



**TOTTON & ELING TOWN COUNCIL  
COMMUNITY SAFETY SERVICES**

**REMOVAL OF ABANDONED VEHICLES  
THE REFUSE DISPOSAL (AMENITY) ACT 1978**

**ENFORCEMENT POLICY AND DECISION FRAMEWORK**

**INTRODUCTION**

Two of Totton and Eling Town Council's stated aims are to work to improve the quality of life of/in the Town and its residents and to work to improve the built and natural environment.

The Council will seek to achieve these aims partly by enforcement of its powers under the Refuse Disposal (Amenity) Act 1978 (the "Act") in relation to the removal of abandoned vehicles.

The objective of this document is to detail the decision framework which the Council will apply in deciding how it will use its Enforcement Powers to address problems associated with abandoned vehicles.

**1. GENERAL PRINCIPLES**

- 1.1 The Council will seek to enforce its powers and carry out its duties to deal with abandoned vehicles efficiently and effectively, and in a way, which is open, clear and helpful to members of the public.
- 1.2 The Council will endeavour to communicate the requirements of the law to any and all parties who may be involved clearly and in plain English, and in doing so will distinguish between advice and legal requirements.
- 1.3 The Council will endeavour to discuss fully with any and all parties who may be involved, any compliance failures or difficulties, and will consider all relevant issues before exercising any of the available enforcement powers.
- 1.4 The Council affirms its commitment to achieving consistent, balanced and fair enforcement of legislation and to achieve this, regard will be made to the relevant regulations, orders and directions issued by the Secretary of State.
- 1.5 The Council will have regard to the Human Rights Act, Article 8 and the Regulation of Investigatory Powers Act 2000 (RIPA), to ensure that any monitoring or surveillance work, in the investigation of complaints, should not compromise an individual's right to "privacy, a family life and correspondence".

- 1.6 In any situation where it is thought that “directed” or “intrusive” surveillance is required to investigate a complaint, then authorisation will be applied for, from one of Totton and Eling Town Council’s authorised officers, namely the Town Clerk or Executive Officer.
- 1.7 The Council will ensure that all authorised officers are fully acquainted with the requirements of this policy, and are appropriately trained.
- 1.8 The Council will endeavour to ensure that resources are targeted effectively according to risk, and that there is an appropriate interpretation of what is reasonable.
- 1.9 In coming to any decision as to which is the appropriate form of action, regard will be had to this policy document, and in particular the following criteria:
  - the attitude and past performance of the offender
  - the likely effectiveness of the various enforcement options
  - the consequences of non-compliance
  - the public interest

The Council will seek to achieve the above objectives by means of the decision framework detailed in the Environmental Services Enforcement Policy and as further described in the following sections, which detail the enforcement action considered appropriate in the circumstances described. Departures from the decision framework will only be made in exceptional circumstances and following discussion with an appropriate senior officer.

## **DECISION FRAMEWORK**

### **2. PROMOTING AWARENESS OF THE LAW**

- 2.1 The Council will provide advice and information to any person making an enquiry relating to the removal of abandoned vehicles.
- 2.2 The Council will provide advice and information to any person making a complaint concerning an allegedly abandoned vehicle regarding the law and will also advise how the Council will carry out any subsequent investigations to establish legal responsibilities and remedies.

### **3. ENFORCEMENT ACTION TO REMOVE ABANDONED VEHICLES**

- 3.1 **Where it appears that a motor vehicle is abandoned without lawful authority on any land in the open air or on any other land forming part of a highway, then, under the provisions of Section 3(1) of the Act, the Council will remove the vehicle.**
- 3.2 In order to establish whether or not a vehicle is abandoned the Council will make enquiries to identify the owner of the vehicle. Enquiries may involve contact with:
  - The Driver and Vehicle Licensing Authority (DVLA).
  - Hire Purchase Information Ltd (HPI)

3.3 In order to consider whether a vehicle may have been involved in a criminal activity or whether the vehicle is obstructing a highway or is a danger to traffic contact will normally be made with:

- The Chief Officer of Hampshire Police.

3.4 If enquiries establish that the vehicle is abandoned and is not likely to be the subject of action under other legislation the Council will begin action to remove it.

**3.5 Where the land is “occupied” the Council will give notice to the occupier of their intention to remove the vehicle in compliance with Section 3 (2) of the Act, and the Council will not remove the vehicle within the prescribed period of 15 days. The Council will not remove the vehicle if the occupant objects.**

3.6 The Council will notify the occupier in writing of their intention to remove the vehicle and where the identity of the occupier is unknown or unclear, a Section 16 Local Government (Miscellaneous Provisions) notice under Act 1976 may be served to confirm a person’s interest in the land.

**3.7 The Council will not remove a vehicle from land if the cost of removing the vehicle to the nearest carriageway is deemed to be excessive, as permitted by Section 3 (3) of the Act.**

3.8 In assessing the cost regard it will be the quote as to the current rate being charged by hauliers and/or contractors.

**3.9 If the value of the vehicle is considered to be less than the cost of removal and subsequent disposal, if the vehicle is considered a “wreck”, then the Council, in compliance with Section 3 (5) of the Act, will fix a notice to the vehicle stating the intention that within a period of not less than seven days, the vehicle will be removed and disposed of. A photograph of the vehicle with notice attached will be taken at the time of the inspection to confirm the condition of the vehicle and the photograph will be kept on file.**

#### **4. REMOVAL OF ABANDONED VEHICLE**

4.1 The cost of removal and subsequent disposal will be assessed with regard to the current rate being charged by hauliers / contractors / scrap yards.

4.2 If the vehicle is not considered to be a “wreck” and therefore is deemed a “runner” and is not on occupied land then the Council will remove the vehicle to a place of safe keeping, as soon as possible, in compliance with the duty defined in Section 3 (1) of the Act.

4.3 As soon as the name and address of the owner of such a vehicle is found a notice will be served in writing on the owner requiring the vehicle to be removed from the safe keeping of the Council.

4.4 The notice will specify a time period within which the vehicle must be removed, normally 21 days, after which the Council will be at liberty to dispose of the vehicle.

4.5 The notice will also specify the fee that must be paid to the Council in respect of the removal and storage costs incurred, prior to the vehicle being returned to the owner.

**4.6 The Council will not dispose of a “runner” before the 21 days grace period has expired.**

**4.7 The Council may with reference to Section 4 of the Act, dispose of any vehicle, which is in their safe keeping as a result of removal under Section 3 (1) of the Act, in such a manner as is deemed “fit”.**

4.8 In the case of a vehicle that is deemed to be a wreck and has no current road fund license the Council may consider disposal at any time after its removal.

4.9 In the case of a vehicle that is deemed to be a wreck and has a current road fund license, the Council may consider disposal after the license has expired. In any other case the Council will consider disposal of a vehicle after attempts have been made to trace the owner (see 4.1 above) and either:

- The owner cannot be found, or
- The owner has failed to comply with a notice requiring removal from safe keeping (see 4.5)

## **5. DISPOSAL OF ABANDONED VEHICLE**

5.1 After such disposal the Council will forward whatever details are available to identify the vehicle to those bodies listed to the Chief of Police – Hampshire Constabulary, the DVLA and HPI Ltd.

**5.2 The Council will consider, under the powers of Section 5 (1) of the Act, for recovering costs for the removal of a vehicle under Section 3 (1) of the Act, from any person that is deemed responsible.**

5.3 In deciding whether to pursue the recovery of costs the Council will consider;

- The attitude and previous history of the alleged owner
- The likely hood of a successful action.
- The costs of a recovery action weighed against the costs to be recovered.



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