

## **ARHM GOOD PRACTICE NOTE**

### **MANAGEMENT OF VEHICLES**

This guidance note looks at the most common problems that managers experience with vehicles on their developments.

- Abandoned vehicles - on public and private roads/areas
- Nuisance vehicles
- Untaxed vehicles
- Wheel clamping

#### **Identifying an abandoned vehicle**

An abandoned vehicle is a vehicle which appears to have been given up or forsaken.

- Some of the tyres may be flat or the wheels removed
- There may be litter or detritus (weeds/leaves) under the vehicle, indicating that it has not moved for some time
- The windscreen or some of the windows may be broken
- There may be mould on the inside or outside of the vehicle
- The vehicle may contain items of waste e.g. tyres, old newspapers, general rubbish
- The vehicle may not have number plates
- The vehicle may have been 'hot-wired' i.e. driven without keys connecting ignition wires together. There will be wires hanging from the dashboard.
- The vehicle may have been vandalised. Exterior vandalism might include dents in bodywork, graffiti, bumpers/spoilers being removed; interior vandalism might include radio being stolen, seat covers being slashed.
- A vehicle that residents have never seen before may have suddenly appeared in the road and no one is claiming ownership

#### **Abandoned vehicles on public land or highways**

Local authorities are under a duty to remove abandoned vehicles in their areas on land in the open air or any land forming part of a highway. Abandoning a vehicle is a criminal offence.

If the vehicle you suspect is abandoned is on public land or highway you can report it to the local authority.

- Vehicles that the local authority considers to have some value can be removed immediately, with seven days written notice period to the last registered keeper before it can be destroyed;
- Vehicles that the local authority considers to have no value can be destroyed immediately
- If a vehicle is abandoned on private land the owner/occupier of the land may be served with 15 days' notice by the local authority. The notice informs them of the intention to remove the vehicle, and they have 15 days to object.

## **Abandoned vehicles on private land**

Local authorities still have a duty to remove abandoned vehicles on land “in the open air”, including on private land.

You should work with the local authority and the DVLA to deal with any abandoned vehicle on private land.

### **Is an abandoned vehicle a breach of the lease?**

Some leases will specifically refer to the fact that only vehicles that are taxed and in a roadworthy condition may be parked in the allocated parking area. However, not all leases are that specific.

As a result, it may be perfectly acceptable that a vehicle that looks in poor condition but is not a hazard could park legitimately in the owner’s allocated parking space or in spaces allocated generally to residents.

### **Is it a health and safety hazard?**

If a vehicle is in such a condition whereby it could legitimately be regarded as a hazard, the landlord is entitled to take such action as to render the potential hazard harmless.

### **Is the vehicle actually abandoned?**

This is a difficult question to answer and there are many examples where mistakes have been made. Reasonable steps to ascertain the status of any particular vehicle will include conversations with residents, checking with DVLA and ticketing the vehicle.

A Judge in one case believed that the landlord should maintain a register of vehicles for each block although it is difficult to envisage how this might be achieved or kept updated on an ongoing basis.

### **What action is appropriate?**

If it is believed that a vehicle has been abandoned, then removal and disposal may be the only practical solution. If the DVLA check points to a non-resident, and other investigations lead to the same conclusion, consideration should be given to requesting the local authority remove and dispose of the vehicle. Many local authorities have specialist units for this type of work and many have their own direct link to DVLA.

Unless the vehicle needs removing as a matter of urgency, a notice must be affixed securely to the vehicle giving the owner a reasonable period of time within which to contact you prior to a final decision being taken. Always take a photograph of the vehicle with notice attached to demonstrate that this action has been taken.

There is no guarantee that a claim might not arise even in the most apparently straightforward case. Therefore you should proceed with caution, keep a clear paper trail and use photographs as evidence. If removal and disposal is to proceed, work closely with the local authority.

## **Nuisance Vehicles**

Abandoned vehicles often get confused with nuisance vehicles. An abandoned vehicle is always a nuisance, but a nuisance vehicle is not always abandoned. A nuisance vehicle could be any of the following

- Poorly parked;
- Causing an obstruction;
- Involved in residential parking disputes;
- Broken down;
- Untaxed.

The police have powers under the Removal and Disposal of Vehicle Regulations 1986 (as amended) to remove any vehicle that is in breach of local traffic regulations, causing an obstruction, likely to cause a danger, broken down or abandoned without lawful authority. The police can remove a vehicle to which a notice has been affixed by the local authority that has deteriorated to a dangerous wreck immediately.

### **Untaxed vehicles**

A vehicle parked on the street must be taxed and insured and, if it is aged three years or older, it must have a valid MOT certificate. If you wish to report a vehicle that does not appear abandoned, but you suspect is untaxed then you should contact the DVLA.

Details you will need to collect include:

- Make, model and colour of the vehicle;
- Registration number;
- Location of the vehicle;
- Name and address of owner (if known).

The DVLA operates a national wheel-clamping scheme to clamp unlicensed vehicles.

### **Wheelclamping on private land**

The Protection of Freedoms Act 2012 makes it an offence to clamp vehicles on private land.

### **DISCLAIMER:**

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