

Registered Social Landlords Fact Sheet 5

Abandoned Goods and Vehicles

1. Abandoned Goods

Trespass to goods is wrongful interference with them and can give rise to a claim for damages against an RSL for wrongfully disposing/damaging or destroying goods.

Under the Tort (Interference with Goods Act) 1977 an RSL will have a 'duty of care' for tenants possessions even though they may have been abandoned in a property. The RSL is termed to be an "involuntary bailee in possession".

Unless given express (and it is suggested written) instructions to the contrary by the tenant, abandoned items should be stored for 3 months. It is recommended that the items are listed in detail on an inventory compiled by two Housing Officers working together, and if possible photographed for the purpose of further evidence as to their condition.

After 3 months the items can be sold or disposed of and the proceeds used against any outstanding money owed to the Association or the cost of storage.

The intention to sell or dispose of must be sent by recorded delivery to the property unless another address is known for the tenant.

2. Abandoned Vehicles

References

Refuse Disposal (Amenity) Act 1978 sects. 3-5

Removal and Disposal of Vehicles Regulations 1986 (as amended)

Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc.) (Amendment) Regulations 1993

The Removal and Disposal of Vehicles (Amendment) Regulations 1993

Town and Country Planning Act sec 215

Introduction

In dealing with abandoned vehicles RSLs are predominantly reliant upon the actions of the police and the Local Authority.

The primary legislation available to the Local Authority to deal with abandoned vehicles is the Refuse Disposal (Amenity) Act 1978. Each Local Authority may have local bylaws, policies/procedures for dealing with such and enquiries ought to be made to ascertain in local arrangements/contact person.

Legislation does not compel an Authority to take action to remove a vehicle unless it is on the highway. Consequently despite the relevant statutory provisions detailed below attempts ought to be made to establish ownership and secure the removal of a vehicle by the owner if at all possible.

Associations are advised not to remove vehicles without careful consideration due to the risks of allegations of theft or trespass to goods. In any event, the Tort (Interference with Goods) Act 1977 must be complied with prior to disposal of an abandoned vehicle.

Scope

Local Authorities are placed under a statutory duty to remove motor vehicles unlawfully abandoned on any land in the open air or on any other land forming part of a highway except that, where the cost of removal to the nearest convenient carriageway would be unreasonably high. The procedure is discretionary.

Where a vehicle is on private land a Local Authority will not usually deal with the matter. Should they elect to, they must first serve notice on the occupier of the land and if they receive objections within 15 days they cannot remove the vehicle .

NB- Associations would be deemed the occupier of communal parts of housing schemes.

A Local Authority should be able to assist where vehicles are abandoned on Association property – for example Leeds City Council will remove vehicles on Association land for a charge but only upon indemnity from the RSL that the Authority are not to be responsible to the owner of the vehicle.

The removal of vehicles illegally, obstructively or dangerously parked are matters for the police and traffic wardens under the Removal and Disposal of Vehicles Regulations 1986 (as amended 1993).

Runners

Unless on occupied land, vehicles which are not to be taken for destruction may be removed immediately without notice (sect. 3(1)).

Wrecks

If, in the opinion of the LA, the vehicle is in such a condition that it ought to be destroyed, notice needs to be fixed to the vehicle that removal for destruction is intended in not less than 7 days' time. There is no specified form for this purpose.

Occupied land

If the vehicle (either runner or wreck) is situated on occupied land, a further notice procedure is required. In this case, the LA must give written notice to the occupier.

Delivery of vehicle

Having removed the vehicle, the LA must deliver it by arrangement:

- a) in London and English Metropolitan Areas to the waste disposal authorities; or
- b) in the rest of England to the county council

In Wales and Scotland, the Local Authority retain possession and continue to operate the procedure from that point as refuse disposal authority.

Arrangements

In each case, delivery to the disposal authority is required to be in accordance with arrangements agreed between the LA and the disposal authority, and these arrangements may include sharing of expenses incurred or income received.

Penalties

No penalties are specified for not recovering vehicles after notices have been served but sect 2(1) of the Act creates an offence of abandoning the vehicle in the open air or on land forming part of a highway, and penalties are not exceeding level 4 on the standard scale and/or imprisonment for up to 3 months (sect 2(1)).

Safe custody

For vehicles other than those intended for destruction with the appropriate notice attached, the LA or disposal authority having custody of the vehicle is responsible for taking reasonable steps to ensure its safe custody.

Disposal of vehicles

The disposal authority may dispose of vehicles delivered to them in any manner it thinks fit in specified timescales

The steps to be taken to trace the owner (i.e. other than where destruction notice given) are specified in Reg. 12 of the 1986 Regulations.

Notice to owners requiring removal of the vehicle are to be served by either

- a) delivering it to the owner;
- b) leaving it at the usual or last known place of abode;
- c) sending it by a prepaid registered letter or recorded delivery addressed to him at his usual or last known abode;
- d) where the owner is an incorporated company or body, delivering it to the secretary or clerk or sending it addressed to that person by either prepaid registered letter or recorded delivery at their registered or principal office (Reg. 13)

The persons to whom information must be given following the disposal of the vehicle are detailed in Reg. 15 of the 1986 Regulations.

Charges for storage and removal

These are statutory charges prescribed from time to time by the Removal and Disposal of Vehicles (Amendment) Regulations. Charges may be recovered from:

- (a) the owner at the time the vehicle was abandoned unless he shows that he was not aware of or concerned in the abandonment; or
- (b) any person who put it in the place from which it was removed, or
- (c) persons convicted of abandoning the vehicle under sect. 2(1)

Definitions

Current licence includes a reference to a licence which was current during any part of the period of 14 days ending with the day preceding that on which the removal of the vehicle in question took place; andreference to the expiration of a licence shall be construed as a reference to that expiration of the period of 14 days beginning with the day following that on which the licence expired (sect 4(2)).

Local authority means ;

- (a) in relation to England, a district council, London borough council or the Common Council;
- (b) in relation to Scotland, an islands or district council; and
- (c) in relation to Wales, a district council

Motor vehicle means a mechanically propelled vehicle intended or adapted for use on roads, whether or not it is in a fit state for such use, and includes any trailer intended or adapted for such use as an attachment to such a vehicle, any chassis or body, with or without wheels, appearing to have formed part of such a vehicle or trailer and anything attached to such a vehicle or trailer (sect. 11(1)).

Planning

Section 215 Town and Country Planning Act.

If vehicle is considered detrimental to the amenity of neighbourhood Local Authority Planning Department can serve notice on owner of land to remove vehicle. Again, however, this puts the emphasis on the Association as owner of the land to take action and is therefore unhelpful.

Simply abandoning a vehicle is not necessarily detrimental to amenity but some Planning Enforcement Officers may be prepared to investigate.