complaints against the Scheme from members of the public. Appeals against any decision should be forwarded in writing to the Chief Constable to comply with the Force's Organisational Complaints Policy.
- x) Complaints relating to the Scheme from members of the public, specifically directed at the conduct of a Police Officer or a member of Police Staff, will be referred to the Superintendent, Standards Unit at Police Headquarters.
- y) If the "Person Responsible" for a statutorily recovered vehicle (owner, keeper, insurance company) returns to it before two wheels have been raised from the ground by the Contracted Recovery Operator, the vehicle will be restored to the person and there will be no charge levied upon that person by the Contracted Recovery Operator. If two wheels are raised the vehicle is deemed to be impounded and will be removed to the Recovery Operator's Premises and the "person responsible" will be liable for any charges.

**It is important that Officers make the necessary enquiries to trace the "owner" BEFORE the Recovery Operator is called. 'STAND DOWNS' are not paid for so the Operator not only loses payment but also loses his place on the rota and still has to pay his staff/vehicle costs.**

- z) ***The Policy and Procedure document in relation to Section 59 of the Reform Act 2002 can be found on the Force Intranet site under P***
- aa) Legal advice can be obtained on any issue, which affects Vehicle Recovery Policy or Procedures. Officers must seek the advice and guidance of the Vehicle Recovery Liaison Officer at Police Headquarters.

The Force Solicitor should not be directly consulted on Vehicle Recovery issues (dated 19.10.04).

## PROCEDURE 2

## DEFINITIONS

The following definitions describing terms in this document and the relevant Contracts are reproduced for general information.

- “Call” a request from the Police to the Contracted Recovery Operator for a Service(s) transmitted by any means in accordance with the Contract.
- “Vehicle” any Vehicle, item of plant or equipment to be or which is or has been subject to Recovery or if appropriate remobilised, recovered, stored or disposed of pursuant to this Contract.
- “C and U Regs” the Road Vehicles (Construction and Use) Regulations 1986 and any subsequent enactment thereof or amendments thereto.
- “Audit Document” the document created by the Contracted Recovery Operator to record specific details of the Vehicle

- “Chief Constable” (where the context so admits) the Chief Constable for the time being of Heddlu Gwent Police or his duly authorised Officer or agent
- “Contract Areas” the areas notified to Gwent Police by the Contracted Recovery Operator
- “Contracted Recovery Operator” the individual/firm/company contracted to the Gwent Police and where the context so admits, it shall be taken to include any employee, agent or sub Contracted Recovery Operator or any individual under the control of the Contracted Recovery Operator for this Contract.
- “Disposal” the return, transfer, sale, dismantling or destruction of a Vehicle
- “Forcewide” the geographical boundary of the Authority.
- “Gross Combination Weight” the combined weight of the Recovery Vehicle and any Vehicle towed by it.
- “Heavy Recovery” the Recovery of a Vehicle with a Maximum Authorised Weight in excess of 3.5 tonnes.
- “Kerbside Weight” the actual weight of the Recovery Vehicle in its operating but unladen condition and includes all equipment normally carried, together with its fuel and driver.
- “Light Recovery” the Recovery of a Vehicle with a Maximum Authorised Weight not exceeding 3.5 tonnes.
- “Maximum Authorised Weight (M.A.W)” the maximum weight at which a Recovery Vehicle or other Vehicle may be operated in the UK, as prescribed by its manufacturer or by legislation whichever is the lesser.
- “Motorcycle Trailer” a trailer, as defined by the C and U Regs constructed or adapted for the purposes of loading a solo 2 wheeled motorcycle disabled by reason of mechanical breakdown or accident and for transporting same when so loaded.
- “Person Responsible” the owner, keeper, driver, user, insurer or other person liable to pay the sums or charges for the Service(s) or any one or more of such persons
- “Police” any serving officer of Gwent Police Force and any other person authorised to act on behalf of Gwent Police or Gwent Police Force.
- “Property Record” an approved record of the property recovered by the Contracted Recovery Operator from a Recovered Vehicle.
- “Recovery” extrication, righting, preparation for towing, loading, recovery, transportation or delivery of a Vehicle.

- “Recovered Property” any item recovered from a recovered Vehicle or from the scene of any Recovery.
- “Referral Recovery” extrication, righting, preparation for towing, loading, recovery, transportation or delivery of a Vehicle by the Contracted Recovery Operator where Gwent Police have not invoked statutory powers but have acceded to a request for such assistance from the owner/keeper or driver of the Vehicle.
- “Service(s)” Recovery, Storage and Disposal.
- “Standard Recovery” the Recovery of a Vehicle, which is, situated upright, between the kerb lines of the carriageway and all wheels free to rotate.
- “Specialist Recovery” the Recovery of a Vehicle other than one which is a Standard Recovery.
- “Specialist Equipment” such equipment as may be required to provide the Service(s).
- “Statutory Recovery” a Recovery invoked by the Police under relevant legislation.
- “Storage” the retention of a Vehicle in the Contracted Recovery Operator’s Premises or such other premises as may be authorised.
- “Task Acceptance” notification to the Police from the Contracted Recovery Operator when the Call has been accepted and the provision of Recovery has been agreed.
- “Tilt and Slidebed” a Light Recovery Vehicle which must comply in every respect with the relevant conditions set out herein and be registered as such, being a Vehicle not exceeding 18,000kgs M.A.W and permanently constructed or adapted such that it is capable of self-loading from the rear, by means of an hydraulic or electrically powered winch, a Vehicle disabled by reason of mechanical breakdown or accidental damage or abandonment and of transporting such Vehicle when so loaded. The Recovery Vehicle shall be so constructed or adapted as to be capable of loading a Vehicle from ground level up a gradient not exceeding eleven degrees and of transporting it when so loaded on a single platform transport deck having a usable loadspace not less than 4500 mm in length and 2000 mm in width. The means of loading shall be such that the transport deck is capable of being partially demounted under hydraulic power so as to cause its rearmost transverse edge to make contact with the ground.
- “Truck Mounted Loader 1” an Hydraulic 360° Slewing Loading Crane having the capability to recover a Vehicle by contact solely with its wheel and tyre assemblies and certified to a minimum S.W.L. of 2.5 tonnes (exclusive of necessary ancillary lifting equipment) at a radius of not less than 4 metres.
- “Truck Mounted Loader 2” an Hydraulic 360° Slewing Loading Crane having the capability to recover a Vehicle by contact solely with its wheel and tyre

assemblies and certified to a minimum S.W.L. of 3.5 tonnes (exclusive of necessary ancillary lifting equipment) at a radius of not less than 4 metres.

- “2<sup>nd</sup> Car Lift”

equipment permanently fitted to the rear of a tilt and slidebed which is so constructed or adapted as to enable one axle, as defined by C and U Regs of a Vehicle to be raised from the ground by contact solely with its wheel and tyre assemblies and for towing such Vehicle by means of its partial superimposition upon the Recovery Vehicle. Such equipment to have a certified SWL of not less than 1.5 tonnes.
- “Safe Working Load (SWL)”

the maximum imposed load as certified by a Competent Engineer at which an item of lifting or hauling equipment (or any component thereof) may be safely operated under continuous or intermittent duties, which is certified to be so in writing in the prescribed form by a member of the Lifting Equipment Engineers Association or Chartered Institute of Mechanical Engineers.
- “Underlift Recovery Vehicle”

a Light Recovery Vehicle being:

  - a two axled Vehicle not exceeding 18,000 kg (M.A.W) and constructed or adapted such as to have no load-bearing platform other than that expressly designed for the carriage of tools and equipment required for the operation of the Vehicle and its lifting apparatus and for the purpose of rendering roadside assistance to disabled Vehicles,
  - permanently constructed or adapted such that it is capable of self-loading from the rear, by means of an hydraulic or electrically powered winch, a Vehicle disabled by reason of mechanical breakdown or accidental damage or abandonment and of transporting such Vehicle when so loaded,
  - equipped with a permanently mounted electric or hydraulically powered winch having a certified bare drum rated capacity not less than 30kN. The Vehicle shall be further so constructed or adapted as to be capable of:
    - (a) loading a Vehicle from ground level by causing either the first or last axle of the Vehicle to be raised from the ground and the remaining axle(s) thereof to remain in contact with the ground and
    - (b) transporting it when so loaded such that the mass of the Vehicle is partially superimposed upon the lifting apparatus which forms part of the Recovery Vehicle, the means of lifting shall be hydraulic power and
    - (c) loading and transporting the Vehicle in such manner as to cause no component of the Vehicle other than the load-bearing surfaces of the tyres fitted to the raised axle to

come into contact with any part of the Recovery Vehicle or its lifting apparatus.

- “Vehicle Recovery Liaison Officer” (d) the person appointed by the Chief Constable of Gwent Police from time to time for the purpose of supervising the conduct and execution of the Service(s) to be provided under the terms of the Contract.

### PROCEDURE 3

### CATEGORISATION OF RECOVERY

3.1 All recoveries are categorised for audit and administration purposes as either:

- i) **Statutory Recovery**
- ii) **Referral Recovery**
- iii) **Criminal Investigation of Vehicles Recovery see also PROCEDURE 8**
- iv) **Police Vehicle Recovery see PROCEDURE 10**

3.2 Where a **Police Officer** invokes one of the following statutory powers i.e. Road Traffic Regulation Act 1984, Section 165a RTA 1988 or Police Reform Act 2002 to recover a vehicle, it will, by definition, be a **STATUTORY RECOVERY**

These will include:

- i) Abandoned vehicles, whether on or off a road;
- ii) Vehicles causing an obstruction or danger;
- iii) Road Traffic Collisions, whether on or off a road;
- iv) Stolen and suspected stolen Vehicles,
- v) Recovery for parking control or security purposes (including the policing of Major events).
- vi) Broken down vehicles
- vii) Vehicles where driving causes alarm, distress, annoyance to members of the public **contrary to Section 59 of the Police Reform Act 2002. (See Force Intranet site for Procedures).**
- viii) Vehicles driven with no driving licence/provisional licence unaccompanied and or no “L” plates and no insurance contrary to Section 165a R.T.A. 1988 (ANPR/Roads Policing/ARU/GPV Officers only). See PROCEDURE 24.

- 3.3** In a Referral Recovery Gwent Police have not invoked Statutory Powers but have acceded to a request for assistance from the owner/keeper or driver of the vehicle. The charge for the Service will not exceed the statutory prescribed charges set out in Regulations. Referral Recovery will not be sanctioned at the scene of a Road Traffic Collision attended by the Police on a motorway or dual carriageway subject to a national speed limit. All requests for the recovery to be made by a motoring organisation or by a friend should be respectfully and politely denied in the interests of road safety and a Contracted Recovery Operator deployed.
- 3.4** A Police Officer has other powers to seize, detain, store and deal with Vehicles in the investigation of crime in the course of their duties i.e. Police and Criminal Evidence Act and Common Law. Invoking powers under the Police and Criminal Evidence Act and through the execution of a warrant under other appropriate legislation will be categorised as a Criminal Investigation of Vehicles Recovery.
- 3.5** All categories of Recovery will:
- (a) be carried out by a Contracted Recovery Operator
  - (b) require an immediate response; (as per Contract between Gwent Police Authority and the Contracted Recovery Operator)
- 3.6** The Vehicle Recovery Liaison Officer will supervise release and disposal of vehicles and enquiries may be referred to this Police Staff Member.
- 3.7** Divisional Vehicle Recovery Liaison Officers will be appointed to assist the Vehicle Recovery Liaison Officer at Headquarters. These Officers will functionally manage the release procedure for the Division they represent.

**PROCEDURE 4****GRADED RESPONSE**

- 4.1** For simplicity, the grading of levels of urgency to be applied to the recovery of vehicles mirrors that of all other incidents processed by the Command & Control System.
- 4.2 IMMEDIATE.** In general, this will apply to all incidents where a Contracted Vehicle Recovery Operator is directed to attend and;
- (a) There is a requirement to recover a vehicle obstructing a carriageway;
  - (b) There will be an unavoidable necessity to obstruct a traffic lane whilst carrying out the recovery of a vehicle, even though the vehicle may itself have come to rest off the carriageway;
  - (c) There is an obvious requirement for a Police presence to remain at the scene until the recovery has been completed. This may be by reason of obstruction, no lighting at night or the preservation of evidence at a crime scene.
- 4.3** Where, for operational reasons, the recovery of a vehicle is to take place at a pre-arranged time which is much later than the time of the original attendance, a “by arrangement” response may apply.

For example, it may apply to a scene of serious crime where extensive Forensic Science examination is required, before the vehicle or vehicles can be recovered.

It might equally apply to the recovery of a Large Goods Vehicle (LGV) from a Motorway or other road where it is deemed appropriate to postpone recovery in order to effect a closure with minimal disruption to the motoring public. It will be appropriate to notify in advance in order to ensure that the Contracted Recovery Operator can make the necessary arrangements for any specialist equipment and / or additional personnel.

**5.1 POWERS:**

Section 99 Road Traffic Regulation Act 1984; Regulation 4 Removal & Disposal of Vehicles Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005.**

**5.2** Extract from Section 99 Road Traffic Regulation Act 1984 in relation to Abandoned Vehicles.

*“Vehicles which have been permitted to remain at rest on a road, or on any land in the open air, in such a position or in such a condition or in such circumstances as to appear to an Authority, empowered by the Regulation to recover such vehicles, to have been abandoned without lawful authority.”*

**5.3** The recovery of the majority of abandoned vehicles is the responsibility of the Local Authority, which has a duty to recover such vehicles under the Refuse Disposal (Amenity) Act 1978. **The Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005 empowers Local Authorities to remove a vehicle which appears to the Authority to be abandoned and in their opinion, in such a condition that it ought to be destroyed. The notice period is reduced from 7 days to 24 hours from when a notice is affixed to the vehicle.****5.4** Recovery by the Police will generally apply only where offences are disclosed or the safety of the public is a consideration or the Local Authority is unable to meet its duty.

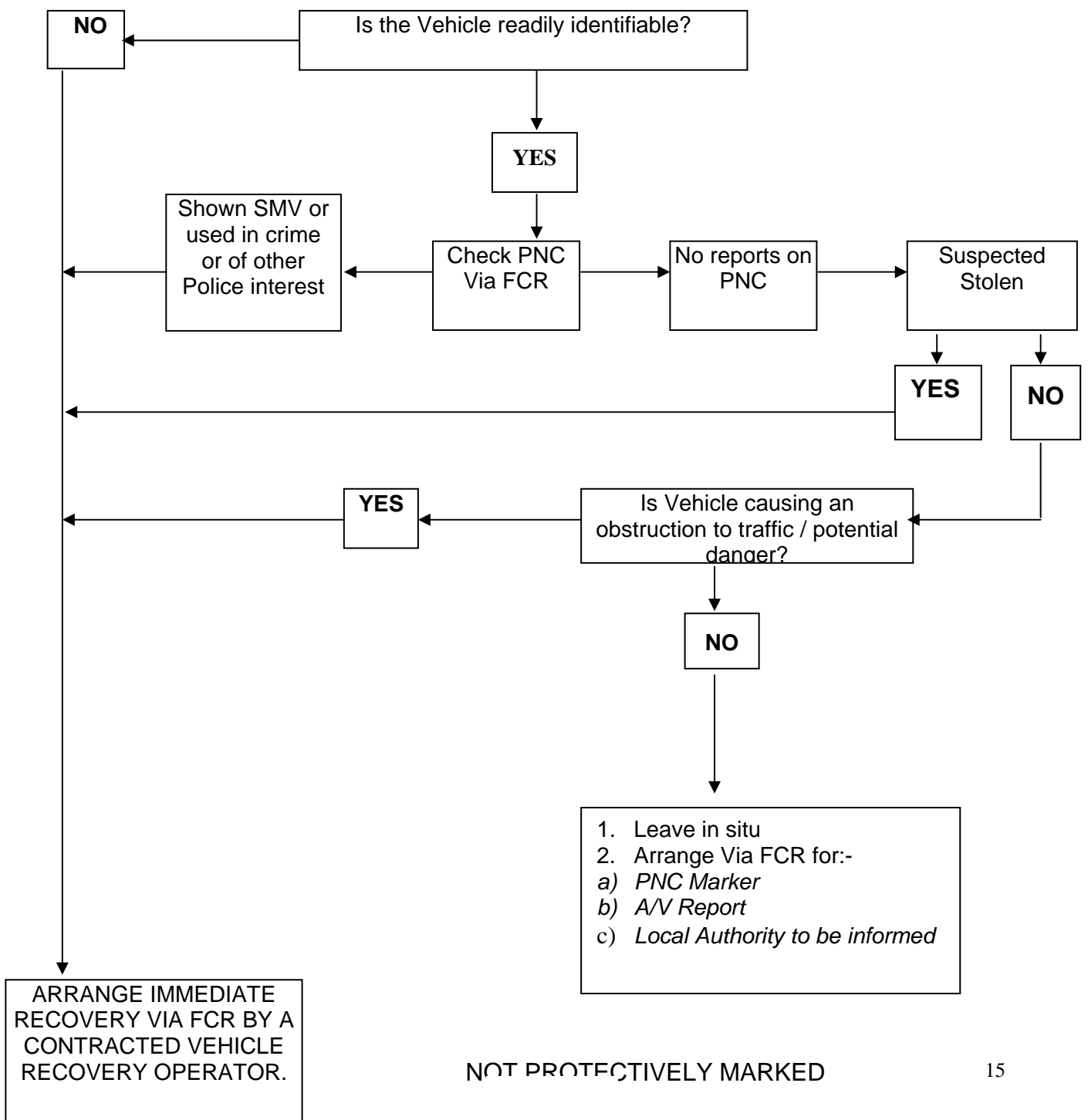
The Policy of the Force is to recover only those vehicles where **actual** danger or obstruction is caused.

**5.5** A Police Officer also has a power to arrange recovery of a vehicle in exceptional circumstances e.g. adverse weather conditions and where this applies advice should be sought from the Inspector at the Force Control Room.**5.6** Abandoned vehicles, which are confirmed or suspected of being stolen vehicles, are dealt with at PROCEDURE 13.

## 5.7 CHARGES

Recovery and storage charges become the liability of the “Person Responsible” (Owner/Keeper/Insurance Company). Where they are unknown and liability cannot be attached, the Contracted Recovery Operator will be asked to dispose of the vehicle in accordance with legislation. The Contracted Recovery Operator will apply to the Chief Constable for reimbursement of charges in accordance with the terms of the Contract.

### PROCEDURE 6 STATUTORY RECOVERY FOR ABANDONED VEHICLES



**7.1 POWERS:**

Section 99 Road Traffic Regulation Act 1984 and Regulation 4 Removal & Disposal of Vehicles Regulations 1986 [as amended by the Removal & Disposal of Vehicles \(Amendment\) \(Wales\) Regulations 2005](#).

- 7.2** Burnt out or partially fire damaged vehicles represent a danger to anyone having access to the vehicle and in particular the engine bay.
- 7.3** A number of components commonly used in the assembly of vehicles incorporate seals manufactured with substances called FLUOROLASTOMERS. These degrade in the intense heat generated by a vehicle fire into a highly corrosive substance, which causes immediate damage to human tissue. On contact with the hands it is capable of reducing flesh to the bone in a few minutes and only one substance available to the medical profession is capable of arresting its corrosive effect. The resultant tissue damage is irreversible.
- 7.4** Destruction by fire is a commonly used tactic to attempt to conceal the identity of a stolen or crime vehicle or to destroy recoverable evidence. See also PROCEDURE 8 Criminal Investigation of Vehicles.
- 7.5** Such vehicles may be recovered for the purpose of confirming identity and of reducing exposure to members of the public of the obvious dangers presented by a fire-damaged bodyshell.
- 7.6** In most cases the vehicle will have been abandoned but in some cases it may be the scene of a more serious crime.
- 7.7** A burnt out vehicle not of Police Interest and not on the road is not the responsibility of the Police. The owner of the land or the Local Authority should arrange its removal.

**7.8 CHARGES**

Recovery and Storage charges for an abandoned fire damaged vehicle becomes the liability of the "Person Responsible" (Owner/Keeper/Insurance Company). Where they are unknown and liability cannot be attached, the Contracted Recovery Operator will be asked to dispose of the vehicle in accordance with legislation. The Contracted Recovery Operator may apply to the Chief Constable for re-imbusement of the charges in accordance with the Contract.

Charges for Recovery and Storage for fire damaged vehicles involved in serious crime where Police and Criminal Evidence Act 1984 powers are invoked, are the liability of Gwent Police. The Senior Investigating Officer must ensure that vehicles are not retained unnecessarily.

## PROCEDURE 8

## CRIMINAL INVESTIGATION OF VEHICLES

### 8.1 POWERS:

Police and Criminal Evidence Act 1984 and search warrants issued under other legislation e.g. Theft Act & Misuse of Drugs Act.

- 8.2 Vehicles used or suspected of having been used in crime may be seized for evidential purposes. The principle of proportionality will be applied in each case. This will apply whether or not the vehicle is recorded as having previously been stolen.
- 8.3 Criminal Investigation Vehicles, which are seized, will be recovered and stored by the Contracted Recovery Operator under controlled conditions for subsequent examination by a Crime Scene Investigator. Force Policy on Seizure and Storage provides further guidance on these matters. **Vehicles must not be recovered to Police Station SOC facilities except in exceptional circumstances.**
- 8.4 Theft from, as distinct from theft of, will be dealt with as a Criminal Investigation of Vehicles Recovery.
- 8.5 Theft of will generally be dealt with as an abandoned Stolen Vehicle – see PROCEDURE 13 later.
- 8.6 Special arrangements and special facilities, including the use of sheeting and a fully enclosed transporter can be provided by a Contracted Recovery Operator on request via the Force Control Room for the recovery and storage of vehicles recovered in connection with enquiries into serious crime or other exceptional circumstances. Authorisation must be obtained from the Force Control Room Inspector. **Charges for this service would fall to the Police Authority.**
- 8.7 If drugs are suspected in a vehicle to be recovered, the Contracted Recovery Operator must be warned about the danger of needles etc.

## 8.8 CHARGES

Under the terms of the Criminal Investigation of Vehicles Contract, vehicles recovered and stored for evidential purposes are a financial liability to Gwent Police. Senior Investigating Officers must justify continued retention on a monthly basis to ensure that retention is not unnecessarily extended.

If the vehicle recovered as a Criminal Investigation of Vehicles Recovery is subsequently found to be a stolen vehicle the recovery and storage costs are the responsibility of the owner, keeper or insurance company regardless of the fact that it was originally recovered for another reason. In such cases the “person responsible” must be advised at the earliest opportunity.

- 8.9** There are various options to be considered prior to any decision to release a vehicle (e.g. POCA Order, Confiscation/Disposal Order from the Court). Each case must be considered on its merits and the Officer in the case should seek independent advice, based on the circumstances of the case, from Supervisors/Force Solicitor/the CPS, before the final decision is made. It is the responsibility of the OIC to ensure that the Vehicle Recovery Liaison Officer is notified of the decision as soon as possible and in writing (e-mail will suffice).

## PROCEDURE 9

## VEHICLES CAUSING OBSTRUCTION

### 9.1 POWERS:

Section 99 Road Traffic Regulation Act 1984 and Regulation 4 Removal & Disposal of Vehicles Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005**. Section 105 Road Traffic Regulation Act 1984, which refers to Disabled Driver Exemptions and Section 21 Town Police Clauses Act 1847.

- 9.2** The vehicle may obstruct either a lawfully parked vehicle or pedestrian access or the free flow of traffic on a public road.
- 9.3** The vehicle will be stationary as a consequence of, accident, breakdown, unauthorised parking or unlawful abandonment. With the exception of the latter, it may or may not be attended by the driver or person in charge of it. The presence of a driver does not affect the power of a Constable to cause it to be recovered where necessary with or without the consent of the driver or owner under the Road Traffic Regulation Act 1984 and the Removal and Disposal of Vehicles Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005**. Circumstances will dictate the necessity or otherwise of arranging a recovery but an actual obstruction must be evident. Details held on “ORIS” logs will provide a pathway to establish how decisions have been reached in each completed recovery.
- 9.4** Disabled Drivers. Before arranging the recovery of a vehicle displaying a valid Blue Badge, officers should have regard to the special provisions made for such vehicles.

### 9.5 CHARGES

The “Person Responsible” namely the owner or driver of an offending vehicle is liable to pay the costs of recovery to the premises of the attending Contracted Recovery Operator

Where they are unknown and liability cannot be attached, the Contracted Recovery Operator will be asked to dispose of the vehicle in accordance with legislation. The Contracted Recovery Operator will apply to the Chief Constable for re-imbusement of the charges in accordance with the terms of the Contract.

**10.1 POWERS:**

No Powers are applicable. The Recovery and Storage of Police Vehicles are contractual matters for the Force Fleet Manager.

**10.2** The recovery of a Police Vehicle is the subject of a separate Contract and requests for action will be referred, without exception to the Force Control Room.

**10.3** Recovery is subject to fixed contractual rates appropriate to the particular circumstances of the recovery and previously agreed with the Force Fleet Manager.

**10.4** Whilst Police Vehicles should not at any time be driven in a damaged or unroadworthy condition, or in contravention of any Construction and Use provisions, consideration should be given to the need for recovery before a request is actioned.

**10.5** Where recovery is invoked and the vehicle is not required for vehicle examination or Forensic Inspection, it will be recovered to the Workshops at Gwent Police Headquarters. Vehicles recovered out of office hours should be left outside the Workshop doors and the keys posted through the Workshop Office door.

The Officer in the Case will instruct recovery for Vehicle examination or Forensic Inspection.

**10.6** An Armed Response Vehicle will be recovered without exception to Headquarters and will be accompanied at all times by an authorised Firearms Officer unless and until the weapons carried have been recovered by transfer to a relief Armed Response Vehicle or returned to the Force Armoury.

**10.7** In the absence of instruction to the contrary, recovery of a vehicle owned by a visiting Force will follow these procedures.

**10.8** The procedures for the recovery and storage of Police Vehicles used or suspected of being used in crime will comply with the procedures in PROCEDURE 8.

**11.1 POWERS:**

Section 99 Road Traffic Regulation Act 1984 and Regulation 4 Removal & Disposal of Vehicles Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005**. Sections 18(2) & 19 (3) Police and Criminal Evidence Act 1984.

**11.2 Vehicles required for examination** may include those involved in serious injury and fatal road traffic collisions and those involved in any collision where a mechanical defect is an apparent or alleged contributory cause. It is imperative that a Contracted Recovery Operator is made aware at an early stage that subsequent examination of the subject vehicle will be required.

**11.3 Vehicles not required for examination.** Officers should not make requests for 'front lift', 'rear lift', 'full lift', 'complete lift' as such terms can be ambiguous and are unnecessary; neither is there any requirement to advise that the vehicle has automatic transmission or is all-wheel-drive.

**11.4 Off-road Recovery and Rollovers.** Where a vehicle has come to rest other than on its wheels on a road surface, it is imperative that the Force Control Room is advised of the precise position and attitude of the vehicle, together with any obvious recovery difficulties in order that the Contracted Recovery Operator is fully briefed.

In all Road Traffic Collisions the Contracted Recovery Operator must deploy the front line recovery vehicle for the recovery of vehicles up to 3.5t MAW i.e. tilt and slide bed with 10 tonne crane, winch and spec lift (TML1) on all roads except the motorway and a tilt and slide bed with

**11.5** 14 tonne crane, winch and spec lift (TML2) on the motorway.

**Multi-Vehicle Collisions.** Arrangements are in place for the recovery and storage (with or without examination) of multiple vehicles from an incident on a motorway or any other location within the Force area. It is imperative that the Force Control Room is properly briefed on the number, types and sizes of the vehicles involved to ensure despatch of sufficient and appropriate resources. It is important that this information is relayed at the earliest possible stage, even if recovery is to be deferred to allow time for casualty recovery or accident investigation. Brief, accurate details in advance are of much greater value than precise details passed late, resulting in delayed recovery and a protracted road closure. In particular, the Force Control Room requires to be advised of,

**11.6**

- (i) the weight category of the largest vehicle involved;
- (ii) any requirement by the Officer in the Case to have any vehicle examined;
- (iii) the presence of any hazardous product carried in or on any vehicle involved.

**11.7 Driver Requests.** Officers' should accede to a request for a specific nominated garage or Motoring Organisation to attend the scene of a collision other than on a motorway or dual carriageway subject to a speed limit (see PROCEDURE 3(3)) and the following criteria should be considered:

- i) can the vehicle remain in situ without causing obstruction and without distracting passing traffic?
- ii) is the driver or other responsible person able to remain with the Vehicle until recovery?
- iii) is it necessary for a Police presence to remain at the scene until recovery **or** to return to the scene to assist with traffic control during the recovery or loading process?

**11.8** In the event of a non-Contracted Recovery Operator arriving at the scene before the resources of a Contracted Recovery Operator, the procedures outlined in Appendices 15 and 16 should be followed. If in doubt the advice of an Inspector of the Force Control Room or the Vehicle Recovery Liaison Officer should be sought.

**11.9** The Contract operates on a one incident – one Operator basis. If one of the vehicles involved is a heavy goods vehicle (over 3.5t MAW) and the other is a car (under 3.5t MAW) the Contracted Recovery Operator from the Heavy Recovery Rota will be called to recover both vehicles.

**11.10** Where a large number of vehicles are involved only one Contracted Recovery Operator will be deployed. If the number of vehicles requiring recovery exceeds the number the nominated Contracted Recovery Operator can recover, it is his responsibility to summon further assistance and not to do so through the Force Control Room. The nominated Contracted Recovery Operator has full control of who is required to assist with recovery at the scene however other Contracted Recovery Operators should be called upon initially. All recovered vehicles will be taken to the premises of the first Contracted Recovery Operator called.

#### **11.11 CHARGES**

There is no cost to the Force for the recovery or storage of vehicles involved in road traffic collisions.

Recovery and storage charges become the liability of the "Person Responsible" (i.e. Owner/Keeper /Insurance Company). Where they are unknown and liability cannot be attached, the Contracted Recovery Operator will be asked to dispose of the vehicle in accordance with legislation. The Contracted Recovery Operator may apply to the Chief Constable for reimbursement of the charges for recovery/storage.

***In some cases of fatal or serious road traffic collisions recovery charges could fall to the Authority if the recovery does not meet the requirements of Section 99 of The Road Traffic Regulation Act 1984 in so much as the vehicle is not obstructively or dangerously parked or if it is, it could be removed easily by it's owner/driver if so required. (Usually associated with pedestrian collisions.)***

In cases of fatal or serious road traffic collisions storage charges may fall to the Police after a decision has been taken to retain the Casualty Vehicle. Senior Investigating Officers must be able to justify the retention and ensure that it is not unnecessarily extended.

*In cases of fatal or serious collisions any request by a Police Officer/ Police Staff member for a fully enclosed vehicle to protect evidence would be charged to the Police Authority.*

## PROCEDURE 12 SECURITY/PARKING CONTROL RECOVERY

### 12.1 POWERS:

Section 99 Road Traffic Regulation Act 1984 and Regulation 4 Removal & Disposal of Vehicles Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005**. In certain circumstances Part III, Section 10, Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997; Road Traffic Act 1988 and the Town Police Clauses Act 1847; Section 105 Road Traffic Regulation Act 1984 refers to Disabled Driver Exemptions.

### 12.2 These recoveries fall broadly into two categories:

- i) Vehicles parked in contravention of permanent parking restrictions or temporary traffic orders;
- ii) Vehicles recovered for Police purposes, such as the clearance of a parade route where no offence has been committed by the driver.

**12.3 Offending Vehicles** should be recovered to the Contracted Recovery Operator's premises to ensure that the appropriate Prescribed Fee is recovered on behalf of the Police when the vehicle is re-claimed. A Fixed Penalty Notice may also be appropriate.

**12.4 Non-offending Vehicles** may be relocated to appropriate alternative parking when this arrangement has been agreed with the Contracted Recovery Operator. This minimises

inconvenience to the driver and reduces the potential for complaint.

- 12.5 Disabled Drivers.** When applying paragraphs 12.3 & 12.4 to vehicles used by registered Disabled Persons, officers should have regard to the special provisions made for such vehicles.

## **CHARGES**

Recovery and storage charges become the liability of the "Person Responsible" (i.e. Owner/Keeper /Insurance Company). Where they are unknown and liability cannot be attached, the Contracted Recovery Operator will be asked to dispose of the vehicle in accordance with legislation. The Contracted Recovery Operator may apply to the Chief Constable for reimbursement of the charges for recovery/storage.

## **PROCEDURE 13**

## **STOLEN VEHICLES**

### **13.1 POWERS:**

Section 99 Road Traffic Regulation Act 1984 and Regulation 4 Removal & Disposal of Vehicles Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005**. In certain circumstances Sections 18(2) and 19(3) Police and Criminal Evidence Act 1984 and the Police Property Act 1993.

- 13.2** Police powers of recovery extend to any public road and on any land in the open air. Recovery of a vehicle on private land requires the occupier's consent.

- 13.3** Stolen Vehicles fall broadly into two categories:-

- i) Confirmed stolen Motor Vehicle (CSMV).
- ii) Suspected stolen Motor Vehicle (SSMV).

- 13.4** To eliminate the risk of secondary theft and to safeguard the Chief Constable's duty of care apparently abandoned vehicles either stolen or suspected of being stolen will be recovered as a matter of course. When a vehicle is reported stolen the loser should not be asked if recovery is required.

- 13.5** A stolen vehicle apparently abandoned and confirmed by an LOS marker on PNC, will be automatically recovered by a Contracted Recovery Operator and preserved under controlled conditions for examination by a Crime Scene Investigator. The Force Control Room will substitute a FOU Marker as per PNC procedures.

- 13.6** Vehicles not displaying a LOS marker on PNC or other report indicating Police interest, but which display clear visible signs of theft or damage, may be recovered at the discretion of the

Officer in the case. With the assistance of the Force Control Room and/or a local Officer, where the PNC indicates a current keeper address within the Force area, a routine enquiry will be initiated to advise the keeper and establish the status of the vehicle.

- 13.7** All SSMV's and CSMV's will, subject to their condition, be routinely fingerprinted by a Crime Scene Investigator. Historically and in controlled trials it has been shown that a robust policy of recovery and examination has consistently raised the level of fingerprint identification and thereby improved rates of detection and conviction of persistent offenders. The Insurance Industry supports this policy and has co-operated with ACPO in drafting a Code of Practice.
- 13.8** Stolen caravans, trailers and items of plant are encompassed within this Stolen Vehicle category and the same procedures apply.

### **13.9 RELEVANT CASE LAW**

- i) Fitzroy Clarke V Bourneville Garage, Chief Constable of West Midlands Police (2001) “a police constable finding a vehicle reported stolen and apparently abandoned by the thief acted lawfully in having it removed into the custody of an authorised garage. Because it had been left in such a way as to give the constable the appearance of having been abandoned Regulation 4 Removal and Disposal of Vehicle Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005** empowered the constable to act under Regulation 99 Road Traffic Regulation Act 1984”.

### **13.10 CHARGES**

The Court of Appeal has ruled in Service Motor Policies at Lloyds v City Recovery Ltd 1997 that the owner shall not be liable to pay the prescribed charges under Section 99 Road Traffic Regulation Act 1984 and cannot be pursued for the debt. However, should he or his agent wish to reclaim the vehicle, he or his agent must pay the prescribed sums before taking possession of the vehicle.

- 13.11** Where an owner / agent refuses to pay the prescribed charges or sums, the vehicle can be disposed of by the Contracted Recovery Operator following legal procedures carried out by the Force. The owner / agent shall be entitled to claim the balance of any disposal proceeds after deduction of the prescribed sums.

### **14.1 POWERS:**



In cases where the driver is not a member of a Motoring Organisation and cannot nominate a Recovery Operator the Officer in charge must deploy a Contracted Recovery Operator via the Control Room. The Officer must not recommend a non - Contracted Recovery Operator.

- 15.2** In appropriate cases, the Force Control Room may refer the recovery to an Agent Garage of the respective Motoring Organisation once all provisions have been fully implemented. There will be no cost to a Motorist holding valid membership.
- 15.3** However when a Police Officer invokes statutory powers of recovery, immediate recovery by a Contracted Recovery Operator to his premises will be appropriate in the interests of road safety and minimising the commitment of Police resources.
- 15.4** UK Motoring Organisations are fully aware of ACPO Best Practice Guidance and will take responsibility for their members' further requirements **after** the vehicle has been recovered by a Contracted Recovery Operator in exercise of statutory powers.
- 15.5** The Regulations provide power to a Police Officer to over-ride any owner's request.

## **PROCEDURE 16 ATTENDANCE BY TWO SERVICE PROVIDERS**

- 16.1** Circumstances may arise where two different Recovery Operators arrive at an incident to recover the same vehicle. Neither will be aware that the other has been called.
- 16.2** This usually arises at the scene of a collision where one driver calls a Motoring Organisation or local garage via a mobile telephone before Police arrive at the scene or before the Officer in the case invokes his statutory powers of recovery through the Force Control Room.
- 16.3** The Officer in the case correctly invokes his statutory powers of recovery by a Contracted Recovery Operator only to find that the driver's requested service arrives on the scene before the

Contracted Recovery Operator by virtue of having been called earlier.

- 16.4 The Officer in the case has two options to resolve the problem; 1) either to turn away the driver's requested service and await the Contracted Recovery Operator or 2) release the vehicle to the first on scene in order to expedite clearance of the road.
- 16.5 Officers should therefore be aware that the first option should be followed and any departure from this is solely at the discretion of the Officer in the Case in any given circumstance.
- 16.6 If an Officer believes that any service provider arriving at the scene in advance of the Contracted Recovery Operator has not in fact been called by one of the motorists involved but is 'touting' for business, the Officer should turn that service provider away regardless of the circumstances.

## **PROCEDURE 17      UNAUTHORISED BREAKDOWN SERVICES**

- 17.1 Patrol Officers may be aware that on occasions unauthorised Vehicle Recovery firms within the Force area arrive at scenes without having been called upon to do so. They offer to assist, claiming that they were just passing or have been called by one of the drivers involved. Officers are requested to report all such instances in writing to the Vehicle Recovery Liaison Officer to enable appropriate action to be taken.
- 17.2 It is of paramount importance that in such circumstances unauthorised operators are immediately turned away from the scene and not permitted to recover any vehicle. Failure to do so exposes the Chief Constable to the risk of litigation for breaching the duty of care, compromising contractual responsibilities and potentially exposing motorists to the services of those who are unsuitable to carry out the Recovery.

## PROCEDURE 18

## BROKEN DOWN VEHICLES

### 18.1 POWERS

Section 99 Road Traffic Regulation Act 1984, Regulation 4 Removal and Disposal of Vehicle Regulations 1986 **as amended by the Removal & Disposal of Vehicles (Amendment) (Wales) Regulations 2005.**

- 18.2** In cases where a Police Officer does not invoke his statutory powers for Recovery, the owner/driver of a broken down vehicle may nominate a motoring organisation or if he/she is not a member, secure the services of a Contracted Recovery Operator. See also PROCEDURE 15.
- 18.3** Vehicles broken down on the hard shoulder of a motorway awaiting a motoring organisation or named non Contracted Recovery Operator should not be allowed to remain there for more than **30 minutes**. Should that time be exceeded statutory powers can be invoked and a Contracted Recovery Operator called to recover the broken down vehicle.

**PROCEDURE 19 USE OF MOTORWAY HARD SHOULDERS BY CONTRACTED VEHICLE RECOVERY OPERATORS**

**19.1 POWERS:**

The Motorways Traffic (England & Wales) Regulations 1982 and the Motorways Traffic (Amendment) Regulations 1992

**19.2** Where an incident requires immediate attendance, the Contracted Recovery Operator may be permitted to use the hard shoulder of a Motorway.

The use of the hard shoulder will be deemed to be necessary if the carriageway is blocked by stationary traffic, which causes prompt attendance at the emergency to be hampered. The Contracted Recovery Operator must seek permission from the Officer at the scene on every deployment. Only Officers at the scene can give the permission.

**19.3** In such cases a Contracted Recovery Operator may use the hard shoulder providing it is used in such a manner as to cause as little danger or inconvenience as possible to other traffic on the motorway. Contracted Recovery Operator's vehicles may only be driven on the hard shoulder providing:

- i) the speed does not exceed 20 mph (unless under Police escort)

ii) that amber beacons and headlamps are lit.

- 19.4** Once the vehicle has been recovered, the Contracted Recovery Operator will leave the motorway by the usual method. Recovery Vehicle drivers are advised to be alert to stationary vehicles on the hard shoulder; pedestrians stepping from stationary vehicles in the queuing traffic; vehicles pulling suddenly onto the hard shoulder and other emergency vehicles.
- 19.5** At Police attended incidents the Contracted Recovery Operator must comply with the instructions of any Police Officer at the scene, which takes precedence over this policy for the duration of the incident. Under no circumstances may a Contracted Recovery Operator's vehicle be driven against the direction of traffic flow on either carriageway except under Police escort.
- 19.6** **Repairs.** The primary reason for the introduction of a Vehicle Recovery Scheme utilising the services of a competent and suitably equipped Contracted Recovery Operator is to reduce the time spent at the roadside during which Police Officers and the travelling public alike are exposed to the dangers of high-speed traffic.
- 19.7** For the very same reason, the policy of permitting repairs to be carried out on hard shoulders of motorways and trunk road dual carriageways has been amended in line with ACPO Best Practice Advice. The same policy will apply to vehicles broken down on the carriageway of any other road where an obstruction and thereby a danger is caused.
- 19.8** No repair will be undertaken unless the vehicle is capable of being re-mobilised in less time than it would take to load and recover it. Such repairs will only be undertaken after the vehicle has been recovered to a place of safety at a site away from the motorway.
- 19.9** In practice, in the cases of petrol engine passenger cars and light commercial vehicles this is likely to be restricted to the supply of fuel or possibly a very swift wheel change. Diesel vehicles which are out of fuel may require bleeding and any vehicle requiring other repairs should be recovered to a place of safety away from the motorway in the first instance.
- 19.10** Officers should, where appropriate, recognise that recovery of a Passenger Carrying Vehicle (PCV) or Large Goods Vehicle (LGV) will take considerably longer than a lighter vehicle due to the amount of preparatory work involved in disconnecting drivelines and releasing air brakes. It may be appropriate in some circumstances to permit a limited amount of minor repair work to be undertaken at the roadside if the vehicle can then be recovered under its own power.
- 19.11** Any work necessitating recovery technicians or tyre fitters to work on the offside of a casualty vehicle adjacent to a live carriageway should ONLY be carried out with the protection of a Police initiated lane closure. Contracted Recovery Operators are instructed to request Police assistance with traffic control measures via the Force Control Room where such circumstances arise at incidents not initially attended by Police.

## 20.1

- a) Where a driver is arrested whilst driving or in charge of a motor vehicle **when unfit through drink or drugs** (as defined in DPP v Watkins 1989 and as applied to Section 5 Road Traffic Act 1988) that vehicle must not be left unattended at the roadside when the Police leave the scene **without exploring paragraphs 20.2a, 20.2b and 20.2c below.**
- b) Where a driver is arrested and in leaving the vehicle on a road, it's presence is likely to cause an obstruction or danger to other road users, it should be removed under statutory powers. (i.e Section 99(1) Road Traffic Regulation Act 1984).
- c) Those vehicles found at the scene of burglaries and owned/used by the arrested persons and those belonging to suspected shoplifters should not be recovered as a matter of course. If an Officer suspects that stolen goods or equipment contained in the vehicle, which cannot be safely removed without removing the vehicle, the vehicle should be recovered under the provisions of The Police and Criminal Evidence Act. (See PROCEDURE 8).
- d) Following the arrest of a detained person, where the Officer is concerned that the vehicle is insecure or has been parked in an area in which it is likely that damage will be occasioned to the vehicle once they have left the scene, any Officer can exercise their discretion to recover the vehicle, using their common law powers to preserve property **however in these circumstances any recovery carried out could be the responsibility of the Authority**

- 20.2** Whilst at the scene, the Officer in the Case should consider the following arrangements:-
- a) Release the vehicle into the charge of a responsible adult known to the owner/driver, including a passenger carried in the vehicle at the time of arrest who can arrange for the vehicle to be recovered to a place of safety or has the appropriate driving licence and insurance which allows him/her to drive the vehicle.  
  
NB Such an arrangement must only be made with the consent of the owner/driver.
  - b) **Where it is not possible to release the vehicle in circumstances outlined in a), a request should be made via the Force Control Room to arrange the immediate recovery of the vehicle to safe storage by a contracted Recovery Operator or a service provider nominated by the arrested person.**
  - c) **Where the proposed arrangements at 20.1 b) and 20.2 a) and b) above are not applicable, the vehicle whenever possible, can be secured and left in a safe position.**
- 20.3** Vehicles will not be recovered to Police Stations ***except in exceptional circumstances e.g. arrest or medical emergency.***
- 20.4** In the event of any query, the advice of the Vehicle Recovery Liaison Officer should be sought ***as soon as possible.***

## 20.5 CHARGES

The recovery and storage charges fall to the driver/owner of the vehicle in 20.1a and 20.1b above except in cases where the test administered at the Police Station is negative and the arrested person /driver is released without charge for the offence(s) previously arrested for. In this sole case Gwent Police could become liable for the recovery and storage charges **up to the date of the release of the vehicle by the VEHICLE RECOVERY LIAISON OFFICER**. Gwent Police are responsible for the recovery and storage charges in 20.1c. The recovery and storage charges in 20.1d will be a matter of the exercise of discretion by Gwent Police.

**21.1** In order to expedite the safe recovery of a vehicle and to minimise the commitment of Police resources at the scene of such recoveries, it is imperative that clear, concise and relevant information is passed to Force Control Room Staff. To assist Officers in determining the minimum requirements to ensure that an appropriate resource is despatched first time, every time, the following chart identifies the essential information required in each category of incident.

<b>CODE</b>	<b>CATEGORY</b>	<b>ESSENTIAL INFORMATION</b>
<b>ABV</b>	Abandoned (Statutory)	1 Precise Location
<b>B/O</b>	Burnt out vehicles (or fire-damaged) (Statutory)	2 Reason for Recovery or Category of Incident (statutory, referral, CIV)
<b>CIV</b>	Criminal Investigation of Vehicles (CIV)	3 Is Examination required? (SOCO or Vehicle Examiner)
<b>OBS</b>	Obstruction (Statutory)	4 Special circumstances at scene (Fire, Hazchem)
<b>POL</b>	POLACC (or Fleet Vehicle Breakdown) (Police)	5 Description of Vehicle, Make, Model, Colour, Index number if available
<b>RTC</b>	Road Traffic Collision (Statutory/Referral)	6 Estimated Maximum Authorised Weight (MAW) if not a car or car-derived van.
<b>SMV</b>	Stolen (Suspected or Confirmed) (Statutory)	7 Number of occupants (if applicable)
<b>SPC</b>	Security or Parking Control (Statutory)	8 Special requirements for recovery (TML/Winching) NB Inspector's Authority Required in cases where vehicles are recovered under Criminal Investigation of Vehicles ONLY. (See PROCEDURE 8)
<b>B</b>	Broken Down (Statutory/Referral)	
<b>CLB</b>	Driver Request for a Club/ Named Operator including Motoring Organisations (Owner Req.)	1 Drivers Name
		2 Precise Location
		3 Apparent fault or damage
		4 Special circumstances
		5 Make, model, colour, index number if available
		6 Number of occupants
		7 Members name (if not driver)
		8 Members home postcode and membership no if available

## PROCEDURE 22 CONTACTS

### 22.1 FORCE CONTROL ROOM

Staff employed in the Force Control Room are able to assist Officers in day-to-day requirements for the recovery and storage of vehicles and is the ONLY route by which recovery or storage of a vehicle may be arranged.

### 22.2 VEHICLE RECOVERY UNIT

TEL: (Internal) Extension (710) 3985 (External) 01633 64 24 27

FAX: (Internal) Extension (710) 4486 (External) 01633 64 24 62

**22.3** Enquiries in connection with vehicle ownership or theft, outside that available on the PNC, Hire Purchase Information (HPI) and Motor Industry Anti Fraud and Theft Registers (MIAFTR) may be made with the Vehicle Recovery Liaison Officer **during office hours Monday to Friday.**

## **BACKGROUND**

The Schengen Acquis is the part of the Treaty of the European Union that deals with free movement of persons and control of the external border. The Acquis was incorporated into the EU with effect from 1 May 1999. From that date, Schengen-based co-operation became simply one further area in which member states would participate under the rules set out in the Amsterdam Treaty for reinforced co-operation. The current membership of the Schengen group covers all EU countries plus Norway and Iceland.

The provisions of the Amsterdam Treaty allowed the UK to seek to opt into whichever of the Schengen provisions it wished. On 29 May 2000 the UK's application for "partial but significant membership of Schengen was approved. It was agreed that while retaining our frontier protocol the UK's participation would extend to the series of compensatory measures that have been introduced to police Europe effectively in the absence of formal border checks. These compensatory measures include the Schengen Information System (SIS) which is one of the main means of facilitating police and judicial co-operation.

The SIS is a European data system designed to allow Police Officers access to alerts issued by members states in respect of persons, vehicles and objects. Accordingly, it allows Officers access to a much wider range of information. Criminals do not respect borders so it is extremely beneficial to Law Enforcement Officers in all member states to have the support of their European colleagues in tracing fugitives from justice and stolen property. The system already has a proven track record of success in fifteen countries.

### **What it holds and how it works**

The system holds details on:

- People wanted for arrest for extradition to a member state (Article 95)
- People refused entry to the Schengen area (Article 96) – the UK has not applied for access to this information and will retain its border controls
- People who are missing and in need of protection (Article 97)
- People sought for judicial purposes (sentencing, witnesses, for trial) (Article 98)
- People (and/or their vehicles) involved in serious crime/threats to state security who should be checked or whose whereabouts should be reported (Article 99).
- Objects, which have been lost/stolen: motor vehicles, trailers, firearms, identity documents, bank notes (Article 100).

Each member state has a National Schengen Information System (N.SIS), which holds a copy of the central database (C.SIS). Each N.SIS is different as it is configured to link with existing national applications. It is expected that the UK System will be fully functional by May 2005.

Article 100 deals with the recovery of stolen motor vehicles and trailers. It sets out to:

- 1 Describe Article 100 alerts
- 2 Highlight the options available to Officers and the requests made of them.
- 3 Describe the current national situation on the recovery of stolen vehicles and trailers.
- 4 Make a recommendation for a national approach to our Schengen Commitments under Article 100.

### **Requests to seize and the current national position on recovery**

Where a member state requests that a stolen vehicle be seized or seized and forensically preserved there is a general acceptance within the existing member states the vehicle will be recovered and not left

in situ.

UK Forces have adopted various policies. These range from blanket recovery, through selective recovery to leaving vehicles/trailers in situ.

Clearly, there is an expectation from our partners that the UK will treat cases consistently, not on a force by force basis. The policy to be adopted is that all vehicles and trailers/caravans recovered due to the SIS will be recovered by the police to safe storage.

## **CHARGES**

In the case of simple seizure storage costs are usually charged to the owner/insurer of the vehicle/trailer. Upon achieving a hit on the SIS Officers are expected to contact the Sirene UK Bureau at NCIS. The Sirene UK Bureau will contact the Sirene Bureau in the alerting state. The force or agency, which launched the alert in the first instance, will be informed and will update the loser or their insurance company.

Where a request has been made to seize and forensically store an item for forensic examination current practice is that there is no re-charging to the requesting state or its law enforcement authorities.

UK Officers may seek to proceed against the person found in possession of the property. This would usually be for an offence of handling stolen property. Property stolen abroad is deemed to be stolen property under the Theft Act. The property can therefore be seized as evidence of an offence under the Police and Criminal Evidence Act. If the requesting state seeks extradition of the suspect to answer for the original offence the Crown Prosecution Service will decide if it is in the public interest to proceed with the UK Cases.

Eventually however the property can be released to the original owner or their insurance company. If the owner or insurance company fail to respond to requests to collect property then disposal must be considered. Property cannot be stored indefinitely. Accordingly it is proposed that a time limit be placed on storage. UK law applies. Where the owner or claimant of the property is known force solicitors already have recourse to the Torts (Interference with Goods) Act.

Where the Police are in possession of property and know whom it belongs to a notice can be served under the Torts (Interference with Goods) Act. It needs to be borne in mind that the Act only relieves the Police of the obligation to store the property. Forces are still required to account to the owners for the value of the property if the owners come forward within the following six years. Naturally there could be problems if cars are just scrapped or sold for a nominal sum. There are other methods of disposal and pieces of legislation available.

Up to date advice on developments can be obtained from the ACPO Vehicle Recovery Working Group, the Inspector in the Force Control Room or the Vehicle Recovery Liaison Officer.

## 24.1 INTRODUCTION

24.1.1 Section 152 of the Serious Organised Crime & Police Act 2005 has amended Section 165 of the Road Traffic Act 1988 and allows Constables in uniform to seize and retain motor vehicles from both uninsured and unlicensed drivers.

24.1.2 The Road Traffic Act 1988 (Police Retention and Disposal of Motor Vehicles) Regulations 2005 has also been published under Statutory Instrument to complement the power to seize, identifying how such vehicles are to be kept and disposed.

24.1.3 The opportunities to ensure that criminals are denied use of the particular vehicle that they are using on the road at the time of seizure cannot be understated. Tackling criminality in all its forms is fundamental to policing and with the Force ANPR and Road Crime Units now operating effectively, the opportunities to exploit this legislation to its maximum effect should not be lost.

## 24.2 POWERS

24.2.1 The power provided by this legislation is exercisable provided certain conditions are satisfied. The first two conditions relate to the production of a driving licence and insurance details and the third concerns the stopping of the vehicle.

24.2.2 The first condition is that:

- (a) A Constable in uniform requires, under section 164, a person to produce his licence and its counterpart (if applicable) for examination and
- (b) The person fails to produce them, and
- (c) The Constable has reasonable grounds for believing that a motor vehicle is or was being driven by the person in contravention of section 87(1). (No Driving Licence).

24.2.3 The second condition is that:

- (a) A Constable in uniform requires, under section 165, a person to produce evidence that a motor vehicle is not or was not being driven in contravention of section 143 (No Insurance) and,
- (b) The person fails to produce such evidence, and
- (c) A Constable has reasonable grounds for believing that the vehicle is or was being so driven.

24.2.4 The third condition is that:

- (a) A Constable in uniform requires, under section 163, a person driving a motor vehicle to stop the vehicle and,

24.2.4

- (b) The person fails to stop the vehicle, or to stop the vehicle long enough, for the constable to make such lawful enquiries as he considers appropriate, and
- (c) A Constable has reasonable grounds for believing that the vehicle is or was being driven in contravention of section 87(1) or section 143.

- 24.3.1** Section 87(1) of the Road Traffic Act 1988 relates to driving a motor vehicle on a road other than in accordance with a driving licence for that class of vehicle. Section 143 of the Road Traffic Act 1988 relates to driving a motor vehicle without a valid certificate of insurance to cover its use.
- 24.3.2** Section 143 of the Road Traffic Act 1988 relates to driving a motor vehicle without a valid certificate of insurance to cover its use. Section 143 states that UK registered vehicles must be adequately insured. Section 145 of the Act defines an authorised insurer as one who carries on business under the Insurance Companies Act 1982 and is a member of the Motor Insurance Bureau. To fulfil both of these conditions, the company must be UK registered. Therefore, a UK registered vehicle insured in another EU state has no insurance for use in the UK.
- 24.3.3** When the relevant conditions are satisfied, a Constable in uniform may seize the vehicle and have it removed. The power may be exercised anywhere other than a private dwelling house (this does not include any garage or other structure occupied with the dwelling house) and if necessary, reasonable force can be used. If the Constable is unable to seize the motor vehicle immediately because the person driving the vehicle has failed to stop as requested or has driven off, the vehicle may be seized at any time within 24 hours.
- 24.3.4** Prior to seizing the vehicle, a Constable must clearly warn the driver that the vehicle may be seized, UNLESS he/she produces their driving licence and its counterpart (if applicable) immediately, or provides a valid certificate of insurance for his/her use of that motor vehicle. This warning need not be given if the circumstances make it impractical to do so.
- In the case of a Provisional Licence Holder being unaccompanied and not displaying “L” plates. If the licence and counterpart is produced – **do not seize the vehicle** merely report the driver for the relevant offences. If the licence and counterpart is not produced, then one should seize the vehicle and in addition, report the driver for the relevant offences. See paragraph 24.5 below for release of vehicles.
- 24.3.5** Once Officers have exercised their powers under this Section the Recovery Operator will be expected to attend the scene forthwith and to provide an estimated time of arrival. ONLY IN EXCEPTIONAL CIRCUMSTANCES e.g. arrest or medical emergency will Officers convey vehicles to Police Stations awaiting collection, but this should be a rare occurrence. Taking vehicles to Police Stations must not become common practice as there are legal implications for individual Officers and the Force.
- 24.3.6** Once a vehicle has been seized by a Constable, it will remain in his/her possession, or the possession of an authorised person (the 'Authority') until it has been released into the possession of a person appearing to be the registered keeper, the owner, the owner’s nominee or the vehicle has been disposed of under the Regulations.

**24.3.7** The driver/registered keeper/owner should be encouraged to remove and retain personal property from the vehicle prior to its removal by the authorised person. Officers should consider making a note in their Pocket Note Book (PNB) and obtaining a signature from the driver/registered keeper/owner stating that the vehicle does not contain any valuable property. This should be done when there is no valuable property in the vehicle, or when any valuable property has been removed from the vehicle and a receipt has been obtained.

## 24.4 PROCEDURES FOR SEIZURE

24.4.1 When a vehicle is being seized a Constable must give a "Seizure Notice" to the driver of the vehicle, unless the circumstances make it impracticable for him to do so.

The "Seizure Notice" is made up of three carbonated documents. The top or white copy is given to the Driver/Owner/Keeper. The second or blue copy is forwarded to the Intelligence Officer and subsequently to the Vehicle Recovery Unit for attachment to the vehicle file and the third or yellow copy is retained by the Officer issuing the Notice for his process report.

24.4.2 Where there are reasonable grounds to seize a vehicle under these Regulations, the offending driver/registered keeper/owner will be subject of a prosecution file for no insurance/ no driving licence. Alternatively, the driver may be issued with a FPN for no insurance.

24.4.3 Immediately a vehicle is seized it is imperative that a PNC entry relating to the report is made and that this entry is accurately updated in a timely manner as a Police Interest Report. The entry will automatically weed itself off the system after six weeks.

24.4.4 As soon as possible after taking possession of the vehicle a "Seizure Notice" will be given to the person who is the driver and registered keeper / owner (if it is someone different); except where

a) the Notice has already been given or  
b) the vehicle has been released.

24.4.5 The Notice must include the following information:-

(a) The place where the vehicle was seized.

(b) The place where the vehicle is stored.

(c) That the registered keeper or the owner of the vehicle is required to claim the vehicle from the 'Authority' on or before the date specified on the notice, being a date not less than 7 working days (excluding Saturdays, Sundays Bank Holidays) from when the notice was given to the registered keeper or owner.

(d) That unless the vehicle is claimed on or before that date the 'Authority' intends to dispose of it.

(e) That charges in relation to the seizure and retention of the vehicles are payable by the registered keeper, owner or driver of the vehicle (unless he/she was not driving the vehicle at the time it was seized and he/she did not know that the vehicle was being driven at that time, had not consented to it being driven and could not, by the taking of reasonable steps, have prevented it from being driven) and that the vehicle may be retained until such charges are paid.

**And THE VEHICLE MAY BE RETAINED UNTIL THESE REQUIREMENTS ARE SATISFIED.**

**24.4.6** In addition, the “Seizure Notice” must state that, the registered keeper or owner of the vehicle must produce at a specified Police Station:-

- a)** A valid certificate of insurance covering his/her use of that vehicle and a valid licence authorising him/her to drive that vehicle, or
- (b)** Nominate a third person who is able to produce at a specified Police Station a valid certificate of insurance covering that nominee's use of that vehicle and a valid licence authorising that nominated person to drive that vehicle.
- c)** And that THE VEHICLE MAY BE RETAINED UNTIL THESE REQUIREMENTS ARE SATISFIED

**24.4.7** In the event that the driver is not the registered keeper and/or owner, a “Seizure Notice” must be sent to the registered keeper and to the owner (if it is someone different) This can be achieved by leaving it at or sending it by recorded delivery to:-

- (a)** The address on the vehicle register as being the address of the registered keeper, or
- (b)** The usual or last address of the owner.
- (c)** Where the vehicle is registered to a business, to the secretary or the clerk at its registered or principal office.

**24.4.8** In appropriate cases there is nothing in the Regulations that precludes a Constable, at the time of seizure or at the time of release of the vehicle, from seeking the driver's agreement against signature on a disclaimer form, ***which forms part of the Seizure Form 404/1 (AVAILABLE FORCE FORMS INTRANET) to dispose of the vehicle. The use of this form is confined to Roads Policing, Armed response Unit, ANPR and Newport GPV.*** This person in such circumstances would need to prove that they are also the registered keeper and owner. The vehicle will have to be retained for a minimum of 14 days, ***as per Regulation 7(2) The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) Regulations 2005.***

## **24.5** RELEASE OF VEHICLES

**24.5.1** Before the 'Authority' releases a seized motor vehicle, the driver/registered keeper/owner must:-

- (a)** Prove that they are the registered keeper or owner of the vehicle, and
- (b)** Pay all statutory charges in respect of its seizure and retention as specified under the Regulations and
- (c)** Produce at the police station specified on the “Seizure Notice”, a valid certificate of insurance covering their use of the vehicle and a valid licence authorising them to drive it.

**24.5.2** If the driver/registered keeper/owner is able to satisfy 24.5.1 (a) and (b) but is unable to satisfy 24.5.1 (c), they may nominate a third person to remove the vehicle on their behalf. Should the owner not hold insurance or have a valid driving licence, the nominee must have a valid driving licence and insurance covering them to use that vehicle. The owner must prove they are the registered keeper/owner and pay the relevant fees.

- 24.5.3** Where a nominee removes the vehicle, it is imperative that the Police Officer/Staff to whom the driving documents are produced, ensures that the insurance and driving licence produced entitles them to drive that type of vehicle on that occasion for the required purpose. Direct telephone contact with the insurance company can be made to clarify the insurance position via the Police Motor Insurance Bureau Helpline telephone 0845 165 2999.
- 24.5.4** The insurance industry has developed voluntary model wording on policies introducing terms with motor vehicle insurance cover which provides a permission to 'Drive other cars'. This currently allows nominated persons with such policies to recover seized vehicles belonging to others.
- 24.5.5** The industry has agreed to introduce a limitation clause to prohibit the use of the policy to recover vehicles belonging to others which have been seized owing to uninsured use. This will take effect over a period of time as policies are renewed. Although it is anticipated that all insurers will adopt this policy limitation, it is stressed that this limitation clause is non-compulsory amongst insurers. It will be necessary for policies to be checked closely to ascertain whether such a limitation is present, or verified with insurers on the telephone helpline.
- 24.5.6** Trade insurance policies are frequently produced for the same purpose *i.e. to repatriate vehicles seized under Section 165 powers*. It is common that policy holders believe such trade policies provide adequate cover to retrieve seized uninsured vehicles on behalf of others. This may not be the case and such policies might contain a variety of restrictions and frequently only insure vehicles which are previously notified to the insurance company. Vehicles used on such a policy can often only be used in the course of or in connection with the policyholder's business, which may not be sufficient in such circumstances. If there is any doubt over the terms of the insurance document being produced, clarification should always be sought from the insurance company itself whenever possible.
- 24.5.7** Primary proof of ownership will be the production of the registration document (V5 or V5C) for the motor vehicle seized by police. There may be occasions when this is not readily available and the driver/registered keeper/owner may rely on other satisfactory documentary proof.
- 24.5.8** Other satisfactory proof may include the correctly completed 'new keeper supplement' to the registration document if the change of keeper is recent and the vendor has been correctly completed the information.
- 24.5.9** On those occasions where neither is available, other proof of ownership may be relied upon. Any documentation produced must provide satisfactory proof of an unequivocal title of ownership of the vehicle to ensure the validity of any insurance produced.
- 24.5.10** Some owners may wish to collect their vehicles from the recovery operator by trailer or other means of transportation which does not involving driving, thus believing they can avoid the requirement to produce insurance or a driving licence. **REGARDLESS OF HOW THE VEHICLE IS COLLECTED THERE IS STILL A REQUIREMENT TO COMPLY WITH PARAGRAPH 24.5.1.** However, the option still remains for them to nominate a third party to produce a driving licence and insurance in line with Paragraphs 24.5.2 and 24.5.3 above. **Should an Officer have any difficulties in this regard they should contact the Vehicle Recovery Liaison Officer.**
- 24.5.11** The legislation requires this compliance whenever a vehicle is 'removed from' the 'Authority.' Home Office guidance indicates that 'removed' has a wider meaning than 'driven' and includes any means of removal.

- 24.5.12** A person who would otherwise be liable to pay retention and removal fees shall not be liable if:-
- (a)** They were not driving the vehicle at the time it was seized and
  - (b)** Did not know that the vehicle was being driven at the time at which it was seized and could not by taking reasonable steps prevent it from being driven.  
***In (a) and (b) above the charges could fall to the Authority.***
- 24.5.13** The fees for vehicle removal are contained in The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008. Standard recovery for a motorcycle and car is £150 with storage for each 24 hours for a motorcycle set at £10 and a car at £20. For a vehicle between 3.5t and 7.5t the standard recovery charge is £200 and storage £25 per day. For a vehicle between 7.5t and 18t the standard recovery charge is £350 and storage £30 per day. For a vehicle in excess of 18t the standard recovery charge is £350 and storage at £35 per day.
- 24.5.14** Each period of twenty-four hours will be calculated from noon on the first day of seizure during which the place at which the vehicle is stored is open for the claiming of vehicles before noon.
- 24.5.15** The Home Office, in the interest of consistency, has decided that the fees will remain at the same level as other removal legislation for the present. (the 'Statutory Fee')
- 24.6** **DISPOSAL OF SEIZED VEHICLES**
- 24.6.1** Where the registered keeper and owner of the vehicle appear to be the same person the Police Authority (Authority) may dispose of the vehicle if that person fails to comply with any requirement in a "Seizure Notice" given to him/her or the 'Authority' was not able after having taken all reasonable steps to serve a "Seizure Notice" upon that person.
- 24.6.2** Where the registered keeper and owner of the vehicle appear to be different the 'Authority' may dispose of the vehicle if neither person complies with all requirements in a "Seizure Notice" given to him/her or the 'Authority' was only able, having taken all reasonable steps, to serve a "Seizure Notice" upon one of those persons, that person failed to comply with any requirement in the "Seizure Notice" or the 'Authority' was not able, having taken all reasonable steps, to serve a "Seizure Notice" upon either person.
- 24.6.3** The 'Authority' may not dispose of the vehicle during the first 14 days from the date when the vehicle was seized. ***Regulation 7 The Road Traffic Act 1988 (Retention and Disposal of Seized Motor Vehicles) regulations 2005*** In addition the 'Authority' cannot dispose of the vehicle until after the date specified in the "Seizure Notice". Where a person has sought the release of a vehicle but has not complied with all the necessary requirements (see 24.5 above), the 'Authority' cannot dispose of that vehicle for a further 7 working days starting on the date that the person attempted to claim the vehicle. ***(As Regulation 7 above).***
- 24.6.4** If at the time when the vehicle is seized the driver is not the registered keeper or owner, then the vehicle cannot be disposed of within the above time. The earliest date for disposal will be 14 days from the date when the registered keeper/owner was informed. In rare exceptional circumstances this could be a maximum of 28 days. ***As per Regulation 7 above.***

## 24.7 SALE OF VEHICLES

The 'Authority' shall pay the "net proceeds of sale" of any vehicle sold under these Regulations into the Police Fund. "Net proceeds of sale" means any sum by which the proceeds of sale exceed the aggregate of such sums as may be payable under these Regulations in respect of the seizure and retention of the vehicle.

On a statutory interpretation of Regulation 8 there is no requirement for the 'Authority' to notify the owner of the residue held in the Police Fund. Support for this conclusion is found in the explanatory note to the Regulation. Whilst not part of the Regulations the explanatory note makes the following comment in respect of Regulation 8.

"Regulation 8 provides that where a vehicle is sold, the net proceeds of sale are payable to the owner of a vehicle, if he makes a claim within a year of the sale".

Accordingly there is only an obligation to respond to the owner if the owner makes a claim within one year calculated from the date the vehicle was sold.

Amended 3<sup>rd</sup> June 09

### 1.0 Risk Assessment

'Police personnel are required to consider making the appropriate risk assessment when implementing this procedure'.

The Gwent Police Service Dynamic Risk Assessment should be applied as necessary. A training package in the use of the risk assessment will be provided to all police staff if required or requested.

### 2.0 Procedure Aims

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 Legal Basis

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

### 4.0 Human Rights Consideration Certification

Consideration has been given to the compatibility of this procedure 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.

## **5.0 Monitoring / Review**

The Contracts will be subject to ongoing review and monitoring.

The Audit Commission in Wales and the Internal Audit Section of Monmouthshire Borough Council will be used for independent review and report.

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.

## **6.0 Procedure Identification Page**

This procedure has been drafted in accordance with the principles of Human Rights Legislation. Public disclosure is approved

**Procedure Title:** Vehicle Recovery

**Reference:** 317/1b issue 2

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

**Procedure Ownership:** Director of Administration & Finance

**Portfolio/Business Area Owner:** Director of Administration & Finance

**Procedure Written By:** Senior User

**Department Responsible:** Vehicle Recovery Unit

**Procedure Lead:** Vehicle Recovery Liaison Officer

**Links to other Policies:** Data Protection; Information Security

**Procedure Implementation Date:** 1<sup>ST</sup> ISSUE 1<sup>st</sup> December 2004 Authorised TTCG on 26<sup>th</sup> October 2004, Reviewed June 2009

**Changes made in blue by Dolmans Solicitors changes in red by VRLO.**

**Procedure Review Date:** **June 2011**