



Department
for Environment
Food & Rural Affairs



CORNWALL
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Vehicle Seizure

Cornwall Council

The Fly-tipping Issue

The Council received multiple reports of fly-tipping in the same areas over several weeks. Some of the fly-tipping incidents included evidence linking the waste to its source and investigations revealed that an individual advertised waste removal services on Facebook and then illegally dumped the waste nearby.

Stage 1 – Vehicle Seizure

Identify the vehicle:

A description of the vehicle provided in several witness statements, was consistent and matched the vehicle shown on the Facebook page of the alleged. This was sufficient to request a DVLA Registered Keeper (RK) check. The RK matched the name that had been given in the witness statements and was linked to the Facebook account. An internal Council Tax check was carried out to confirm that the RK was registered at the address of the vehicle. The address of the RK was visited and it was confirmed that the vehicle was at the location.

The investigating officer and team leader reviewed the evidence linking the alleged to the multiple fly-tips. They concluded that there was sufficient evidence to meet the evidential test and threshold to warrant legal action. The investigating officer and team leader were also of the opinion that the alleged was a persistent fly-tipper and was unlikely to stop unless their vehicle was seized.

Under the EPA 1990 34B power to search and seize vehicles, the threshold is low – “reasonably believes” and no offence must be proved.

Seizing the vehicle would also provide an opportunity to compel the RK to contact the Council and arrange to attend a Council office to claim back the vehicle. Whilst the RK

attends the Council office to claim the vehicle they could be PACE interviewed for the fly-tipping offence at the same time.

Seizure of the vehicle:

Prior to seizing a vehicle, the team liaised with an existing contractor to arrange for a suitable secure location where the vehicle could be stored. The team contacted the local Neighbourhood Police team, to make them aware of the time and date of the seizure and requested their attendance. On the day of seizure an additional call was logged with 101 for an incident to be raised and assigned to the Neighbourhood team.

The recovery contractor was notified in advance to confirm their attendance to remove a vehicle on a set time and date and given a location to meet, that was near-by to the vehicle to be seized. The identification of the vehicle to be seized was not given to them prior to the collection. As part of the planning, consideration as to the type of recovery vehicle required was undertaken, i.e. for a large flatbed or high sided vehicle. The recovery company was asked to attend in an unmarked vehicle if available, so that they were not contacted about the location of the vehicle after recovery.

All documents required at the time of seizure were created and printed prior to seizure. Should the vehicle have been unregistered, additional copies of the notice would have been printed that could be completed onsite by any claimant. In addition, a laminated copy would have been produced that could be attached to nearby street furniture if required.

Officers visited the property of the alleged fly tipper, where the vehicle was seized from a common parking area outside their property at approximately 7am with the Police in attendance. Officers confirmed with the alleged fly tipper that they were the RK's and this was their home address. The RK was served with a notice of seizure for the vehicle. The vehicle was removed by the Council's contractor and stored at a secure location.

In addition to the Police, the investigating officer was accompanied two team members. All Council officers wore Body Worn Video cameras which were recording during the seizure. The lead officer served the notice and spoke with the RK, while the other officers were photographing the condition of the vehicle, arranging the recovery vehicle to arrive and monitoring the general surroundings for any other issues.

The Council has a seizing vehicle procedure, which includes the relevant bodies who notices should be served on during and following the seizure of a vehicle. The procedure refers back to the time frames as laid out in the EPA 34B and The Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015 (CWSPR).

There is a standard risk assessment for the preparation of seizing vehicles and a more dynamic risk assessment carried out on the day of seizure.

Store Vehicle:

The vehicle was removed and stored at a secure location provided by a Council contractor. At the time of this seizure, there was a daily storage fee.

Since this case, the Council has negotiated secure site storage provided by a contractor with no storage fees.

Determine the registered keeper:

On the day of seizure, the RK details held by the DVLA for the vehicle were requested through National Anti-Fraud Network (NAFN). The drawback of NAFN is that a RK check takes 24 hours, however they were still returned within the timescale required by the CWSPR.

A vehicle finance check of the vehicle was undertaken to confirm if the vehicle was subject to a lease hire agreement or there are additional parties that might have a claim on the vehicle. This can be done via Experian but the council have the option to obtain this information through NAFN which is cheaper.

Stage 2– Prepare Documentation

Notices:

A notice was displayed at the nearest Council office and a copy of the notice was published on the Council website. The relevant contact information for publishing the notices is provided in the procedure.

Our procedure includes template seizure notices that have all the required information as set out in Section 7 of the CWSPR, provides the relevant contact information for publishing the notices and specifies the timeframe in which notices have to be served and on who.

Give notice of the seizure:

The notice of seizure was given to the RK, as they made themselves known at the time of seizure at the registered address.

A copy of the notice was displayed on the information board of the nearest Council office as well as the Councils website.

A copy of the notice was sent to the Chief Constable of Devon & Cornwall Police.

If the vehicle was not stored at the RK address, or it had been unregistered, and no one makes themselves know to officers as the owner. Then a seizure notice would be affixed to any street furniture next to the vehicle. i.e. the nearest streetlight.

Determine entitlement of vehicle:

The RK made a claim on the vehicle and as party of that they were required to attend a Council office to provide the required documentation (proof of ID and the V5 for the seized vehicle). They were advised that they would need to be PACE interviewed as part of their claim on the vehicle as it was subject to a criminal investigation.

The CWSPR legislation provides the framework for a person making a claim of entitlement to a seized vehicle.

The claimant must provide evidence within 15 working days from the day of seizure. Any claim must be accompanied by: Proof of identity (Name and Address) such as a driving licence or a passport and utility bill. Proof of registration of a vehicle, V5 document.

Where there is insufficient evidence provided to demonstrate entitlement, the authority must within 1 working day require the claimant to provide further information within 2 further working days.

Give notice of determination:

The officers reviewed the evidence provided by the RK, who was PACE interviewed in relation to the alleged offences. The officer then gave the RK a notice of determination that they had a legal claim on the vehicle. The notice stated all the required information as set out in Section 13 of the CWSPR.

Prepare documentation for court (if vehicle is retained):

The vehicle relating to this investigation was not retained.

Release the vehicle:

Due to storage fees and the amount of time before matter would go before a court, it was decided not to retain the vehicle and release to the RK.

The seized vehicle was made available for collection from a designated Council Office on an agreed time & date, and within the prescribed collection period. Two officers were in attendance when the vehicle was released to the RK. The RK was asked to inspect and sign for the condition of the vehicle.

Sell the vehicle:

The vehicle relating to this investigation was not retained and sold.

If a vehicle is not claimed or the Council has successfully applied for forfeiture of the vehicle. The vehicle would then be collected by an approved motor vehicle auction house and sold. All monies from the sale of the vehicle would be paid to the Community Protection Team, to cover the shortfall between claim for legal cost and what the Court awarded. Where the motor auction house deem the vehicle is of little value and not worth auctioning, the vehicle will be disposed of via the Council's Abandoned Vehicle contractor.

Dispose of the vehicle:

Where a claim period has ended and no claim has been made or the Council did not determine that the claimant was entitled to the vehicle, the Council may sell, dispose or destroy the vehicle.

Where a vehicle is sold, destroyed or disposed of, notice must be given to the Chief of Police and the registered keeper/hire agency (where relevant) within 10 working days as well as notifying the DVLA. Any funds from the sale of a vehicle should be used towards expenses under section 34.

Stakeholder Index

Team Name	Description
Police	Support when seizing the vehicle. Notice Chief Constable of seizure of vehicle.
Vehicle Recovery Company	Collecting the vehicle and transporting to a secure site. Delivery to a Council officer if returned. Destruction of vehicle.
NAFN	Registered Keeper checks. Vehicle Finance checks.
Highways Team or Contractors	Provide secure storage.
Local approved motor vehicle auction house	Sale of vehicle.
Community Protection Team	Investigating fly tips and seizure of vehicles in relation to waste crime.

Contact Details

I am happy for other local authorities to get in touch to discuss this process and share best practice.

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