

Vehicle Removal Policy

DRAFT

1. Introduction to Policy

Southend Borough Council as the traffic authority has a number of responsibilities and duties; it is responsible for managing the traffic network with the aim of maintaining traffic flow and safety. Southend Borough Council also has a duty to remove abandoned vehicles that are genuinely abandoned in the borough. For clarity the Policy also explores the process associated with untaxed vehicles, which are often automatically thought of as an abandoned vehicle but rarely are. Whilst the Council does not directly manage the enforcement of untaxed vehicles the Policy explains the relationship between the Council and the Driver and Vehicle Licensing Agency (DVLA) and how enforcement of untaxed vehicles is undertaken.

1.1 Scope of the Policy

The Policy is designed to deal with vehicles that are deemed genuinely abandoned and vehicles issued with a Penalty Charge Notice and deemed to be:

- Parked dangerously or causing an obstruction on the public highway,
- Displaying an invalid disabled blue badge, and
- Vehicles which have outstanding Penalty Charge Notices, and
- Vehicles that are impeding Highways works or events.

The Policy sets out in a clear and transparent manner Southend Borough Council's approach to vehicle removal and the processes that will be followed. It applies within the boundaries of Southend on Sea, including but not limited to the adopted public highway and any land owned by the Council which is subject to a waiting or loading restriction. The Policy shall be enforced from the date of its adoption, and shall remain in force until formally revoked or superseded. This Policy will be reviewed when legislation changes.

1.2 Corporate Priorities

This Policy contributes to Southend Borough Council's Aims and Corporate Priorities for a Safe, Clean, Healthy and Prosperous town by ensuring the removal of abandoned vehicles and the removal or relocation of vehicles contravening waiting restrictions, which can affect traffic flow and road safety, impede highways works or a special event.

1.3 Policy Definitions

1.3.1 Road

For the purposes of this Policy, the meaning of "road" shall be the definition as contained in the *Road Traffic Regulation Act 1984* and *Traffic Management Act 2004*.

1.3.2 Vehicle

For the purposes of this Policy a "vehicle" is defined as:

- Mechanically propelled vehicles intended or adapted for use on roads whether or not it is in a fit state for such use,
- Any trailer intended or adapted for use as an attachment to a vehicle,
- Any chassis or body with or without wheels, appearing to have formed part of such a vehicle or trailer (e.g. vehicles with wheels removed),
- Anything attached to such a vehicle or trailer,
- Motorcycles, and
- Caravans.

1.3.3 Vehicle Owner

For the purposes of this Policy the "vehicle owner" is presumed to be the last registered keeper of the vehicle unless that person can provide evidence to the contrary.

1.3.4 Land Occupier

For the purposes of this Policy the “occupier” is deemed to be: the tenant or licensee; or anyone who has legal possession of and control over the premises.

1.3.5 Obstruction

For the purposes of this Policy “obstruction” is deemed to be a situation whereby a vehicle is parked in such a way that is obstructive to other road users and/or emergency service vehicles.

1.4 Disclaimer

Provided the Policy and procedures have been followed correctly, the Council shall not be responsible for compensating any person or persons following the removal of a vehicle and its contents.

Section 2 – Vehicles in Contravention of a Waiting Restriction or Prohibition

Parking contraventions are usually dealt with by the issue of a Penalty Charge Notice; however, in some circumstances the vehicle may additionally be impeding traffic flow, affecting the safety of road users or preventing highways repair works or a planned event from proceeding. While these vehicles will be automatically issued with a PCN, it may be necessary to also arrange for the timely removal or relocation of the vehicle.

This Policy complies with the statutory provisions of the *Traffic Management Act 2004* (as amended) and is in accordance with the *Operational Guidance to Local Authorities: Parking Policy and Enforcement* issued by the Department for Transport in March 2008 and revised in November 2010. The Policy has also been developed in conjunction with the following documents:

- *The Civil Enforcement of Parking Contraventions (England) General Regulations 2007* (SI 2007/3483)
- *The Civil Enforcement of Parking Contraventions (Representations and Appeals) (England) Regulations 2007* (SI 2007/3482)
- Statutory Guidance from the Department for Transport (DfT)
- *The Removal and Disposal of Vehicles (Amendment) (England) Regulations 2007* (SI 2007/3484)
- *The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007* (SI 2007/3487)
- *The Removal and Disposal of Vehicle Regulations 1986*

2.1 Vehicles removal when in contravention

Contravention involves the parking of a vehicle contrary to a prohibition or restriction on waiting. Where this occurs a Penalty Charge Notice (PCN) will be issued to the vehicle. The PCN has a relevant contravention code assigned to it when it is issued. Specific definitions of Contraventions and nationally used codes are detailed in ‘**Table 1 - Parking Contraventions – Definitions and Codes**’.

Where the vehicle is in contravention of a waiting restriction or prohibition shown in Table 1 and is deemed to be causing a **hazard or physical obstruction** the Council will remove the vehicle to a secure compound. The vehicle will be liable for removal after 30 minutes from the issue of the PCN. The process for removal or relocation is set out in the Policy and a diagrammatical representation is shown as Diagram 1.

The final decision to authorise the removal of a vehicle can only be taken with the authority of a senior member of the Parking Management Team. This includes Team Leader of Parking, Traffic Management and Road Safety or Group Manager, Traffic and Highways Network, Senior Civil Enforcement Officers or above.

Table 1: Parking Contraventions – Definitions and Codes

Code	Definition	Observation Period	Observations	Exemptions
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	None	If there is evidence of setting down/picking up passengers and luggage is observed, then casual observation to be followed	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.).
26	Parked in a special enforcement area more than 50cm from the edge of the carriageway and not within a designated parking place.	None	If there is evidence of loading/unloading, CEO to log for minimum of 20 minutes casual observation If there is evidence of setting down/picking up passengers and luggage is observed, then casual observation to be followed Removal only to be considered where the vehicle is obstructing the highway.	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.).
48	Stopped in a restricted area outside a school when prohibited. A vehicle is liable for removal if it is parked on zigzag lines (yellow) outside of a school 15 minutes prior to and 15 minutes after the school start and finish times.	None	None	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.).
40	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	None	None	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.). Blue badge holders provided blue badge is on display and if in a resident's allocated disabled bay then the blue badge or disabled bay permit is displayed.
47	Stopped on a restricted bus stop or stand	None	None	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.).
21	Parked in a suspended bay or space or part of a bay or space	None	If there is evidence of setting down/picking up passengers and luggage is observed	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.).
99	Stopped on a pedestrian crossing or crossing area marked by zigzags	None	None	Emergency services vehicles (police, fire, ambulance etc.); Vehicles carrying out statutory work (water, gas, electricity etc.).

2.2 'Persistent Evader' vehicle

A 'persistent evader' is a vehicle that is identified as:

- Having three or more recorded contraventions for the vehicle and the PCN's are not paid, represented or appealed against within the statutory time limits or their representations and appeals have been rejected but they have still not paid.

A persistent evader may also be a vehicle that has been issued with PCN's and the vehicle keeper's details are found to be absent or incorrect or a Notice to Owner has been returned as not known at the registered keepers address.

Where a persistent evader is in contravention of any waiting restriction or prohibition and has been issued with a PCN the vehicle will be liable for removal after 15 minutes from the issue of the PCN. Even if the persistent evader is in a designated parking place, if a PCN is issued, the *Traffic Management Act 2004* allows the enforcement authority to remove the vehicle after 15 minutes have elapsed from issue of the PCN.

2.3 Vehicles displaying an invalid Blue Badge

Vehicles that have had a PCN issued to them and are displaying an invalid disabled blue badge will be liable for instant removal. Invalid disabled blue badges will include badges that are:

- Fraudulent or an unauthorised copy;
- Where badge details have been changed;
- Where the blue badge holder has deceased or no longer is authorised to use the blue disabled badge;
- Reported stolen blue badge.

Step by step summary of process for removal of vehicles in contravention of a waiting restriction or prohibition	
Issue of Penalty Charge Notice (PCN)	Civil Enforcement Officer issues PCN for contravention of waiting restriction or prohibition.
Allow time for vehicle to depart	Where vehicle is a hazard or causing an obstruction allow 30 minutes and where vehicle is identified as a 'persistent evader' allow 15 minutes. Vehicles with invalid blue disabled badges will be processed immediately.
CEO contacts supervisor	If the vehicle is still present after the time has elapsed Civil Enforcement Officer (CEO) contacts their manager and photographs vehicle prior to removal.
Southend Council approval	CEO Manager seeks approval for removal, once authorised by Southend Borough Council the removal can commence.
Police informed	The Police will be advised that the vehicle will be removed.
Remove to compound	Vehicle will be taken to secure storage compound.
Contact Keeper	The Registered Keeper will be contacted after the vehicle is stored and will be liable for any costs incurred.

2.4 Circumstances for vehicle relocation

Where a vehicle is in contravention of a temporary prohibition of waiting, loading and unloading which has been implemented to facilitate an event or works on the highway and the vehicles presence can **impede or prevent the event or highways work taking place** it will be necessary to urgently relocate the vehicle rather than remove to a secure storage compound.

In these circumstances, any vehicle (including those displaying a valid disabled person badge) will be issued with a PCN and the vehicle will be relocated to the nearest available street after 5

minutes have elapsed from the issue of the PCN. No costs are charged for the relocation of a vehicle.

The decision to authorise the relocation of a vehicle can only be taken with the authority of a senior member of the Parking Management Team. This includes Team Leader of Parking, Traffic Management and Road Safety or Group Manager, Traffic and Highways Network, Senior Civil Enforcement Officers or above.

2.5 Vehicle clamping

In certain situations it may be preferable to immobilise the vehicle through vehicle clamping rather than physically removing it to a storage compound. The decision to clamp rather than remove will be decided on a case by case basis by the authorised Manager.

Step by step summary of process for relocation of vehicles in contravention of a temporary waiting restriction or prohibition	
Issue of Penalty Charge Notice (PCN)	Civil Enforcement Officer issues PCN for contravention of temporary prohibition.
Allow time for vehicle to depart	Where vehicle is impeding an event or highways maintenance work from being undertaken allow 5 minutes.
CEO contacts supervisor	If the vehicle is still present Civil Enforcement Officer (CEO) contacts their manager and photographs vehicle prior to removal.
Southend Council approval	CEO Manager seeks approval for relocation, once authorised by Southend Borough Council the removal can commence.
Police informed	The Police will be advised that the vehicle will be relocated somewhere close by.
Relocation	Vehicle will be relocated in the immediate area as close to the original parking location as possible, but outside the area affected by the event or the planned Highways works.

2.6 Reclaiming vehicles removed to storage

For reclaiming the vehicle, removed after the issue of a Penalty Charge Notice, proof of ownership has to be produced before the vehicle can be released. The owner or keeper will need the documentation in order to reclaim the vehicle. The vehicle owner or keeper will be liable for all costs associated with the removal and storage fees.

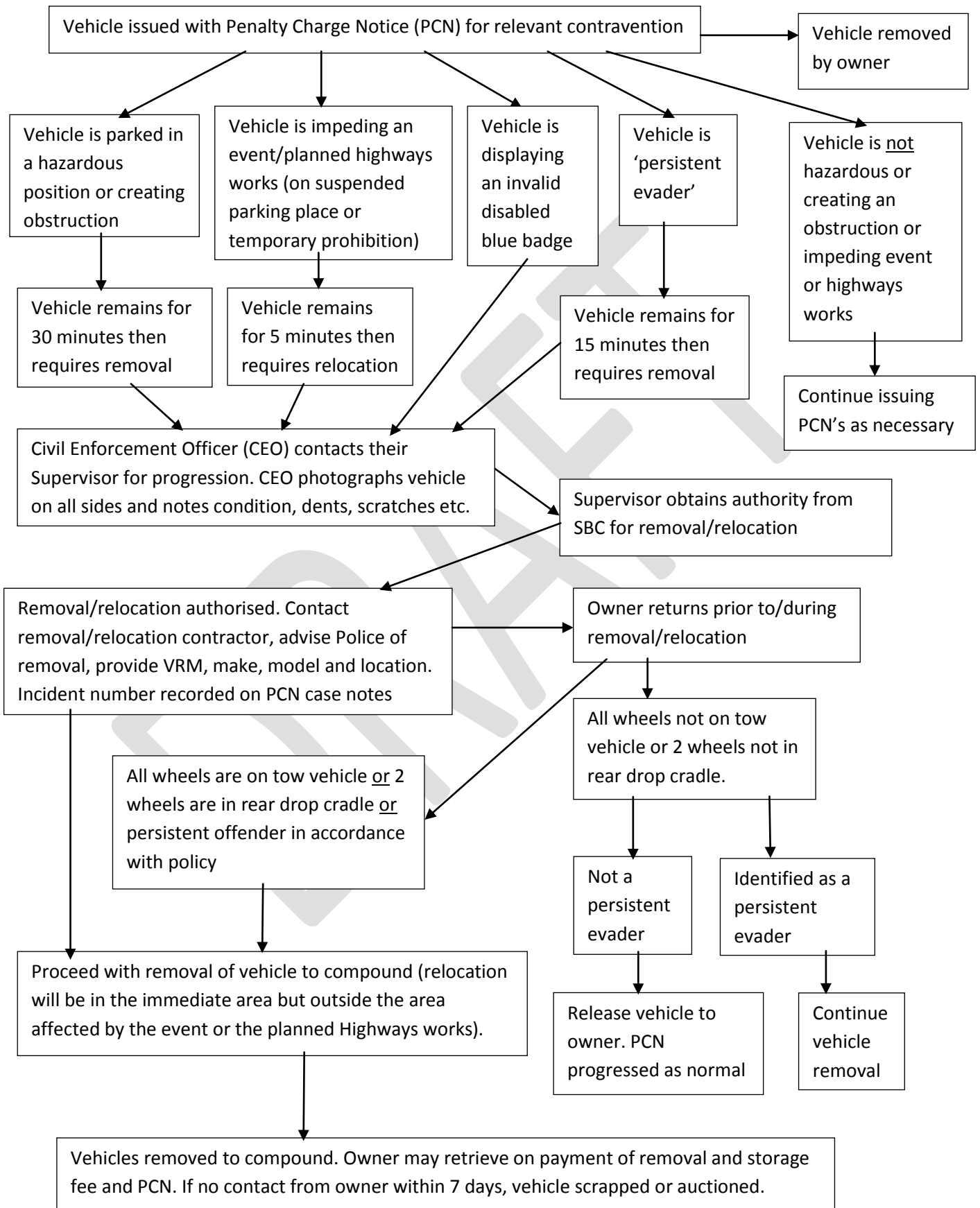
2.7 Appealing the removal decision

The owner or keeper of a vehicle that is removed after the issue of a Penalty Charge Notice (PCN) can appeal the decision taken to remove a vehicle. These appeals are to be treated the same as a PCN appeal. If an appeal is successful, all money paid in respect of the removal and storage of the vehicle will be reimbursed in full.

2.8 Associated costs

There are prescribed charges laid out in the regulation *Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008* (as amended). These are set for vehicle removal and for vehicle storage for each day or part of a day during which the vehicle is impounded.

Diagram 1: Process for Removal or Relocation of Vehicles in Contravention of a Waiting Restriction or Prohibition



Section 3 – Abandoned Vehicles

In practice very few vehicles that are reported are genuinely abandoned, they are more likely to be untaxed, causing minor obstructions, parked irresponsibly or have become the object of neighbour disputes.

Where it appears that a vehicle is genuinely abandoned it is the duty of Southend Borough Council, under section 3(1) of the *Refuse Disposal (Amenity) Act 1978*, as amended by the *Clean Neighbourhoods and Environment Act 2005*, to remove the vehicle from any land in the open air or on any other land forming part of a highway (highway is defined as a way over which all members of the public have a legal right to pass and re-pass, including carriageways, footways, verges, footpaths, bridleways and cycle tracks). Failure to remove an abandoned vehicle would be a breach of the duty. The Policy has been developed in conjunction with the following documents:

- *The Refuse Disposal (Amenity) Act 1978* (as amended)
- *The Road Traffic Regulations Act 1984* (as amended)
- *The Removal and Storage of Vehicles Regulations 1986* (as amended)
- *The Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008*
- *The Clean Neighbourhoods and Environment Act 2005*
- *Nuisance Parking Offences and Abandoned Vehicles, Guidance on Nuisance Parking and Abandoned Vehicle Legislation*, Defra, 2006

The *Refuse Disposal (Amenity) Act 1978* allows punishment of a fine of up to £2,500 and/or three months in prison for the offense of deliberate abandonment of any vehicle in the open air, or on any other land forming part of a highway. As an alternative to prosecution the Council, under the *Clean Neighbourhoods and Environment Act 2005*, has the power to issue a fixed penalty of up to £200.

3.1 When is a vehicle ‘abandoned’?

There is no legal definition of “abandoned”, however, for the purposes of this Policy; the Council considers that any vehicle that has been left ‘without lawful authority’ (*Refuse Disposal (Amenity) Act 1978*) on any land in the open air or any land forming part of the highway is potentially abandoned.

Council Officers will during the first inspection form an opinion by using a number of factors to determine whether a vehicle is finally deemed ‘abandoned’, *put simply this means that a vehicle is only abandoned when the relevant Officer at the Council decides that it is abandoned.*

Factors used to determine if a vehicle is abandoned include:

- The vehicle being stationary for a significant length of time,
- The vehicles overall age, condition and appearance,
- The vehicle being significantly damaged, run down or being un-roadworthy (this can include vehicles with flat tyres, wheels removed or broken windows),
- The vehicle being burnt out,
- The vehicle lacking one or more of the registration number plates,
- The vehicle containing waste materials,
- The vehicle not having a valid road fund licence (road tax),
- The vehicle having no current vehicle keeper on the DVLA record,
- The vehicle being unsecure or unlocked.

The following will be taken into consideration when looking at the factors listed above:

1. The inspected vehicle does not have to display the full list to be considered abandoned, but it should **not** be considered abandoned **solely on the grounds that it is untaxed**¹.
2. The inspected vehicle can have an owner and still be considered abandoned - the owner may have decided that they no longer want the vehicle. However, the registered keeper has a

¹ *Nuisance Parking Offences and Abandoned Vehicles, Guidance on Nuisance Parking and Abandoned Vehicle Legislation*, Defra, 2006

legal responsibility to keep; untaxed, SORN (Statutory Off Road Notification), damaged or dangerous vehicles, off of the public highway. In the event a vehicle is removed and stored by the Council the owner will be required to meet release costs before the vehicle may be re-claimed.

3. Taxed vehicles **can** be deemed abandoned by the inspecting Officer in certain circumstances, and providing the Council takes all reasonable steps to find and inform the last registered keeper of it being deemed abandoned, can remove the abandoned vehicle after the notice period has expired.

3.2 Areas where abandoned vehicles can be removed

For clarity, the areas that the Council will apply this Policy to will be:

- Roads (i.e. a highway or road to which the public has access. This includes adopted highways, footpaths, and estate access roads),
- Land in the open air (which means to which the public have access),
- Council owned land,
- Housing association land (where permission has been granted by the association),
- Private land (where a vehicle is abandoned on land that is occupied, the Council will give the owner/occupier of the land 15 day notice of intention to remove the vehicle).

3.3 Reporting abandoned vehicles

Potentially abandoned vehicles can be reported to the Council in a number of ways including, by e-mail, by letter, by telephone and in person. Vehicles are deemed to be newly reported at the time they are received and entered into the Councils electronic recording system. Where possible the following information will be sought at the reporting stage:

- Make, Model and Colour,
- Registration number,
- Exact location of the vehicle,
- How long it has been at the location,
- Reasons for why the vehicle is believed to be abandoned (e.g. wheels missing, broken window etc.),
- Name and contact details of the reporter (personal information is held in the strictest confidence and is not passed to anybody).

Contact details for reporting abandoned vehicles to Southend Borough Council are:

Online Form: www.southend.gov.uk (go to “abandoned vehicles” page and “Online Forms – Report an Abandoned Vehicle”)

E-mail: council@southend.gov.uk

Telephone No.: 01702 215006

Where there is a failure to provide all of the requested information about a potentially abandoned vehicle this may affect the ability of the Council to speedily investigate the report.

The Council reserves the right to make an initial judgment on whether the vehicle is ‘potentially abandoned’ based on the information provided at the reporting stage. Vehicles believed to be untaxed for a period that allows enforcement (currently 2 months and 1 day untaxed) will be passed to the contractor working on behalf of the DVLA, **they cannot be processed as abandoned vehicle reports** without further supporting information that indicates they are potentially abandoned.

Potentially abandoned vehicles that are reported to the Council to investigate will be passed within 24 hours to the relevant Council Officer for inspection and investigation.

The point at which the Council is legally entitled to remove the vehicle is the point that the investigating Officer deems the vehicle is ‘abandoned’, which will usually be at the conclusion of the enquiry period to establish whether or not the vehicle has been genuinely abandoned. The

enquiry period will include any timescales for notices served or issued that are contained in the abandoned vehicle process.

During inspection the relevant Officer will record the following information on the Inspection Form:

- Date and time,
- Exact location and type of land the vehicle is on,
- Make, model and colour,
- Registration number,
- Any obvious reason for the vehicle being parked at the location,
- Identify reasons for why the vehicle may be abandoned (e.g. wheels missing, broken window etc.),
- Whether the vehicle is considered dangerously abandoned (and may need immediate removal) or just dangerous (in which case this may be passed to Police),
- Photographs taken of the vehicle showing evidence of why it is deemed 'abandoned', photo of registration number (if any), photo of any notice affixed, photo of road tax (if any),
- If a notice needs to be sent to the occupiers of the land (private land),
- Whether a notice is affixed to the vehicle,
- Any other information that may be used as support for the decision that the vehicle is deemed genuinely abandoned.

In the event a notice is affixed to the vehicle a re-inspection will be undertaken as close to 8th day as feasible (but no later than 14 days after notice affixed) and further information will be recorded:

- Date and time of second visit,
- Whether the vehicle has moved or is still present,
- If the vehicle is deemed 'abandoned' and removal is now necessary.

The process for abandoned vehicles is set out in the Policy and a diagrammatical representation is shown as Diagram 2. The decision to deem the vehicle as abandoned would be taken by the Officer undertaking the inspection and enquiries related to the reported vehicle. In the event the Officer is unable to conclusively deem whether the vehicle is 'abandoned' or 'not abandoned', a final judgment on abandonment - based on all the information available and the balance of probability - will be made by the Group Manager, Waste and Environmental Care.

3.4 Vehicle categories

For the purposes of this Policy vehicles reported to the Council will be categorised as either:

- Vehicles that are **immediately deemed as *not* abandoned**,
- Vehicles that are **potentially abandoned** and **deemed abandoned after inspection and enquiries**,
- Vehicles that are **immediately deemed to be dangerously abandoned**,
- Vehicles that may be **untaxed, causing minor obstructions, parked irresponsibly or have become the object of neighbour disputes**.

3.5 Vehicles considered to be 'dangerously abandoned'

Vehicles which are 'dangerously abandoned' will be considered priority cases for inspection and immediate removal within 24 hours. Dangerously abandoned vehicles are such that the **manner of their abandonment is deemed to present an immediate danger to the public**. In this situation there is no responsibility to contact the owner or person responsible for the vehicle before the removal, however, checks will be undertaken with the Police in case it has been reported stolen or is a vehicle of interest. Once the vehicle is removed steps will be taken to trace the owner/person responsible and inform them of the vehicles removal.

Examples of vehicles considered 'dangerously abandoned' will include:

- Burnt out vehicles,
- Vehicles balanced on bricks or other temporary supports,
- Vehicles that have a fuel, oil, coolant leak or fuel caps missing,
- Vehicles that have contents that have the potential to cause harm (e.g. Sharps, weapons etc.),

- Vehicles that are in a dangerous condition and/or position.

In the event a vehicle is judged by the inspecting Officer to be simply **dangerous**, rather than 'dangerously abandoned', it will fall outside the scope of this Policy. The vehicle details will be passed to the Police for them to potentially arrange removal, but this would not be part of the Policy.

Step by step summary of process on any land in the open air or any land forming part of the highway	
Report of potentially abandoned vehicle	Received and logged by the Council
Review report	Initial judgment on whether vehicle is potentially abandoned
Registration check	Check whether the vehicle is taxed and if the Police have any interest in the vehicle.
First inspection	Area Environmental Care Officer (ECO) will make initial inspection and begin enquiries, inspection form completed, photographs taken, and where suspected abandoned but not considered 'dangerously abandoned' a 7 day notice affixed to vehicle.
Second inspection	ECO will revisit as close to 8 th day as feasible (but no later than 14 days after notice affixed) and if still present and no contact from the owner further checks, including if there is any Police interest in the vehicle. The vehicle can then be deemed 'abandoned'.
Vehicle considered 'dangerously abandoned'	If the vehicle is considered 'dangerously abandoned' a 24 hour sticker will be applied for immediate removal. The Police will be re-contacted to check not reported stolen or they have an interest in the vehicle.
Removal	Once deemed 'abandoned' it is authorised for removal to storage usually within 24 hours
Registered keeper contacted	Once the abandoned vehicle is removed the last registered keeper will be written to and advised that the vehicle will be destroyed unless collected within 14 days.

3.8 Vehicles that are *not* deemed abandoned

Vehicles that are **not deemed abandoned** will receive no further action as part of this Policy.

3.7 Abandoned vehicles that are not covered by the policy

Abandoned vehicles that would not normally be covered by this policy are:

- Vehicles inside private buildings and garages, and
- Vehicles on land that is located at such a distance from the carriageway that the cost of removal to the carriageway would be unreasonably high – in this situation the Council has the legal right to refuse to move any vehicle.

3.6 Abandoned vehicles on privately owned land

A vehicle can also be deemed abandoned on land that is not in public ownership. The Council has powers of entry to private land to investigate reports of abandoned vehicles under Section 8 of the *Refuse Disposal (Amenity) Act 1978*. Any person authorised by the Council may at any reasonable time enter land for the purpose of investigating the need to carry out their functions in relation to the removal and disposal of abandoned vehicles.

After inspection the Council will serve a 15 day notice of intention to remove the vehicle on the landowner or occupier if the vehicle is deemed abandoned. If this is not possible the notice will be affixed to either the vehicle or the land, however, there is no legal requirement to affix a notice to abandoned vehicles on private land.

In the event the landowner/occupier contacts the Council and objects to the removal of the vehicle after the 15 day notice has been served, this must be in writing to the Council, and no further action can be taken either under abandoned vehicle legislation or this Policy.

After the 15 day notice has been served upon the owner or occupier and has expired the vehicle can then be removed or in the event no response is forthcoming from the owner or occupier after the expiry of the notice served the vehicle can be removed.

If the landowner requests that the vehicle is removed prior to the expiry of 15 day notice, i.e. the vehicle was abandoned on their land without their express consent; they must certify this in writing and complete any removal request process. The vehicle can then be removed before the expiry of the 15 day notice.

If an abandoned vehicle report is received directly from the landowner or occupier they must provide written consent for removal and complete any removal request process needed by the Council. Where this is supplied the vehicle will be inspected as usual, if it is considered potentially abandoned the 15 day notice will not apply but a 7 day notice will be affixed to vehicle. This is in recognition that reports may be generated as a result of a neighbourhood dispute.

Step by step summary of process when on private land and <u>not</u> reported by the land owner or occupier	
Report of potentially abandoned vehicle	Received and logged by the Council
Review report	Initial judgment on whether vehicle is potentially abandoned
Registration check	Check on whether the vehicle is taxed and if the Police have any interest in the vehicle.
First inspection	Area Environmental Care Officer (ECO) will make initial inspection and begin enquiries, inspection form completed, photographs taken, and where suspected abandoned but not considered 'dangerously abandoned' a 15 day notice is issued to the land owner or occupier (or affixed to vehicle/land).
Second inspection	ECO will revisit as close to 16 th day as feasible (but no later than 21 days after notice affixed) and if still present and no contact from the owner, further checks, including if there is any Police interest in the vehicle. The vehicle can then be deemed 'abandoned'.
Objection to removal	In the event the land owner or occupier objects in writing to the removal of the vehicle the process will cease and no further action can be taken by the Council
Agreement to removal	In the event the land owner or occupier gives permission in writing for the vehicle to be removed (i.e. it is not there with their permission, they have enquired and have been unable to locate the owner the vehicle may be deemed abandoned.
Removal	Once deemed 'abandoned' it is authorised for removal to storage usually within 24 hours
Registered keeper contacted	Once the abandoned vehicle is removed the last registered keeper will be written to and advised that the vehicle will be destroyed unless collected within 14 days.

Step by step summary of process when on private land and reported <u>by</u> the land owner or occupier	
Report of potentially abandoned vehicle	Received and logged by the Council
Review report	Initial judgment on whether vehicle is potentially abandoned
Registration check	Check on whether the vehicle is taxed and if the Police have any interest in the vehicle.
First inspection	Area Environmental Care Officer (ECO) will make initial inspection and begin enquiries, inspection form completed, photographs taken, and where suspected abandoned but not considered 'dangerously abandoned' a 7 day notice is affixed to vehicle/land.
Second inspection	ECO will revisit as close to 8 th day as feasible (but no later than 14 days after notice affixed) and if still present and no contact from the owner, further checks, including if there is any Police interest in the vehicle. The vehicle can then be deemed 'abandoned'.
Removal	Once deemed 'abandoned' it is authorised for removal to storage usually within 24 hours
Registered keeper contacted	Once the abandoned vehicle is removed the last registered keeper will be written to and advised that the vehicle will be destroyed unless collected within 14 days.

3.9 Vehicle disposal

For the purposes of this Policy disposal (selling, breaking up or crushing) will usually be undertaken at any time after the Council have taken such steps as prescribed to find the person appearing to them to be the owner of the vehicle and either:

- The Council has failed to find such a person; or
- The Owner has failed to comply with a notice served on him in the prescribed manner by the Council requiring him to remove the vehicle within the prescribed period from their custody.

Disposal of vehicles will usually be undertaken after 14 days of the owner receiving a letter informing them that the vehicle has been removed to a storage site. However, where circumstances the Council may allow for immediate disposal in the event that the

3.10 Re-claiming an abandoned vehicle

The last registered keeper has 14 days to claim and remove the vehicle from storage. In the event the Council is advised that the vehicle has recently been sold additional time to reclaim the vehicle may be provided.

Before the vehicle is released to a person they must be able to show that they have a legal entitlement to it and prove their own identity in order that any outstanding costs can be pursued. Proof of ownership will involve providing one or more of the following: vehicle registration document, new keepers supplement from the vehicle registration document, valid certificate of Insurance, receipt of purchase.

The person claiming ownership vehicle can prove their identity by providing one or more of the following: passport, photo card driving licence, birth certificate. Prior to vehicle release the owner will also need to produce: evidence of valid road tax or SORN, a valid certificate of insurance, a current MOT certificate.

The above requirements may vary in certain circumstances – e.g. if the vehicle is removed by a motor trader or repairer who is transporting the vehicle off road to a garage for repair or sale or who is recovering the vehicle on behalf of a Finance or Insurance company.

There are prescribed charges laid out in the regulation *Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008* (as amended). These are set for vehicle removal and for vehicle storage for each day or part of a day during which the vehicle is impounded. The vehicle will not be released until settlement of any associated costs has been made or recovered from the owner.

3.11 Surrender of unwanted vehicle

The Council will arrange for free removal of unwanted vehicles in the Borough. To qualify the vehicle must be accessible and cannot contain waste. Details on surrendering a vehicle will be provided upon request.

3.12 Vehicles that are untaxed, causing minor obstructions, parked irresponsibly or have become the object of a neighbour dispute

These types of vehicles may not be genuinely abandoned; **untaxed vehicles cannot be considered abandoned simply because they are untaxed**. Southend Borough Council does not undertake enforcement this is undertaken on behalf of the DVLA. Vehicles that are untaxed only will be treated as untaxed after 2 months and 1 day of the expiry of the tax. From 1st October 2014 paper Tax discs will no longer be issued by the DVLA. Vehicles not displaying a disc can have their status checked at: www.gov.uk/check-vehicle-tax and, if found to be untaxed, can be reported to: www.gov.uk/report-untaxed-vehicle they **cannot be processed as abandoned vehicles** without further supporting information that indicates they are potentially abandoned.

The Council is not responsible for mediation of neighbour disputes or parking disputes. Other parking or traffic offences cannot be processed as abandoned vehicles but may be in contravention of parking restrictions and therefore be enforceable under this Policy.

3.13 Vehicles outside the scope of the policy

This Policy deals with vehicles in contravention and vehicles reported abandoned. Vehicles that are broken down or causing an obstruction should be reported to the Police for removal. The Police have powers under the *Removal and Disposal of Vehicle Regulations 1986* 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 that has had a notice affixed by the local authority that has deteriorated to a dangerous wreck immediately. The vehicle owner may be liable for costs incurred by the Police for the removal, storage and disposal of the vehicle.

3.14 Removal of non-motorised vehicles from the highway

It is an offence to store non-motor vehicles and structures such as caravans, trailers and boats on the highway. The Council has powers to remove these under the *Highways Act 1980*.

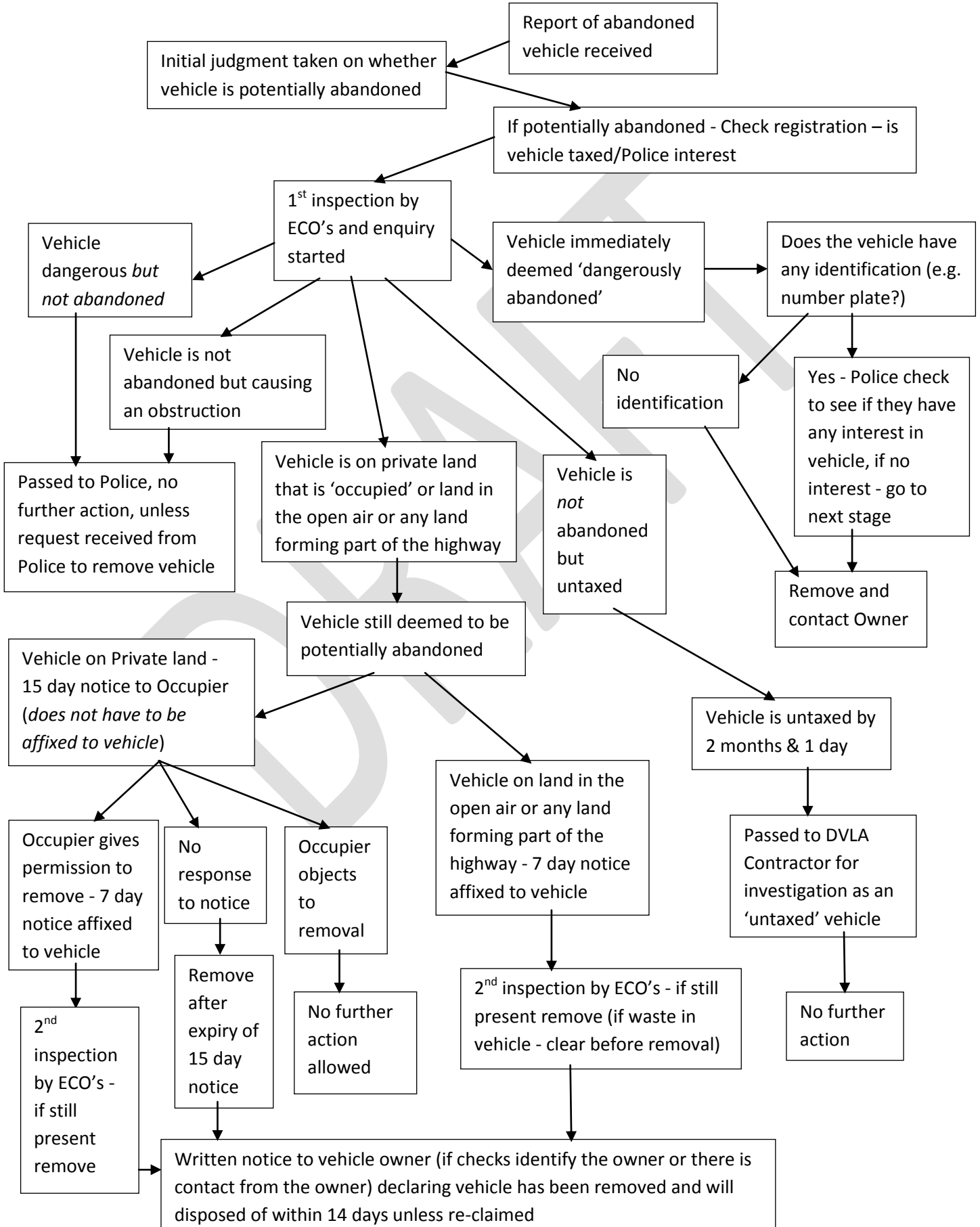
On-street parking in many areas of the borough is at a premium and additionally it is incumbent on Southend Council to maintain traffic flow and safety. Storage of non-motor vehicles and structures may impact on the amount of on-street parking available to residents and can interfere with traffic flow. When reported the non-motor vehicles or structures will be inspected and consideration will be given to the availability of on-street parking, impact on traffic flow and highway safety.

The Council will investigate and endeavour to identify the owner and request that the non-motor vehicle or structure is removed from the public highway. The Councils approach will be reasonable but if it is not possible to identify the owner or the owner refuses to comply under this legislation a legal notice will be placed on the property (or sent to the address of the owner when identified) warning that it will be removed and taken into storage if it is not removed from the highway within 28 days. If the property is not claimed within 14 days of removal it will be disposed of. Items taken into storage will be subject to storage charges that must be paid by the owner before the property can be reclaimed.

3.15 Appealing the removal decision

The owner or keeper of the vehicle that is removed as abandoned can appeal the decision taken to remove the vehicle. The appeal must be in writing to the Waste and Environmental Care Team and must be sent immediately after the vehicle has been removed to ensure the vehicle is not inadvertently destroyed.

Diagram 2: Abandoned Vehicle Process



Part 4 – Untaxed Vehicles

Untaxed vehicles are often reported as 'abandoned vehicles' or often confused for, or linked to abandoned vehicles. But a vehicle being untaxed does **not** necessarily mean that the vehicle is abandoned – likewise a vehicle that may be taxed and has an owner does not automatically mean that it is *not* abandoned. However, a vehicle being untaxed will be considered a factor, which together with other factors at the point of inspection may result in the Council deeming the vehicle as genuinely abandoned, but a vehicle **cannot** be considered abandoned solely on the grounds that it untaxed.

Untaxed vehicles have therefore been included in this Policy because of this linkage but for clarity: **Southend Borough Council does not undertake the enforcement of untaxed vehicles**; enforcement is undertaken by a contractor on behalf of the Driver and Vehicle Licensing Agency (DVLA). Untaxed vehicles are covered by different legislation, a different process and Southend Borough Council has limited powers.

4.1 Untaxed vehicles in Southend-on-Sea

The Council has an agreement with both the DVLA and the Councils abandoned vehicle contractor, which is called a 'Memorandum of Understanding' and allows authorised persons to clamp and remove untaxed vehicles on the public roads or public highways in the town. The Memorandum of Understanding is accompanied by a '*Code of Practice and Explanatory Guide for those authorised by the DVLA to action unlicensed vehicles*'. The Code of Practice **must** be applied correctly by the authorised persons and is intended to ensure that all authorised persons apply the rules fairly within the underpinning legislation (*Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 (as amended)*).

4.2 Checking on the status of a vehicle and reporting an untaxed vehicle

From 1st October 2014 paper Tax discs will no longer be issued by the DVLA. Vehicles not displaying a disc can have their status checked at: www.gov.uk/check-vehicle-tax and, if found to be untaxed, can be reported to: www.gov.uk/report-untaxed-vehicle

4.3 Areas of untaxed vehicle enforcement

Areas where untaxed vehicles may be the subject of enforcement action will generally be public roads and highways. However, the original 1997 Regulations were amended in 2008 to include "*off-road areas such as un-adopted roads, commons, public car parks and roads maintained by Housing Associations to place themselves beyond the reach of the enforcement authorities*". It does not include: "*areas associated with a dwelling, such as garages or driveways so there will be no invasion of a home-owners privacy*".

4.4 Fees and charges applied to untaxed vehicles

Release and storage fees are statutory fees and set centrally. In certain situations a surety (deposit) may be required if vehicle tax has not been acquired for the vehicle.

4.5 Appeals

The Regulations state that appeals may **only** be made against an enforcement action if:

- The appellant has paid the charges to recover a vehicle (either from clamp or from a pound) and

- The appellant claims that the vehicle was taxed at the time of clamping, or that the Regulations were dis-applied in respect of the vehicle.

All appeals are dealt with by the DVLA. Vehicle keepers wishing to appeal can do so but unless meeting the strict criteria set out above and laid out in the Regulations are unlikely to succeed.

4.6 untaxed vehicle process and enforcement by DVLA

The process for untaxed vehicles is set out below and a diagrammatical representation is shown as Diagram 3.

1. Stationary untaxed vehicles are identified on public roads (a public road is defined as a “road which is repairable at the public expense”) or public highway.
2. A check will be made with the DVLA to confirm if the vehicle has been untaxed for a period of 2 months and a day, or have a Statutory Off Road Notification (SORN) in place.
3. Check and immobilisation or removal must take place as one action within a thirty minute period.
4. Where the vehicle is clamped, the Regulations state that 24 hours must elapse before the clamp can be removed and vehicle impounded. Where no fees are paid a clamped vehicle must be impounded within 48 hours of being clamped. Where a vehicle keeper wishes to pay prior to the vehicles removal, an immobilisation device must be fitted before a release fee can be charged. When fees are paid clamps must be removed within two working hours.
5. The Regulations do allow for the instant removal of unlicensed vehicles to storage pounds.
6. Photographs are taken of the unlicensed vehicle and a vehicle inspection report completed. Offence Reports are also completed and passed to the DVLA. There is also a requirement on the contractor to notify the DVLA of any action on individual vehicles at the end of each working day.
7. Vehicles of value (section 10 of the 1997 Regulations) will need to be stored for a minimum of 14 days and vehicles of no economic value will need to be stored for a minimum of 7 days.
8. The DVLA will write to the registered keeper within 24 hours of notification of the impounding.
9. If the relevant identification payment and surety are provided the vehicle can be claimed.
10. The stored vehicle can only be scrapped once the conditions outlined in the Regulations have been met.

4.7 Circumstances where untaxed vehicles cannot be removed

1. The vehicle’s tax has not elapsed sufficiently to allow enforcement to take place.
2. Vehicle is parked on land associated with a dwelling (for example private driveway, garages and parking bays).
3. Vehicles kept by a motor trader or vehicle tester at business premises.
4. Vehicles are kept off-road with a valid Statutory off Road Notification (SORN) in force. However, if the SORN has been breached, the vehicle can be clamped or removed.

Diagram 3: Untaxed vehicle process (refer to Code of Practice and Explanatory Guide for those authorised by DVLA to action unlicensed vehicles)

Note: Southend Council does not enforce - process provided for information only

