

# **VEHICLE DEFECT RECTIFICATION** **SCHEME**

## **PROCEDURE**



Heddlu  
Gwent  
Police

### **Summary**

To inform staff of the procedures to be complied with regarding defective vehicles used on the roads and highways within the Gwent Police area. This procedure will explain the principle and aim of the Vehicle Defect Rectification scheme and outline the actions to be taken by all staff when dealing with defective vehicles. The procedure will also provide guidance in respect of the documentation required when dealing with defects.

**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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## **1.0 Procedure Identification Page**

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

**Procedure Title: Vehicle Defect Rectification Scheme**

**Reference: 318/1 b issue 3**

**Historical Reference: Previous Vehicle Defect Rectification Scheme procedure:** Vehicle Defect Rectification Scheme issue 2; Vehicle Defect Rectification Scheme and Production of Documents April 1998 Policy and Procedure issue 1 (previously Standing Order 318 dated 3/90)

**Procedure Ownership: Superintendent U Division (Uniform Ops)**

**Portfolio/Business Area Owner: Chief Officer Operations**

**Procedure Written By: Inspector Roads Policing**

**Department Responsible: Roads Policing**

**Procedure Lead: Inspector Roads Policing**

**Links to other Policies/Procedures/Related areas:** Data Protection, Information Security, Health and Safety, Personal Safety including appointments, Pocket Books, Complaints Against Police, Organisational Complaints, Crime Recording, Health and Safety, Police Vehicle Collision, Vulnerable and Intimidated Witness Interviewing, Examination of Vehicles, Retention of Documentation, Road Traffic Collisions.

**Procedure Implementation Date: April 1998, issue 1; amended February 2005, issue 2 (TTCG); 02 December 08, issue 3 (by circ. to OPG Members, as Nov. 08 OPG cancelled).**

**Procedure Review Date: November 2010**

## **2.0 Procedure Statement & Intentions**

### **2.1 Principle & Scope of Procedure:**

To inform staff of the procedures to be complied with regarding defective vehicles used on the roads and highways within the Gwent Police area. This procedure will explain the principle and aim of the Vehicle Defect Rectification scheme and outline the actions to be taken by all staff when dealing with defective vehicles. The procedure will also provide guidance in respect of the documentation required when dealing with defects.

### **2.2 Aims of Procedure**

The aim of this procedure is to provide drivers with the opportunity to avoid prosecution, by ensuring vehicle defects are rectified as soon as possible and certified as having been done properly within 14 days of the defect being discovered.

In providing this opportunity, it is anticipated that the number of defective vehicles used on roads will be reduced, thereby assisting in reducing the number of road users injured or killed. The underlying rationale of this procedure is prevention rather than prosecution. Drivers are more likely to rectify defects when provided this opportunity.

## **3.0 Introduction**

### **3.1 Origins/Background Information**

The Vehicle Defect Rectification Scheme (VDRS) is a national scheme that has been adopted by every force in England and Wales. The existing Gwent Police procedure was devised through local consultation some years ago. It has long been the ability of the Police to prosecute drivers for using a defective vehicle on a road in the interests of road safety. However, once a driver has been reported for such offences, there has been no guarantee that the defects would have been rectified. The VDRS was developed as a proportionate and necessary response to deal with this problem.

### **3.2 Motivators/Driving Forces**

This procedure has been developed to ensure all officers deal consistently and appropriately with all road users with defective vehicles, with the ultimate goal of improving road safety. One of the force aims is to reduce the number of people killed or seriously injured on our roads. This aim is driven by government targets and national road safety strategies. Consistent adherence to the principles of this procedure by all officers will assist in achieving this aim.

### **3.3 The Legal Basis and Legitimate Aims**

The VDRS is not subject to statutory control as there is no element of compulsion, no additional police powers are used and police officers are not at risk of civil process in relation to the operation of the scheme. The offences that the scheme refers to are listed further in this document and are subject to the following legislation:-

1. Construction and Use Regulations 1986
2. Road Vehicle Lighting Regulations 1989
3. Vehicle Excise and Registration Act 1994
4. Road Vehicles (Registration and Licensing) Regulations 1971

Vehicles subject to the scheme are defined as those subject to a test certificate in compliance with section 47 of the Road Traffic Act 1988. I.e. All motor vehicles, motorcycles and light commercial vehicles up to 3500kgs design gross weight.

The legitimate aims of this procedure include:-

1. Public Safety
2. The protection of health and morals
3. The prevention of disorder and crime
4. The protection of the rights of others
5. Protect the economic well being of the country

As stated by the Human Rights Act 1998.

### **3.4 The Appendices**

Nil

## **4.0 Implications of the Procedure**

#### **4.1 Financial Implications/Best Value**

There are no additional financial implications in the adoption of this procedure above and beyond the existing costs of the scheme. In terms of Best Value, by utilising the scheme and minimising the number of prosecutions, officer's time dealing with such matters is greatly reduced.

#### **4.2 Human Resources/Training**

Relevant legislation concerning road traffic offences is taught during all officers' probationary training period. Further update training is provided as required.

As the documentation required for this scheme currently exists there are no additional resources anticipated in relation to printing.

To facilitate the efficient running of the scheme, administrative support is required. This support is currently provided within the Central Ticket Office (CTO) based at Newport Central Police Station. No additional resources are required.

#### **4.3 Strategic Plan Links**

The use of the VDRS Procedure will allow officers to work towards achieving the national targets as outlined in the National Roads Policing Strategy and Gwent Police Roads Policing Strategy objectives for reducing road casualties.

#### **4.4 Partnership Links**

N/A

#### **4.5 Diversity**

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

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

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

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

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

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

- Welsh Language Act 1993
- Race – Race Relations Act and Amendment Act
- Disability - Disability Discrimination Act
- Gender – Discrimination
- Equal Pay Act
- Age – Article 13 Treaty of Amsterdam (2006)
- Sexual Orientation – Article 13 Treaty of Amsterdam (2003)
- Religion – Article 13 Treaty of Amsterdam (2004)
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003

#### **4.6 Consultation**

Police Authority  
Chief Officers  
Divisional and Departmental Heads  
Force Solicitor  
Superintendent's Association  
Gwent Police Federation  
UNISON  
Gwent Black Police Association  
Gwent Police Women's Association  
Gwent Police Disability Support Network  
Gwent Police Gay Support Network  
Head of Training  
Information Security Officer  
Data Protection Officer  
Freedom of Information Officer

#### **4.7 Sustainable development**

This procedure seeks to ensure that the environment is protected. An example is where it aims to address such problems as vehicles that cause illegal pollution

through defective exhaust systems.

## **5.0 Human Rights Consideration Certification**

### **5.1 Auditing for potential interference and discrimination**

This procedure has the potential to engage the following articles of the Human Rights Act 1998:-

Article 2, 3, 5, 6, 8, 14:

There is potential to discriminate against parties involved. Anyone who feels that they have been discriminated against should seek the appropriate remedy.

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?

See 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?

Publication of this document on the Force Intranet and General Orders. Also as outlined throughout section 6.2.

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

As outlined in section 6.2

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

As outlined at section 6.2.

### **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.

This procedure can be disclosed.

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

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

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

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

### **5.4 Certification of Compliance**

**A member of the Procedure and Planning Team will complete this section following a Human Rights audit.**

Consideration has been given to the compatibility of this procedure and related

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**

### **Policy Officer**

**This procedure has been vetted.**

## **5.6 Procedure Review Date:**

**Bi annually**

## **6.0 Guidance, Procedures, Tactics**

### **6.1 Risk Assessments and Health and Safety Considerations**

All officers involved with the stopping of vehicles on a road must ensure continual risk assessments are carried out regarding their safety and that of all other road users. Action must be taken to ensure that this assessment is acted upon. Due cognisance must be paid to training provided regarding the process of stopping vehicles whether on foot or in a patrol vehicle. When dealing with the driver of a vehicle for a defect, further risk assessment must be carried out regarding the potential dangers to both the officer and the driver from other road users. Potential dangers to the officer from the driver must also be considered. Appointments must be worn at all times when adhering to this procedure.

### **6.2 Specific Instructions, tactics, methods, practices and procedures**

#### **Introduction**

The scheme lays down the procedure for remedying defects discovered by the police in roadside checks. It applies to ALL motor vehicles, motorcycles and light commercial vehicles up to 3500kgs design gross weight. That is, those vehicles which are, or will become, subject to a test certificate in compliance with section 47 of the Road Traffic Act 1988. Trailers lawfully drawn by those vehicles will also be incorporated within the scheme.

VDRS will not apply to:

- a) vehicles involved in road traffic accidents;
- b) public service vehicles;

- c) goods vehicles exceeding 3500 kg gross weight, and all articulated vehicles;
- d) those occasions where a driver elects a deferred test - Road Traffic Act 1988;
- e) hackney carriages and private hire vehicles.
- f) unattended vehicles.

VDRS offences fall into the following categories:

- a) a vehicle or part in dangerous or defective condition (Construction and Use Regulations 1986).
- b) lighting defects (Road Vehicle Lighting Regulations 1989).
- c) missing or defective index mark (Vehicle Excise and Registration Act 1994).

### **Guidelines**

Where a defect is so minor that an immediate verbal warning will suffice, an officer may use his/her discretion to that effect.

The maximum number of defects allowed to be dealt with under the VDRS will be four due to the fact that such a large number of defects usually indicates a flagrant disregard of the law and consequent risk to public safety.

The VDRS is to be utilised for all defect offences unless the circumstances are deemed by the reporting officer to be so serious, potentially dangerous or in such flagrant disregard of previous warnings as to merit issuing a Fixed Penalty Notice or reporting the driver for process. In this way application of the VDRS is proportionate to the level of offending behaviour encountered.

VDRS may still be used when a fixed penalty notice has been issued for another offence detected at the same time. Should a prosecution subsequently arise from the issue of a VDRS form, then the following must be included in the process report:

- a) the fact that the offence being prosecuted is ancillary to a fixed penalty notice;
- b) the fixed penalty offence;
- c) the number of the fixed penalty notice.

In all other cases prosecution will not be considered unless:

- a) the VDRS offer is declined; or
- b) the defect(s) remains unrectified after the prescribed period; or
- c) more than four defects are present; or
- d) where ultimate service of the process is unlikely to be successful.

Unless there are exceptional reasons to the contrary, persons who have failed to take up the opportunity to rectify their defective vehicles will not be subsequently cautioned.

### **Combined VDRS and All Stops Form**

Officers, including special constables will carry books of All Stops Forms.

When an officer requires production of driving documents he/she will complete All Stops Form and hand the Pink copy to the driver/owner/passenger. If VDRS is not applicable, Yellow copies will be discarded. The officer will retain the White copy.

### **Vehicle Defect Rectification**

When an officer detects an offence included in the scheme the offender will be reported in the usual manner and the necessary pocket book entry will be made.

At the time of reporting, the officer will draw attention to the scheme and, if the offender accepts the opportunity to have the vehicle rectified, the officer will hand the Yellow copy to the driver. The White copy will be forwarded to the Data Entry Bureau at the completion of the shift in which it was issued and the officer will retain the yellow copy. Officers should refer to the All Stops Procedure for the submission process.

To avoid further police action the driver must repair the defect(s) or have the vehicle scrapped. If he/she elects to have the vehicle repaired, it must be presented to a Department of Transport approved testing station for examination. The examiner, when satisfied that the defect has been rectified, will sign the Yellow copy and endorse it with the testing station's embossed stamp. It is the offender's responsibility to return the form to the Central Ticket Office as proof of rectification.

If the endorsed form is received within 14 days of issue, or proof has been presented that the vehicle has been scrapped, then no further action will be taken in respect of those defects.

If the vehicle defect has not been rectified, or the vehicle has not been scrapped, the Central Ticket Office **will return the White copy of the form to the officer in the case. He/she should then submit a process file and indicate, for the information of the magistrates, that the defendant failed to take up the rectification option offered.**

Where, at the time the All Stops Form was issued, the officer reported the offender for other offences, the submission of the process report in relation to the other offences will not be delayed to await the outcome of the VDRS procedure.

### **HORT/2**

When documents are produced in response to the issue of an All Stops Form, an HORT/2 will be completed in every case.

### **Extensions**

Extensions to the 14 day period will be considered in the following circumstances as part of the continuing proportionate way of administering the scheme:

1. Where the law permits the use of the vehicle for a limited period with the defect not repaired e.g. speedometer, lamps.
2. Where the repairs can not be effected within the 14 day period. e.g. because the required parts are unavailable, although the driver must be reminded that continued use of the vehicle may constitute further offences.

### **6.3 Individual Roles and Responsibilities**

As 6.2

### **6.4 Related protocols, practices or service agreements with other Agencies**

N/A

### **6.5 Administration**

The All Stops Form will be used as stated at 6.2 above when dealing with any driver for defects under this scheme.

Relevant forms are available from the Printing Department at Headquarters.

### **7.0 Promotion and Distribution**

The procedure will be published in General Orders and included on the Force Intranet and internet.

### **8.0 Monitoring / Review**

#### **8.1 Monitoring**

All supervisory officers as part of their general duty to manage and supervise the work of officers under their direction will monitor this procedure. This monitoring process will be continuous throughout the life of this procedure.

All VDRS forms will be submitted through first line supervisors to ensure correct

adherence to the procedure.

Central Ticket Office staff will continuously monitor the quality of VDRS submissions and raise any concerns, in the first instance, with the first line supervisor of the officer concerned. Any general queries regarding this procedure or the VDRS should be raised with the Inspector Roads Policing