

GWENT POLICE

Police Reform Act
Use of Section 59 Procedure
(Anti –Social Use of Vehicles)



SUMMARY

STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION PLEASE SEE SECTION 1.2.

Section 59 of the Police Reform Act was introduced to provide police personnel with a more effective means of dealing with vehicles being used anti-socially such as unlawful off road use or 'car cruising' type activity.

The legislation provides Police Officers and Police Community Support Officers, in uniform, with the power to seize and retain motor vehicles under certain circumstances.

This Force procedure will enable all staff to familiarise themselves with the way in which the powers are to be used. It is essential that staff also familiarise themselves with the scope of the legislation which, only applies to two specific offences and, in either case, only where the manner of use is causing, likely to cause or has been causing alarm, distress or annoyance to members of the public.

The TWO offences are Driving Elsewhere than on a Road Contrary to Section 34 Road Traffic Act 1988 and Careless or Inconsiderate Driving Contrary to Section 3 Road Traffic Act 1988.

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As a general rule, any vehicle seizure will be preceded by a previously issued written warning. Whilst the relevant force form to record such a warning, (403/1a), is produced at Appendix 1 for reference, it is actually a self-carbonating form.

- The top copy must be given to the person warned.
- The second copy must be forwarded to the Vehicle Recovery Unit at Police HQ.
- The third copy must be attached to a hard copy of a formatted Section 59 Message Switch (MSS) and forwarded to the Disclosure Unit, Police HQ, via the police personnel's supervisor.

This third element of the form acts as the catalyst for 'confirming' the PNC information marker thereby making it wholly reliable.

The issuing police personnel must also ensure that the vehicle user (and owner detail) is included in an ORIS log.

If the driver has already received a Section 59 warning notice within the preceding twelve months OR it is impracticable to give a warning, the vehicle may be seized.

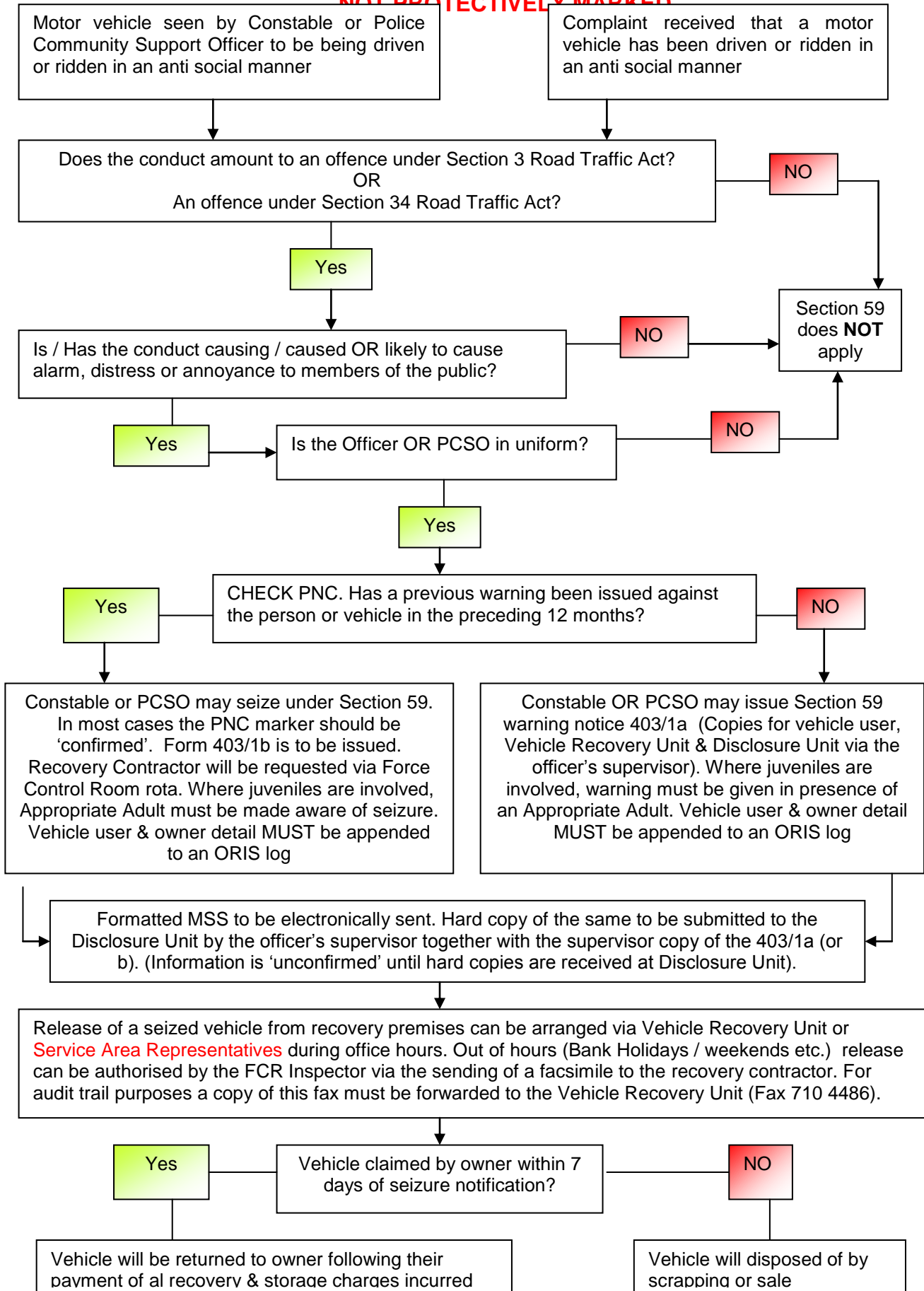
In these circumstances the form 403/1b (See Appendix 2) rather than 403/a must be completed and forwarded in exactly the same way as stated above. The seizing officer must ensure that the vehicle user and owner detail is included in an ORIS log.

Note: that when any vehicle is seized, the seizure will also be treated by the Disclosure Unit as a new Section 59 warning. This means that the 12- month period starts again from the vehicle seizure date.

The supervisor of the police personnel issuing any 403/1a or 403/1b must ensure that a formatted type (template) Section 59 MSS is properly completed and electronically sent. This formatted MSS automatically sends an electronic copy of the warning to all relevant personnel. A hard copy of the MSS must also be forwarded with relevant 403/1a (or b) form to the Disclosure Unit in order to 'confirm' the PNC information marker.

The legal basis for Section 59 is not discussed in detail within this procedure. Such information is readily available by viewing the [Police National Legal Database](#) (PNLD) on the Force Intranet. Some of the PNLD reference numbers pertaining to this topic are: - D11316 / D173 / D8698 / D4217 / and D169.

NOT PROTECTIVELY MARKED



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1.0 Guidance, Procedures, Tactics

1.1 Risk Assessment and Health and Safety Considerations

The seizing of vehicles under Section 59 Police Reform Act has the potential to be a confrontational situation and police personnel are required to consider appropriate risk assessments when implementing this procedure. The Gwent Police Service Dynamic Assessment must be applied as necessary and adapted to meet the particular circumstances. A training package in the use of this risk assessment can be provided if required.

Only those Recovery Contractors identified within the current force agreement will recover any seized vehicle under this legislation. Force Control Room are fully aware of the contractors available and will contact the necessary 'next garage on list' rota as necessary. Under no circumstances will seized vehicles be removed to police premises or be returned to an owner without the required documentation between the police and the recovery contractor first being completed.

1.2 Specific Instructions

1.2.1 It is essential to remember that Section 59 can only be used in relation to 2 specific offences **and even then**, only when the manner of use is causing, likely to cause or has been causing alarm, distress or annoyance to members of the public. The two offences to which this section refers are: -

1. Careless Driving/Riding Contrary to Section 3 Road Traffic Act 1988 (See NLDB - D699)
2. Driving / Riding on common land, moorland, footpath, bridleway or restricted byway or any other land not forming part of a road. (See NLDB - D3076)

It is clear that this power is, generally, going to be exercised in dealing with off road vehicle nuisance and 'car cruising' type anti social behaviour. Challenges regarding the use of the power through the Courts are anticipated in due course.

Vehicles

Whilst it is possible to place a Section 59 warning against an individual, against a vehicle or both, as a general rule, warnings should not be issued in relation to vehicles. This is because the wording of the legislation indicates that, under most circumstances, a person should have an opportunity to be warned in relation to

their conduct before a vehicle is seized. Placing a Section 59 warning marker against vehicle means that if the vehicle is sold on, any new keeper automatically 'picks up' the consequence of the previous keeper's marker on PNC for the vehicle.

It is acknowledged that there *will* be occasions where it is appropriate to issue such a warning against a vehicle, e.g. where there is clear evidence to suggest that the vehicle in question is a 'pool' vehicle. In such cases, supporting information should be outlined in the ORIS log. Any warning issued against a vehicle must be done proportionately and in the spirit of the legislation. Gwent Police has determined that either Police Officers or Police Community Support Officers can give this warning providing they are in uniform.

1.2.2 The procedure to be followed when offence to which this Section applies is acted upon:

Action 1 – Consider the Offence

It is essential to be clear about what offence the individual is committing.

In the case of Driving/Riding Elsewhere Than On A Road things are, reasonably straightforward.

Careless or Inconsiderate Driving /Riding is a little more difficult.

Home Office guidance gives examples of the type of conduct the legislation is aimed at in this regard and includes such behaviour as the racing of vehicles round estates and cruise gatherings.

The spirit of the legislation also caters for situations where quality of life is being damaged by risk of serious injury, harassment, obstruction of other traffic and pedestrians, noise pollution or intimidation.

Home Office Circular, dated 1.11.05 - *New Regulations And Further Guidance On Measures For Dealing With Vehicles Being Used Anti-Socially* is worthy of further consultation in this regard.

Action 2 – Check PNC (prior to issuing warning /seizure)

When either of the relevant offences are identified the first steps is to **check PNC** for any previous Section 59 information marker issued within the preceding 12-months, (the period any such warning is valid for).

Failure to do this will result in offenders being able to accrue numerous warnings with no other action being taken, which will then bring Section 59 warnings into disrepute. Only once the PNC checks are completed should a Section 59 Warning notice be contemplated.

The Disclosure Unit automatically weeds Section 59 PNC information markers after the 12-month period has elapsed.

Action 3 – Consider issuing a Section 59 warning or vehicle seizure notice

If the driver in question has not received a Section 59 warning within the previous 12-month a Section 59 warning notice (403/1a) should be considered.

Once the decision has been made to issue a driver, or vehicle, with a Section 59 warning this must be recorded on the appropriate force form 403/1a.

In the case of juveniles this should be done in the presence of an Appropriate Adult.

Whilst a person under the age of 10 is below the age of criminal responsibility and cannot therefore be prosecuted for an offence, a warning or vehicle seizure notice under this Section is not considered an offence as such and can therefore be issued to a person of this age. Best practice dictates that in such circumstances the warning should also be served on the Appropriate Adult as well. The 403/1 should be signed by the person to whom it is issued and the Appropriate Adult in relevant cases, whilst the Appropriate Adult may be aware of the S.59 warning it should be noted that the warning is applicable to the “offender” and should the juvenile again be subject to another S.59 offence then the seizure procedure should take place (with the Appropriate Adult being present/informed).

Action 4 – Seize vehicle (if appropriate)

If the individual or vehicle has received a warning within the preceding 12-month period, the vehicle should usually be seized and a Section 59 Vehicle seizure notice (403/1b) issued.

Action 5 – Send a Message Switch (MSS)

In addition to the 403/1a or b form, a **Formatted** Message Switch (MSS) must be completed.

This will automatically send copies to the Disclosure Unit, the Vehicle Recovery Unit and Force Control Room. As this MSS is the catalyst for the PNC information marker.

NB: it is essential that the conduct leading to the issuing of the warning or seizure be briefly outlined in the free text field.

1.2.3 A vehicle seizure under Section 59 **MUST NOT** be viewed as a punishment, rather a means to prevent or deter nuisance behaviour. In addition, although it is not a legal requirement, best practice would suggest that if a vehicle is seized, the individual using it should also be dealt with in relation to the offence which, has resulted in the seizure.

Such an approach would be in line with the principals of the Criminal Justice System. For example disposal may be by way of Fixed Penalty Notice, Summons or Charge. Such positive action will help to avoid the suggestion that any recovery and storage fees levied against an individual, following the use of Section 59, is a type of unofficial punishment metered out by police. In all cases where a person is dealt with by way of Summons or Charge a Phoenix Source Document **must** be submitted.

Recovery procedures for Section 59 vehicle seizures are no different to any other STATUTORY recovery.

A Section 59 field has been created on the ORIS system for the use of Force Control Room operators.

The statutory power used for Section 59 seizures is the Police (Retention and Disposal of Motor Vehicles) Regulations 2002 as amended.

The owner (**Question – shouldn't this be the driver at the time?**) is liable for all recovery and storage charges. Once the removal of a vehicle has been authorised by a supervisor (of at least the rank of sergeant), a request must be made to the Force Control Room to arrange the next vehicle recovery contractor on the police list.

If a vehicle seized is suspected to be stolen, it is recovered under the provisions of the Road Traffic Regulation Act 1984 and the Removal and Disposal of Vehicles Regulations 1986 rather than Section 59 and its supporting legislation.

If the vehicle seizure forms part of a planned operation the details of the seizure (and the authorisation) can be attached to the operation's related ORIS log. In all other cases an ORIS log must be created to capture this information.

Although the Police Reform legislation is clear in stating that as a general rule a warning (403/1a) should be provided prior to a vehicle seizure there are clearly going to be circumstances that make this impossible. Examples of this are considered at Appendix 3. In such cases the reasons for the seizure must be clearly understood by the officer responsible and properly documented in case justification is later required by the Courts etc.

In vehicle seizure cases the Vehicle Recovery Unit will ensure that a 'Notice of Disposal of Motor Vehicles' under the Police (Retention and Disposal of Motor

Vehicles) Regulations 2002 as amended is sent to the owner of the vehicle, which is the legal requirement.

Also, the Unit will also deal directly with the recovery contractor to authorised release of a vehicle once the owner has paid all recovery and storage charges in full.

Outside of normal office hours, a seized vehicle may be released following faxed confirmation by the Force Control Room Inspector to the recovery contractor. It is in order to assist in this regard that the police personnel seizing the vehicle (or issuing the warning notice) must ensure that the ORIS log is fully updated with both the details of the user, under the Associated Person field (+AP) and the detail of the owner.

The purpose of any Section 59 403/1a or 403/1b form is threefold:

1. To provide information about the warning or seizure to the individual concerned. To this end the top copy of the warning notice is given to the vehicle user.
2. To record and retain police evidence relating to the warning. To this end, the second copy of the warning notice must be forwarded to Vehicle Recovery Unit, Police Headquarters thus ensuring that a copy of any warning notice issued within Gwent is readily available to any officer, (nationally), via simple contact with the Unit.
3. To inform relevant parties within force. To this end, the third copy of the notice must be forwarded to the Disclosure Unit attached to a hard copy of the MSS. This copy of the 403/1 will be retained by the Unit but exists only to verify the existence of a warning or vehicle seizure notice before any PNC information marker is added.

Under no circumstances will completed warning forms be retained at sectional police stations as this will create difficulties in locating them should such a document be required by other officers (or forces) for prosecution files etc.

It is true to say that there are challenges in relation to the use of the Police Reform Section 59 seizure powers. It is also true to say that Section 59 represents a formidable tool in the fight against anti social behaviour and disorder. **The responsibility rests upon police personnel to use the legislation wisely, proportionately and in accordance with this procedure.**

Appendix 4, 5 and 6, respectively, provide examples of the kind of information required on an Section 59 MSS submission in relation to both warnings and vehicle seizure.

1.3 Individual Roles and Responsibilities

Officers and PCSO'S

It is the responsibility of police personnel to ensure that the necessary PNC checks are carried out prior to issuing any Section 59 warning. They must also ensure that the forms are completed properly and submitted in accordance with this procedure. The issuing police personnel's name, number and station must always be included. They must also ensure that their own health and safety is considered when undertaking such activities.

Supervisors

It is the responsibility of the relevant supervisors to check the quality of the documentation being submitted by their staff. Examples of the kind of MSS information required are produced at Appendix 4, 5 and 6. Supervisors must ensure the third copy of the 403/1 a or b to a hard copy of the MSS and forward both to the Disclosure Unit.

Failure to submit both documents, or the submission of substandard documents, will result in the forms being returned to the originating supervisor. In such cases no information marker will be placed on PNC until the issues raised are addressed.

Disclosure Unit

It is the responsibility of the Disclosure Unit to ensure that the related Section 59 information marker is created at the earliest opportunity. This will ensure that officers are acting on the most current intelligence available.

Until the hard copy MSS and 403/1a is received the Section 59 PNC information marker will state 'unconfirmed'.

Police Personnel may still act upon such information and seize a vehicle but should be mindful that all of the required documentation has not yet been seen by the Disclosure Unit. Therefore, best practice would suggest that, generally, vehicle seizures should not be carried out until the PNC information marker is a 'confirmed' marker. This makes immediate submission of the MSS and 403/1 forms by sectional officers imperative. Expired electronic Section 59 PNC information markers are automatically weeded without further reference to the issuing officer.

Vehicle Recovery Unit (VRU)

The Vehicle Recovery Unit will ensure that a hard copy of all Section 59 warning forms or vehicle seizure notices issued are stored within the Unit.

The Unit will collate statistical information for the force regarding the number of Section 59 warnings issued and the number of vehicle seizures made under this section.

Where necessary, the VRU will chase up any outstanding Section 59 documentation after 7 working days. Faxed copies of any 403/1 form will be made available to officers from any police force upon request to the VRU.

The Unit is also responsible for ensuring that all Force Recovery Contractors are fully aware of relevant force procedures relating to Section 59.

The Unit will send the required Disposal Notice to the owner of any vehicle seized including those relating to vehicles whose release has actually been authorised by the Force Control Room Inspector. Expired hard copy Section 59 warnings are automatically weeded without further reference to the issuing officer.

Force Control Room Inspector

On occasions, there will be a need to authorise the release of a vehicle seized under this Section out of normal office hours. In such cases it is the responsibility of the Force Control Room Inspector to ensure that that a facsimile authorising the release is sent to the relevant recovery contractor and copied to the Vehicle Recovery Unit.

Before authorising any vehicle release the FCR Inspector must satisfy themselves, via sight of the electronic MSS, that the vehicle in question is *only* a Section 59 seizure and therefore not required for police retention for other reasons.

Roads Policing Inspector

The Roads Policing Inspector will periodically dip sample MSS and 403/1 forms submitted to ensure quality is maintained. However there is no longer a requirement to forward all Section 59 notifications via this route.

1.4 Administration

A good understanding of the administrative processes relating to the use of Section 59 documentation by operational staff and those involved in managing the process is essential. The full detail of the procedure can be found in Section 1.2.

2.0 Procedure Statement & Intentions

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2.1 Principle & Scope of Procedure:

The key principle of this procedure begins with an acknowledgement that Section 59 represents a powerful tool in the fight against anti-social behaviour and car crime. It is therefore essential that there is one common method for implementing the legislation to ensure best use is obtained from it for both the force and the Police Service nationally. Following the procedure provides police personnel with legal protection and a means by which to answer any questions posed by the Courts in relation to the proportionality of their actions.

The National Legal Database can be viewed for further information regarding Section 59. In particular [D11316](#)

2.2 Aims of Procedure

The aim of this procedure is to ensure that police personnel are clear about the scope of Section 59, confident about their practical understanding when seeking to use the legislation and clear about the associated administrative processes.

3.0 Introduction

3.1 Origins/Background Information

Section 59 of the Police Reform Act was introduced to provide police personnel with a more effective means of dealing with vehicles being used anti-socially such as off road use or 'car cruising' type activity. The legislation provides both police personnel in uniform, with the power to seize and retain motor vehicles under certain circumstances.

3.2 Motivators/Driving Forces

3.2.1 In recent years, the anti-social use of motor vehicles has been on the increase. Such conduct has often been easy to detect but extremely difficult to tackle.

Section 59 of the Police Reform Act 2002 now provides police with the ability to adopt a firm but fair approach to anti-social behaviour involving vehicles.

3.2.2 Section 59 legislation has been used for some time, particularly in respect of unlawful off road activity. This procedure formally provides an administrative process for dealing with the enforcement of the legislation and ensuring a consistent approach is adopted. It also assists in providing evidence to other forces where required in relation to the use of this legislation.

3.2.3 It is recognised that when used properly and proportionately the Section 59 legislation is a highly effective policing tool which is likely to lead to a reduction in public complaints, an improved quality of life within our communities and increased levels of road safety.

3.3 The Legal Basis and Legitimate Aim

The legal basis for this procedure is Section 59 of the Police Reform Act 2002. The legitimate aim is to ensure the appropriate exercise of powers under the above Act, primarily to reduce anti social behaviour.

3.4 Appendices

The following appendices can be found within this procedure document: -

- Appendix 1 – Section 59 Warning Form 403/1a
- Appendix 2 – Section 59 Vehicle Seizure Notice 403/1b
- Appendix 3 – Practical examples of Section 59 use
- Appendix 4 – Example MSS (Section 59 issued against person only)
- Appendix 5 – Example MSS (Section 59 issued against person and vehicle)
- Appendix 6 – Example MSS (Section 59 vehicle seizure notice issued)

3.5 Definitions

Section 59

The relevant legislative Section within the Police Reform Act 2002 which provides Police Officers and Designated Police Community Support Officers (in uniform in both cases) with the power to seize vehicles in certain circumstances when a specified offence is also linked to anti-social behaviour.

Designated PCSO

In Gwent all Police Community Support Officers will be classed as 'designated'.

Motor Vehicle

In this context a 'motor vehicle' is any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads. This is important because unregistered motorcycles, for example, are therefore deemed to be 'motor vehicles'.

Driving

The term 'driving' is defined by the Road Traffic Act. See the National Legal Database for full details ([D165](#))

Premises

The term 'premises' in relation to this Section does not include a private dwelling house although a garage or land *adjoining* a private dwelling house is included.

Uniform

In this context the term 'uniform' is taken to mean the clothing provided by the organisation to undertake the role. For the majority of staff this will be readily identifiable police uniform. For police motorcyclists engaged in off road enforcement activity this is deemed to be the protective clothing (Personal Protective Equipment – PPE) provided by the force for this specific purpose.

4.0 Implications of the Procedure

4.1 Financial Implications

Implications for Vehicle Recovery Unit

The cost of recovery and storage under this legislation falls to the owner. On isolated occasions the recovery contractors may be unable to claim recovery and storage fees from a vehicle owner. This is because there are circumstances written into the legislation where such a person would not be liable for such fees. It is anticipated that such occasions will be few and far between and significant additional cost implications for the force are not envisaged at this time.

Implication of introducing a new force form

Although forms 403/1a and 403/1b are currently produced in English, once the wording of the form has been formally agreed, the Welsh Language Act dictates that a Welsh version of the form is also required. Whilst this can be produced relatively cheaply as a fourth carbon copy page there will be a cost implication in relation to translation into Welsh. This work is ongoing via liaison with Corporate Communications.

Cost Implication to Service Areas

Compliance with the procedure is unlikely to have any major cost implication on Service Areas.

Savings via the use of Section 59

Whilst the savings of Section 59 are difficult to quantify accurately, it is anticipated that as the use of the legislation becomes more widespread, the number of complaint calls of this nature will reduce. As the unlawful driver is, statistically, far more likely to be involved in a serious or fatal collision on the roads of Gwent, there are also likely to be significant road safety benefits.

4.2 Human Resources/Training

Implications for Disclosure Unit

Early indications would suggest that a force-wide implementation of Section 59 is likely to have a significant impact on workload within the Disclosure Unit. It is doubtful that the current levels of staffing would enable PNC information markers to be treated as a priority. This responsibility is a small part of the work undertaken by the staff and even the current, relatively low, numbers of Section 59 warnings being generated are causing a backlog within the Unit.

It is essential that Section 59 warnings are quickly flagged as PNC information markers. Failure to do so will increase the likelihood of an individual receiving more than one Section 59 warning simply because the previous warning given did not show up when a PNC check was carried out. Placing 'unconfirmed' PNC information markers, rather than waiting for hard copy information, will help to speed up the process.

It takes approximately twenty minutes to add a Section 59 information marker for an *unregistered vehicle*. Even though vehicles are not placed on PNC with Section 59 warning markers as a matter of course, the time factor involved in such cases still needs to be considered.

The Disclosure Unit may need to consider the submission of a Business Case for a staffing increase to cope with the additional workload Section 59, and in fact

other new vehicle seizure legislation, is going to generate.

Training and Development

Learning and Development, having been consulted in relation to both the interpretation of the legislation and the proposed process, is satisfied with the documentation. Stage 2 Probationers receive a sound input regarding the use of Section 59. The Intranet and General Orders should be used to inform existing staff of the existence of this procedure.

4.3 Annual Plan Links

This procedure links to the force policing priorities in its resolve to reduce concerns about levels of crime and anti-social behaviour.

4.4 Partnership Links

Although Partnership links are not central to the development of this procedure, a template for dealing with road nuisance has been developed in conjunction with other agencies, In particular, the Forestry Commission and Local Authorities. Where Section 59 is being used in relation to off-road anti-social behaviour, a partnership approach should be considered and is strongly recommended. The template document for such activity, 'Operation Cassowary', is available via the Roads Policing Tasking Unit, Headquarters.

4.5 Diversity

Whilst Gwent Police is committed to reducing levels of anti-social behaviour involving vehicles, it also recognises that part of the issue feeding the problem is a lack of off road provision across the county. To this end, the force is working with Partner Agencies to see an increase in levels of off road provision.

Consideration has been given to the possible social impact of this procedure 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 **Single Equality Scheme**. **Equality** impact assessments must be undertaken before and after the application of this procedure.

- Equality Act 2010

4.6 Consultation

The following have been consulted, in relation to the development and use of Section 59: -

Internal

Force Solicitor
Civil Claims
Disclosure Unit
Vehicle Recovery Unit
Chief Inspector Operations
Roads Policing Unit
Chief Inspector Force Control Room
Chief Inspector Training And Development
Head of Human Resources
Local Commanders
ANPR Unit
(W)ACPO
Force Recovery Contractors
Forestry Commission
Countryside Council For Wales
Local Authorities
The All Wales Off Road Steering Group
Other Police Forces

Formal

Force Independent Advisory Group
Police Authority
ACPO
Service Area Heads
Superintendents Association
Police Federation
UNISON
Gwent Women's Police Association
Gwent Black Police Association
Gwent Police Disability Network
Gay Police Network
Freedom of Information Officer

4.7 Sustainable development

Whilst there is little to say about sustainable development in relation to the use of Section 59 for cruising type anti-social behaviour, much could be said regarding its use in relation to the anti-social use of off road vehicles. Such use is causing extensive, and in some places, irreversible damage to Sites of Special Scientific Interest (SSSI) and the countryside generally. The effective use of Section 59,

will discourage such behaviour and forms one element in the off-road strategy drawn up by the All Wales Off Road Motorcycling Steering Group. The force is strongly represented on this group working with Partner Agencies, towards effective enforcement, adequate lawful off-road provision and education.

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?

Article 3
Article 6
Article 8
Article 9
Article 10
Article 11
Article 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 procedure should include a generic statement.

" In the application of this procedure 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 procedure?

Section 3.3

Q2. Does the procedure 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 procedure?

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.

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

Section 1.2

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

Section 1.2

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

Section 1.2

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 members of 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 civil 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?

The Vehicle Recovery Unit has responsibility for auditing the use of Section 59 both in terms of warnings issued and vehicles seized. This will include timely submission of hard copy information thereby allowing information markers to be 'confirmed'. The Unit must also annually audit the cost to the Force for any vehicle recoveries made under this section where the cost of recovery and

storage could not be passed to the owners of vehicles.

The Disclosure Unit will monitor the standard of Section 59 MSS being received.

Q4. What external independent scrutiny is recommended?

This procedure document can be scrutinised during Inspection undertaken by the Police Authority and HMIC.

5.4 Certification of Compliance

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.

5.5 Legal Vetting

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

This procedure has been vetted.

6.0 Promotion and Distribution

Operational staff are aware of the benefit Section 59 offers in the fight to reduce antisocial behaviour and there is not so much a need to promote the procedure, as to communicate it effectively. Refer to Section 4.2 of this document.

It is essential to communicate this legislation to the wider public, including those who would fall into the category of committing the kind of anti-social behaviour to which this Section is aimed. With this in mind, external partnership focussed publicity regarding the use of Section 59 is already well in hand with numerous Press articles, radio and television interviews having taken place. Whilst the dates of planned operations must not be divulged, for obvious reasons, the results of specific operations, where Section 59 is used, should be communicated particularly via Community Safety Partnerships and other community based meetings. Where ever possible, the officer in charge of a specific police led operation involving the use of Section 59 seizure powers

should consider informing Corporate Communications of the initiative so that appropriate advice and support can be offered regarding promotion with the public.

7.0 Monitoring / Review

Vehicle Recovery Unit

The Vehicle Recovery Unit has responsibility for monitoring the use of Section 59 both in terms of warnings issued and vehicles seized. This will include timely submission of hard copy information thereby allowing information markers to be 'confirmed'. The unit has responsibility for monitoring any issues raised by the approved recovery contractors regarding the use of Section 59. The Unit must also annually audit the cost to the Force of any vehicle recoveries made under this Section where the cost of recovery and storage could not be passed to the owners of vehicles. There is also a requirement for the Unit to have in place a system to dispose of all hard copy forms on their first anniversary in order to comply with data protection requirements.

Disclosure Unit

The Disclosure Unit is responsible for monitoring the standard of all Section 59 MSS being received, the time taken to input 'unconfirmed' related information markers and the time taken for 'unconfirmed' PNC information markers to be upgraded to 'confirmed'. The Disclosure Unit must also monitor the timely weeding of all electronic warnings.

Operational Staff

The responsibility lies with operational staff to complete both the relevant 403/1 form and the MSS to the required standard. It is the responsibility of the officer's supervisor to check the standard of both documents prior to submission and address any developmental issues identified with their staff.

8.0 Procedure Identification Page

Public disclosure can be disclosed to the public.

Procedure Title: Police Reform Act Section 59

Reference: 317/2 b issue 3

Procedure Ownership: Superintendent, Operational Support

Portfolio/Business Area Owner: ACC

Procedure Written By: Chief Inspector, Operational Support

Department Responsible: OSD

Procedure Lead: Chief Inspector, OSD

Links to other Policies: Licence to Lead, Road Traffic Collisions, Management of Records Including Disposal and Retention, Information Security, Data Protection, National Intelligence Model, CCTV, Health and Safety.

**Procedure Implementation Date: OPG 1st August 2006 reviewed Jan 09
Reviewed June 2011.**

Procedure Review Date: June 2013



POLICE REFORM ACT 2002
SECTION 59 WARNING

Top	Vehicle User Copy
Middle	Vehicle Recovery Unit Copy
Bottom	Supervisor Copy

Name..... Age..... DOB..... /..... /.....

Address.....

..... Post Code..... Tel;.....

Description:.....

.....

Date..... /..... /..... Time..... Hrs

Vehicle Make..... Model.....

INDEX No:..... Engine No:.....

Frame /Chassis No:..... Colour..... Oris Ref.....

Location.....

Owner Details:(If different from driver / rider)

Name:.....

Address.....

.....

..... Tel:.....

You are / have been driving / riding in a careless / inconsiderate manner
Contrary to Section 3 Road Traffic Act 1988 on a Road or public place.

or

You are / have been driving / riding on common land, moorland, land which is part of a road,
a footpath, bridleway or byway Contrary to Section 34 Road Traffic Act 1988

And in either case

In a manner which is causing / has been causing / is likely to cause alarm,
distress or annoyance to members of the public.

You are being provided with a written record of this warning and your details will be added to a database. Gwent Police will retain a copy of this form. I must warn you that if you continue to drive the vehicle in the same way or if you drive the vehicle in a similar way on any other occasion, the vehicle can be seized by a power conferred to me by Section 59 of the Police Reform Act 2002.

Reason for Issue of WARNING:

.....

.....

.....

.....

Signature of the driver / rider.....

Print name.....

Signature of the uniformed officer issuing.....

Print name of officer..... Number.....

Station..... Date:



POLICE REFORM ACT 2002
Section 59 Nuisance Vehicle Seizure Notice

Table with 2 columns: Copy Type (Top, Middle, Bottom) and Description (Vehicle User Copy, Vehicle Recovery Unit Copy, Supervisor Copy)

Name..... Age..... DOB..... /..... /.....
Address.....
..... Post Code..... Tel;.....

Description:.....
.....

Date..... /..... /..... Time..... Hrs
Vehicle Make..... Model.....
INDEX No:..... Engine No:.....
Frame /Chassis No:..... Colour..... Oris Ref.....

Location.....
Owner Details:(If different from driver / rider)
Name:.....
Address.....
..... Tel:.....

You are / have been driving / riding in a careless / inconsiderate manner
Contrary to Section 3 Road Traffic Act 1988 on a Road or public place.

or
You are / have been driving / riding on common land, moorland, land which is part of a road,
a footpath, bridleway or byway Contrary to Section 34 Road Traffic Act 1988

And in either case
In a manner which is causing / has been causing / is likely to cause alarm,
distress or annoyance to members of the public.

A previous warning has already been issued against yourself / this vehicle within the preceding
12 - month period and for that reason the vehicle is now being seized by a power conferred to me
by section 59 of the Police Reform Act 2002

OR

The circumstances make it impracticable for me to warn you about continuing to drive in the same
way. I am therefore exercising the power conferred to me by Section 59 of the Police Reform Act
2002 to seize and remove the vehicle.

Reason for SEIZURE:
.....
.....

in either case the vehicle will now be recovered to:-.....
.....Garage and will only be released with police authority once payment
is made for the appropriate recovery fee and storage charges.

Signature of the driver / rider.....
Print name.....
Signature of the uniformed officer issuing.....
Print name of officer..... Number.....
Station..... Date: /..... /.....

Appendix 3

PRACTICAL EXAMPLES

Scenario 1 - Section 59 on person (No previous warning given)

Example 1: *John Smith owns an unregistered off road motorcycle and rides it on common land where there have been numerous public complaints of such behaviour in the area. He is stopped by police and provides all of his details to the officer's satisfaction. He has not been issued with a Section 59 warning in the preceding twelve-month period and as a result the officer decides to issue him with a Section 59 warning.*

Example 2: *Gillian Evans owns an unregistered off road motorcycle and rides it on common land where there have been numerous public complaints of such behaviour in the area. She is stopped by police but refuses to provide her correct name and address telling the officer that she is Ms. Mini Mouse from Florida. As a result, following consideration of SOCPA, she is arrested and later reported for riding on common land when her correct details are obtained. In these circumstances it is not practicable to give a Section 59 warning and the vehicle is seized under the Section 59.*

Example 3: *Tom Harris (who is well known to the local police including his address), is stopped by PC Richley riding his unregistered off road motorcycle on common land. This is a frequent complaint area highlighted by local walkers. Tom has never been issued with a Section 59 warning and the officer fully intends to deal with the matter in this way. However on completing intelligence checks PC Richley discovers that there is a No Bail warrant in existence for Tom and he is therefore arrested. As the motorcycle clearly cannot be left where it is it needs to be recovered. In these circumstances the issuing of a warning has proved to be impracticable and the officer is justified in seizing the bike under Section 59.*

Scenario 2 – Section 59 on vehicle (No previous warning given)

Example 1: *Albert Jones from Newport, purchases an unregistered off road motorcycle and rides it on common land disturbing local residents. He is stopped by the police and a police reform warning notice is issued. The warning form makes it clear that it applies to both John and the vehicle. As there seems to be nowhere he can legally ride, Jon decides to sell the vehicle. He advertises the bike and subsequently sells it to Fred Smith from Merthyr. Three months later*

Fred is stopped by South Wales Police riding the vehicle on common land in the Merthyr area where again there have been numerous public complaints. A check reveals that whilst Fred has never been warned before there is an active warning against the vehicle from when John owned it. The motorcycle is seized and Fred is reported for the offence.

In this example whilst the police action complies with the legislation, closer examination reveals that it does not comply with the spirit of it. Fred is just as entitled in these circumstances to a warning prior to any seizure hence the position by Gwent in relation to the circumstances under which a Section 59 warning should be considered against a vehicle.

Example 2: *A number of youths from the Abergavenny area decide to chip in £10 each to purchase an old Ford Escort from the local car auction. Local police intelligence quickly indicates that the vehicle is being used as a pool vehicle. Peter Smith is seen driving vehicle and performing handbrake turns in the local public car park, an area of local public anti social behaviour complaints. Smith has never been warned before and so he is issued with a Section 59 warning. In light of the intelligence information concerning the shared use of the vehicle, in this case, the warning is applied to the vehicle too. Two days later the police stop Aaron Smith, Peter's brother, driving the same vehicle in circumstances amounting to another careless driving offence. Although Aaron has never been warned before, the vehicle is seized on the strength of the previous warning and the intelligence information thereby preventing further use on that occasion.*

In this example the police action complies with both the word and the spirit of the legislation.

If a warning issued within the context of an integral policing operation - such as Operation Cassowary, off road anti social behaviour the details of the warning should be recorded within the body of a dedicated ORIS log.

Scenario 3 – Section 59 on person or vehicle (Previous warning in force)

Example 1: *In January 2005 Alex Wilson was issued with a Section 59 warning for riding a registered motorcycle on common land. In August of the same year Alex is stopped again when he is seen by police using the local public car park as a racetrack in his Mini Cooper, conduct likely to cause alarm to park users. In light of this being his second warning within a 12-month period Alex's vehicle is seized.*

Example 2: *In January 2003 PC Gary Butler has cause to issue a Section 59 warning notice against Halid Jupri. The officer includes the vehicle, a Vauxhall Astra, ABC 789, in the warning, as he is aware that it is being used by a number*

NOT PROTECTIVELY MARKED

of different people who associate with Halid. In August of the same year, PC Kles stops Susan Hughes driving the same Astra vehicle. On this occasion, she is using the vehicle as a rally car on common land. This is likely to cause annoyance to the local Ramblers Association. Although Susan has no Section 59 warning against her the vehicle ABC 789 does. In light of this being the second warning within a 12-month period, the vehicle is seized.

NOT PROTECTIVELY MARKED

APPENDIX 4

Copy of information required on message Switch for Section 59 against an individual. Note in particular the information contained in Field 13

MESSAGE SWITCH SYSTEM
MESSAGE NUMBER : CC-21/00/02/06-13
MESSAGE TO : HEADQUARTE PNC.BUR4 CC. ENQ
PRIORITY : NORMAL
TITLE : SECTION 59 POLICE REFORM ACT

Receipt No 000
12.00:08 22nd Feb 2006-02-22
FROM : CP. ENQ
TIME SENT : 11:58

1. Surname of user: SMITH
2. Forenames of user: FRANKIE / /
3. Current Address of user: 1
/ HIGH STREET
/ ANYTOWN
4. D.O.B.: 18/9/1967 SEX: MALE
5. Ethnic Appearance: WHITE EUROPEAN
6. Height; 5/8 Birthplace: HIGH WYCOMBE
7. Driving Licence No:
8. Brief Description:
9. PNC ID: Case Class: LOCATE TRACE
10. Name of owner if different to above: JONES
11. Forenames of owner if different to above: MARTIN / /
12. Current Address of owner if different to above: 2
/ LOW STREET
/ ANYTOWN
13. Time, Date and Place Stopped: 16.2.06 – 17.30HRS
WYTHE ROAD, ANYTOWN
14. Officer Issuing Warning & Station: PC 999 PLODD, WYTHE POLICE STATION
15. Weed Date: (automatic - 12 months from date stopped) : 16.2.07
16. Text: SMITH SEEN DRIVING FORD EXCORT MOTOR VEHICLE ABC 123 AT HIGH SPEED ALONG WYTHE ROAD AND PERFORM HANDBRAKE TURN BEFORE RACING BACK IN THE OPPOSITE DIRECTION.
17. Operation name if applicable: OPERATION CALM
18. ORIS REF: URN 247 3.3.05

VEHICLE INFORMATION MARKER (only complete 1-5 below if warning is being placed on vehicle OR vehicle seized)

1. Vehicle Index:
2. Vehicle Make:
3. Time, Date and Place Stopped:
4. Officer Issuing Warning
5. Free Text (3 lines maximum)
6. Vehicle seized: NO
7. Vehicle subject to Section 59 Notice: NO
8. Authorising Officer: PS 555 BARU

APPENDIX 5

Below is a copy of the information required on message Switch for Section 59 which is issued against an individual AND vehicle. In this circumstance the Vehicle Information Marker fields 2/3rds of the way down the page MUST be completed.

MESSAGE SWITCH SYSTEM	Receipt No 000
MESSAGE NUMBER : CC-21/00/02/06-13	12.00:08 22 nd Feb 2006-02-22
MESSAGE TO : HEADQUARTE PNC.BUR4 CC. ENQ	
PRIORITY : NORMAL	FROM : CP. ENQ
	TIME SENT : 11:58
TITLE : SECTION 59 POLICE REFORM ACT	

1. Surname: SMITH
2. Forenames: FRANKIE / /
3. Current Address: 1
/ HIGH STREET
/ ANYTOWN
4. D.O.B: 18/9/1967 SEX: MALE
5. Ethnic Appearance: WHITE EUROPEAN
6. Height; 5/8 Birthplace: HIGH WYCOMBE
7. Driving Licence No:
8. Brief Description:
9. PNC ID: Case Class: LOCATE TRACE
10. Time, Date and Place Stopped: 17.30HRS - 16.2.06
WYTHE ROAD, ANYTOWN
11. Officer Issuing Warning: PC 999 PLODD, WYTHE POLICE STN
12. Weed Date: (automatic -12 months from date stopped) : 16.2.07
13. Text: SMITH SEEN WHEEL SPINNING ALONG WYTHE ROAD CREATING CLOUDS OF SMOKE AND EXCESSIVE NOISE.
14. Operation name if applicable: OPERATION CHAOS
15. ORIS Ref: URN 271 4.7.05

VEHICLE INFORMATION MARKER (only complete 1-5 below if warning is being placed on vehicle OR vehicle seized)

1. Vehicle Index: CDE 456
2. Vehicle Make: FORD PUMA
3. Time, Date and Place Stopped:17.30HRS - 16.2.06 WYTHE ROAD, ANYTOWN
4. Officer Issuing Warning PC 999 PLODD, WYTHE POLICE STN
5. Free Text (3 lines maximum: PC 999 SAW VEHICLE BEING USED AS STATED IN FIELD 13. INTELLIGENCE SUGGESTS THAT THE FORD PUMA CDE 456 IS AN UNREGISTERED POOL TYPE VEHICLE AND THEREFORE NEEDS TO BE THE SUBJECT OF THE SECTION 59 NOTICE
6. Vehicle seized: NO
7. Vehicle subject to Section 59 Notice: YES
8. Authorising Officer: PS 555 BARU

APPENDIX 6

Below is a copy of the information required on message Switch for Section 59, which is issued against an individual where the vehicle is seized. In this circumstance the Vehicle Information Marker fields 2/3rds of the way down the page MUST be completed.

MESSAGE SWITCH SYSTEM
MESSAGE NUMBER : CC-21/00/02/06-13
MESSAGE TO : HEADQUARTE PNC.BUR4 CC. ENQ
PRIORITY : NORMAL
TITLE : SECTION 59 POLICE REFORM ACT

Receipt No 000
12.00:08 22nd Feb 2006-02-22

FROM : CP. ENQ
TIME SENT : 11:58

1. Surname: WITHQUILL
2. Forenames: ARMATI / /
3. Current Address: 3
/ HIGH STREET
/ ANYTOWN
4. D.O.B: 08/09/1967 SEX: MALE
5. Ethnic Appearance: WHITE EUROPEAN
6. Height: 5/8 Birthplace: BLACKBURN
7. Driving Licence No:
8. Brief Description:
9. PNC ID: Case Class: LOCATE TRACE
10. Time, Date and Place Stopped: 17.30HRS - 16.2.06
GERBIL ROAD, ANYTOWN
11. Officer Issuing Warning: PC 998 COPPER, WYTHE POLICE STN
12. Weed Date: (automatic -12 months from date stopped) : 16.2.07
13. Text: PC 998 SAW WITHQUILL WHEEL SPINNING ALONG GERBIL ROAD CREATING CLOUDS OF SMOKE AND EXCESSIVE NOISE. HE IS SUBJECT TO A CURRENT SECTION 59 WARNING NOTICE
14. Operation name if applicable: OPERATION CHAOS
16. ORIS Ref: URN 271 4.7.05

VEHICLE INFORMATION MARKER (only complete 1-5 below if warning is being placed on vehicle OR vehicle seized)

1. Vehicle Index: CN 55 BTU
2. Vehicle Make: VAUXHAL ASTRA
3. Time, Date and Place Stopped: 18.30HRS - 16.2.06 GERBIL ROAD, ANYTOWN
4. Officer Issuing Warning PC 998 COPPER, WYTHE POLICE STN
5. Free Text (3 lines maximum: PC 998 SAW VEHICLE BEING USED AS STATED IN FIELD 13. PREVIOUS WARNING GIVEN THEREFORE VEHICLE SEIZED
6. Vehicle seized: YES
7. Vehicle subject to Section 59 Notice: NO

8. Authorising Officer: PS 555 BARU