

DYFED-POWYS POLICE

POLICY NAME:

POLICE REFORM ACT 2002

SECS 59 + 60.

Seizure of vehicles being used in an anti-social manner.

POLICY REF. NO.: 01/04

Author:	Insp Peter Sargent	Dept:	Headquarters Operations Department
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Document History

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1.1	27/01/03	Insp Adrian Evans	Draft
1.2	18/08/03	Insp Peter Sargent	Re Draft
1.3	02/02/04	Insp Peter Sargent	Final Draft
1.3	07/06/06	Insp Peter Sargent	No changes review undertaken.
1.4	15/03/07	Insp Peter Sargent	New paragraphs 3.13, 3.14 & 3.24
1.4	23/05/07	Chief Insp. Phil Davies	Document reviewed no amendments.
1.5	01/10/08	Chief Insp. Steve Matchett	Introduction of the Police (Retention and Disposal of Motor Vehicles) (Amendment) Regulations 2008.

Consultation Circulation List

Superintendent Paul Phillips	
Samantha Gainard Force Legal Advisor	

**This policy has been drafted in accordance with the Human Rights Act
1998**

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1. POLICY

1.1 It is the **policy** of the Dyfed Powys Police to prevent motor vehicles being used in an anti-social manner that is likely to cause the public alarm, distress or annoyance. Officers will have a duty and a public expectation to:

- protect life and property,
- keep the peace,
- maintain law and order,
- prevent and reduce anti-social behaviour by drivers of motor vehicles,
- identify, apprehend and prosecute offenders.

1.2 When responding to such incidents Police Officers, in the exercise of their duty, must ensure that :

- (a) they follow a clearly defined decision making process, assessing all available and relevant information, documenting decisions made, and reviewing outcomes;
- (b) they give due regard to the welfare, safety, general well being and human rights of all individuals involved;
- (c) they do not unjustifiably discriminate against any individual or groups of individuals;
- (d) actions taken are justified, strictly proportional to, and the least intrusive and damaging option to the achievement of their legitimate aims;
- (e) they follow the Dyfed Powys Police Guidance document relating to section 59 and 60 of the Police Reform Act 2002 on seizure of vehicles being used in an anti-social manner ;

1.3 The decision making process, as at 1.2 above will be subject of review and scrutiny by Chief Officers, Headquarters Operations Department and Divisional Managers.

2. AIM AND LAWFUL AUTHORITY

2.1 The primary aim of the Dyfed Powys Police is to:

- (a) protect life and property,
- (b) keep the peace,
- (c) maintain law and order,
- (d) prevent, reduce and detect offences
- (e) identify, apprehend and prosecute offenders,

2.2 The principle lawful authorities for the exercise of the powers and duties outlined in this policy are:

- (a) Common Law
- (b) Section 59 and 60 Police Reform Act 2002
- (c) Sections 2, 3 and 34 Road Traffic Act 1988

2.3 Dyfed Powys Police consider that these actions are necessary in a democratic society in the interest of:

- Public Safety,
- the prevention of disorder or crime,
- the protection of public order,
- the protection of health and morals,
- the protection of rights and freedom of others.

3. DEFINITION OF TERMS

Definitions :-

As described in the relevant legislation

4. DEROGATIONS

NIL

5. ENFORCEMENT AND REPORTING

Enforcement

5.1 It will be the responsibility of all officers, supervisors and managers to ensure strict compliance with this policy and guidance document referred to there in.

Recording

5.2 All recording and administrative requirements relating to this policy and / or guidance will be subject to examination and evaluation by the Dyfed Powys Police Chief Officers, Headquarters Operations Department Managers, the Dyfed Powys Police Professional Standards Department; and / or relevant others.

6. ACCESSIBILITY, REDRESS AND REVIEWS.

6.1 This Document will be published and made readily available to all police officers, support staff and volunteers within the Dyfed Powys Police via the Force Intranet system, or where this facility is not available, and at the discretion of Divisional Commanders / Heads of Departments, through paper dissemination.

6.2 The document will be made available to the general public via the force external Internet Site, (www.dyfed-powys.police.uk) or upon written requests made to the force Policy Co-ordinator.

6.3 The operation of this policy by Dyfed Powys Police Officers will be subject to internal and external review mechanisms. These include Her Majesty's Inspector of Constabularies (HMIC), the Dyfed Powys Police Professional Standards Department, and other bodies as appropriate.

6.4 Any person (or persons) who has / have cause to feel aggrieved by any matter outlined in this policy may seek redress via the Dyfed Powys Police Professional Standards Department in either of the following ways:

(a) In relation to the content of this policy, any question or complaint will be dealt with in accordance with the Dyfed Powys Police organisational complaints procedures.

(b) Matters relating to the specific conduct of Police Officers will be dealt with using the Police Misconduct Regulations.

6.5 In exercising their right as detailed in 6.4 above, the individual will have a right to make representation to the Dyfed Powys Police Professional Standards Department and in so doing may seek legal advice, and have access to equal information.

6.6 This policy will be reviewed annually by the Dyfed Powys Police and may where appropriate be subject to independent scrutiny by Her Majesty's Inspector of Constabulary and any other relevant bodies or parties.

6.7 Public consultation is an important part of this process and any views or comments will be welcomed. These should be addressed to:

The Chief Constable,
Dyfed Powys Police,
P.O. Box 99,
Llangunnor,
Carmarthen. SA31 2PF

7 HUMAN RIGHTS GENERIC AUDIT COMPLIANCE LIST

POLICY NAME: **Police Reform Act Secs 59 and 60. Seizure of vehicles being used in an anti-social manner.**

Policy Owner : **Headquarters Operations Department**

Audited by : **Force Legal Adviser**

Issue	Question	Response	Page or Paragraph Ref.
Have the contents of this policy (and any attendant powers, authorities and directions contained within it) been audited for potential interference with an individual's rights?	YES	Legal Counsels advice has been sought & Para 1.2	
Have the contents of this policy been audited for the potential for it to be discriminatory. In relation to the application or provision of such rights?	YES	As above	
KEY HUMAN RIGHTS PRINCIPLES	Does the policy contain a statement explaining what the legal basis is for the policy (and any attendant powers, authorities or directions given within it)?	YES	See Paragraph 2.2
KEY HUMAN RIGHTS	Does the policy provide	YES	See

PRINCIPLES	details of what could be considered a legitimate aim(s) for the potential interference with an individuals rights by virtue of exercising the policy and its attendant powers, authorities or directions?		Paragraph 2.3
KEY HUMAN RIGHTS PRINCIPLES	Are supervisors and practitioners made aware of the need to follow a clearly defined decision making process in considering all information, and deciding on courses of action?	YES	See Paragraph 1.2
KEY HUMAN RIGHTS PRINCIPLES	Is it explicit within the policy what the minimum standards are in relation to the documentation of such decision-making?	YES	See Paragraphs 1.2 & 1.3
KEY HUMAN RIGHTS PRINCIPLES	Does the policy provide managers and practitioners with clear guidance on establishing the:- Legal basis of their actions The aim of their actions (legitimate aims can only be established by virtue of the	YES - do – - do – - do –	See Paragraph 2.2 See Paragraph 2.3

	<p>exemptions and derogation's given in the act)</p> <p>Whether their actions are justified and proportionate in seeking to achieve their aim(s)</p> <p>Whether the intended action is the least intrusive and damaging option to achieving the aim(s)</p> <p>The need to document clearly the decision-making process and outcomes of action.</p>	<p>- do –</p> <p>- do -</p>	<p>See Paragraph 1.2</p> <p>See Paragraph 1.2</p> <p>See Paragraph 1.2</p> <p>See paragraph 1.2</p>
DELINIATING BETWEEN POLICY AND TACTICS	Does the policy incorporate police tactics, which would make it impractical to publish the contents? (NB: due to publication requirements it is suggested that tactical material is not included in policy documentation for security reasons).	NO	
RIGHTS, PUBLICATION AUDIT AND INSPECTION	Does the policy contain a statement in favour of public disclosure or, if this is	YES	See Paragraph 6.1 to 6.7

	<p>inappropriate, justification of any reservation to this rule on public interest/other grounds?</p> <p>Does the policy contain:-</p> <p>a clearly defined statement of rights when a power, authority or direction is being exercised. Including the right to make representations, access to legal advice etc?</p> <p>a statement about the availability of the policy (method of proposed publication to public). and clearly defined appeals procedure?</p> <p>a recommendation about maintaining audits and inspection of decision-making?</p> <p>a recommendation about the level of independent scrutiny of decision-making and complaints?</p>	<p>YES</p> <p>YES</p> <p>YES</p> <p>YES</p>	
<p>CERTIFICATION OF COMPLIANCE</p>	<p>Does the policy contain a certification that it has been drafted in accordance with the Human Rights Act and the principles underpinning</p>	<p>YES</p>	<p>See page ix</p>

	it?		
LEGAL VETTING	Has this policy been through legal vetting for human rights compliance?	YES	See page ix
POLICY REVIEW	Has the policy got a review date to ensure ongoing compliance in light of emergent legislation and human rights case law?	Not yet.	

**CERTIFICATE
OF
COMPLIANCE**

This policy has been drafted in accordance with the Human Rights Act and has been reviewed on the basis of its contents and the supporting evidence and it is deemed compliant with that Act and the principles underpinning it.

Signed: *S. Gainard* (Force Legal Adviser)

Name: Samantha Gainard
Department: Legal Services HQ

REVIEW

This policy is due for review by: October, 2009

GUIDANCE DOCUMENT POLICE REFORM ACT 2002 SECS 59 + 60.

Seizure of vehicles being used in an anti-social manner.

1 Introduction

1.1 The Government has responded to public concern regarding the anti-social use of motor vehicles on or off public roads by introducing Sections 59 and 60 of the Police Reform Act 2002 giving the Police powers to deal with this type of behaviour.

1.2 The forms of such behaviour it is intended to address include the use of motorcycles without lawful authority on public paths or parks and vehicles being used without due care, or without reasonable consideration on a road or public places **AND** in a way that is or has been likely to cause alarm, distress or annoyance to members of the public.

1.3 It is also designed to curb the use of public roads around housing estates as illegal racetracks, or the riding of motorcycles across public parks, village greens or the countryside without authority.

It is emphasised that the powers cannot be exercised unless both an offence, as specified in the Act **AND** anti-social use are evident.

1.4 The intent of the legislation is to stop such nuisance and to act as a deterrent to further misbehaviour.

1.5 A full explanation of the legislation is set out below.

1.6 The methods of recording and enacting these powers are also set out within this document.

2 Legislation

2.1 The powers build on existing road traffic legislation. By authorising the seizure of a vehicle being used in this sort of way, they will enable the Police to deal more immediately and more effectively with the nuisance and distress caused. The use of this legislation will inconvenience those who misuse their vehicles by causing the vehicles to be seized and will see those responsible

liable to meet the resulting costs in order to recover their vehicles. This will stop the nuisance at the time and act as a deterrent to further misbehaviour. However officers should also consider reporting drivers for road traffic offences in the normal way when using these powers.

2.2 Section 59

2.3 *Subsections 1 & 2* enable a Police Constable in uniform, in specifically defined circumstances, to exercise powers in respect of a vehicle that they have reasonable grounds to believe is being used or has been used in such a way to cause or be likely to cause alarm, distress, or annoyance to members of the public.

2.4 The vehicle can be any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads. The provision therefore applies to off-road vehicles, as well as to standard motorcars and motorcycles.

2.5 The circumstances where the powers are available are:

On the public road, where the vehicle is being driven without due care and attention, or without reasonable consideration for others in contravention of Section 3 of the Road Traffic Act 1988; or

Off road, where it is being driven without lawful authority on common land, moor land or any other land that does not form part of the road, or on a footpath or bridleway, in contravention of Section 34 of the 1988 Act.

2.6 The powers cannot be exercised unless the driver is both using the vehicle anti-socially AND is committing either the Section 3 or the Section 34 offence.

Someone driving in a way that might be considered anti-social, but not committing either of these offences is not liable to have their vehicle seized, nor is someone committing a different motoring offence.

2.7 The powers can be given by designation to a Community Support Officer (CSO). They cannot be given to an Accredited Community Safety Officer.

2.8 *Subsection 3* sets out the powers. These are: -

To order the driver to stop a vehicle;

To seize and remove the vehicle;

To enter premises, other than a private dwelling house, where there are reasonable grounds to believe the vehicle is; and

To use reasonable force, if necessary, to exercise the preceding powers.

2.9 Although the power of entry does not extend to a private dwelling house, it does cover a garage or other out-building. The power of entry can be exercised by a CSO, only when in the company and under the supervision of a Constable.

2.10 *Subsections 4 & 5* provide that the person using a vehicle must be warned before the vehicle is seized, unless it is not practicable to give a warning, or a warning has been previously given. The vehicle cannot be seized unless the warning is ignored.

2.11 A previous warning given on the same occasion does not have to have been given by the same Constable. The legislation includes the provision of a warning being given to a driver of a vehicle and then for that vehicle to be seized if the bad driving is continued or repeated by another driver. This covers the situation, where a number of people gathered together are using their vehicles anti-socially and swapping them around. Similarly, if the person who was given the warning continues or repeats the bad driving but uses a different vehicle to do so then that different vehicle can be seized. A previous warning can also be one reasonably believed to have been given to the same person in the preceding 12 months. Such a warning does not have to have been given in respect of the same vehicle. This provision is designed to catch the repeat offender. The rules in relation to this are as follows;-

a) Once a warning has been given, if the bad driving that had led to the warning is continued or repeated **on the same occasion** by the same driver in any vehicle or any driver in the same vehicle then that vehicle can be seized.

b) Once a warning has been given, then if the bad driving that led to the warning is continued or repeated **on a subsequent occasion** by the person to whom the warning was given then the vehicle he is driving may be seized (even if the vehicle has changed).

2.12 *Subsection 6* makes it an offence to fail to stop when ordered to do so. The penalty on summary conviction is a fine, not exceeding Level 3 on the standard scale.

2.13 *Subsection 7* rules out entry to a private dwelling house.

2.14 *Subsection 8* provides that the powers can only be exercised when Regulations under Section 60 are in place. The Section 60 Regulations have been effective since 1st January 2003.

2.15 *Subsection 9* defines 'driving', 'motor vehicle' and 'private dwelling house'.

2.16 **Section 60**

2.17 This Section authorises the Home Secretary to make Regulations as to the removal, retention, release and disposal of vehicles seized under Section 59. It sets out the particular areas, which such Regulations might cover, but only requires Regulations that relieve an owner of any costs that might otherwise be imposed when they can prove that the misuse of their vehicle was by someone else and not their fault. Otherwise, the Home Secretary can make and as necessary, amend such Regulations as he/she thinks fit.

2.18 The Police (Retention and Disposal of Motor Vehicles) Regulations 2002 as amended by the Police (Retention and Disposal of Motor Vehicles) (Amendment) Regulations 2008.

These Regulations, made under Section 60 of the Police Reform Act, provide for the retention, safekeeping, release and disposal of vehicles seized under Section 59 of the Act. The Regulations are based as closely as possible on the Removal and Disposal of Vehicle Regulations 1986 and the Police (Retention and Disposal of Vehicles) Regulations 1995, with the charges being the same as those set in the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc) (Amendment) Regulations 1993. They include particularly the charges that may be levied on the owner before a seized vehicle is released to them, but provide specifically that an owner shall not have to meet such charges where they can demonstrate that when the vehicle was seized, they were not the person using it, they had not consented to its use in that way and they could not, by taking reasonable steps, have prevented its use in that way. In the event of dispute, it would be for the Courts to decide what constituted 'reasonable steps' in any particular case.

2.19 *Regulations 1 & 2* deal with the citation, commencement and interpretation of the Regulations.

2.20 *Regulation 3* provides that when a vehicle has been seized, it remains in the custody of the Police or other authorised party, until it is released or disposed of, in accordance with these Regulations.

2.21 During this period, the Police or other authorised party has to take such steps as are reasonably necessary to keep the vehicle safe.

2.22 The other parties that may have custody of a vehicle are those authorised by the relevant Chief Officer of Police. They can include a recovery operator or other agent, who already acts on behalf of the Police in respect of vehicles, removed, retained and disposed of under other powers.

2.23 For the purpose of enforcement of this legislation Dyfed Powys Police will operate a Contracted Vehicle Recovery/Removal Scheme as per the existing force policy on vehicle recovery and removals utilising RMSL (Removal Management Services Ltd) RMSL as the authorised recovery operator will be responsible for vehicle removal, safe keeping of property, service and retention of all relevant documentation, identification and locating

of vehicle owners and the return of vehicles, all in accordance with the legislation and this guidance document.

2.24 *Regulation 4* provides that the body, having custody of a vehicle, must give the owner, or apparent owner, a notice of seizure as soon as it is able. No precise time limit is set in recognition of the fact that the time it takes to identify the owner will vary. In some cases, the owner may be immediately identifiable, in others never. The notice must, however, always be given as soon as possible. The body must, where necessary, take the steps described in the Regulations to identify the owner of a vehicle, so that they can deliver a seizure notice to them. The steps must include checking DVLA records and, where practicable, making enquiries of any agency that retains records of hire purchase agreements that the body considers appropriate, but should include any other measures that appear practicable.

2.25 The precise format of the notice is not prescribed, but it must tell the owner where the vehicle was seized, where it is now being kept, that they must claim it within 21 days, or it will be disposed of and that before it is released to them, they will have to pay prescribed charges to meet the costs of its removal and retention. (These charges are not a fine.) The notice must also make it clear that the charges will be waived if they can demonstrate that, when the vehicle was seized, they were not the person using it, they had not consented to its use in that way and they could not, by taking reasonable steps, have prevented its use in that way. See Appendix "B" for the agreed form that is to be used by RMSL who will be responsible for serving the notice on the owner.

2.26 The seizure notice can be given by delivering it to the owner, by leaving it at his usual or last known address, or by sending it via registered post. If the vehicle is owned by a body corporate, for example, if it is a fleet or hire care, the notice can likewise be delivered or sent to the body's secretary or clerk at its registered or principal office.

2.27 *Regulation 5* provides for the release of a seized vehicle to its owner, provided they pay charges as appropriate. The person claiming the vehicle must satisfy the body holding it, that they are the owner. It is for the body concerned to decide what constitutes adequate proof of ownership, taking into account any documentary evidence the person supplies.

2.28 Where the vehicle owner claims exemption from paying the statutory fee in accordance with paragraph 2.17 above, the contracted vehicle recovery operator RMSL will liaise with the Inspector on call for the division seizing the vehicle and with their agreement the vehicle will be released to the owner with out charge and the division concerned will be responsible for paying the statutory fee.

2.29 *Regulation 6* sets out the charges for which the owner of the seized vehicle has to pay, if they are not waived. Details of these charges are provided at Appendix D.

The first chargeable period begins at noon on the day following seizure, provided that the place where the vehicle is stored is open for the vehicle to be claimed before noon that day. This means, for example, that if a vehicle is seized on a Saturday, but it is taken to a pound which does not open on Sundays, the first 24-hour period will begin at noon on Monday.

2.30 A person will not have to pay a storage charge if they claim their vehicle before noon on the first day that the holding place is open following the vehicle's seizure. They will still have to pay the removal fee.

2.31 *Regulation 7* allows the body holding a seized vehicle to dispose of it, subject to certain conditions, if it is not claimed and removed from their keeping.

2.32 The vehicle cannot be disposed of in the three months following seizure, or during the 21 days period specified on the seizure notice. The end of that 21 days period may be more than three months after seizure, if it has not been possible to give the notice at an early date. The vehicle can also not be disposed of in the seven days starting on the day on which the vehicle is claimed and the owner has paid to the Authority such a charge in respect of its removal and retention as provided for in Regulation 6. This covers the situation where the owner, for whatever reason, is not able to remove the vehicle immediately.

2.33 Before they can dispose of a vehicle, the body holding it must have been unable to deliver a seizure notice, or if it was delivered, the owner must have failed to remove the vehicle.

2.34 The vehicle can be disposed of in any way the body holding it thinks fit, whether by sale, or otherwise, e.g. destruction.

2.35 *Regulation 8* provides that where a vehicle is disposed of by way of sale, the net proceeds of the sale have to be paid to the person who owned the vehicle at the time of the sale, if they make a claim within a year. The net proceeds are the proceeds of the sale, less any charges the owner would have had to pay, had they reclaimed the vehicle.

3 Recording of Warnings / Seizures

3.1 Warnings

3.2 Suggested Terminology for Verbal Warning

"I have reasonable grounds for believing that: -

You are/have been driving in a careless/inconsiderate manner contrary to section 3 of the Road Traffic Act 1988 **OR** ` You are/have been driving on land other than a road i.e. common land Contrary to section 34 of the Road Traffic Act 1988

in a manner which

is causing/has been causing/is likely to cause alarm, distress or annoyance to members of the public. I am now warning you that if you continue to use this vehicle or any other vehicle in the same way on this or any other occasion then it will be liable to seizure."

3.3 Where an officer has occasion to warn a driver of his / her manner of use of a vehicle under this legislation the officer will record any such warning, in the first instance, within their pocket note book.

Where the substantive offence under Section 3 or Section 34 of the Road Traffic Act 1988 is evident, then consideration should be given to reporting the driver for the offences as well as pursuing the powers available under Section 59 and Section 60 of the Police Reform Act 2002.

It should also be remembered that this policy and the powers under Section 59 and Section 60 of the Police Reform Act will also be applicable and should be applied to where there is evidence of an offence of dangerous driving under Section 2 of the Road Traffic Act 1988 as in this circumstance there will always be elements of the lower level of offence under Section 3.

3.4 When ever a driver is given a warning under Section 59 of the Police Reform Act 2002 the officer giving the warning will also cause a written letter of warning to be sent to the driver via the Divisional Commander/or the OCD may delegate this responsibility to nominated Inspectors within the section/geographical responsibility for the area where the offending behaviour occurred within 14 days of the verbal warning having been given, using the format shown at appendix "C".

3.5 The officer giving the warning is to ensure that before the completion of his tour of duty that forms PNC30 and PNC20 are submitted to PNC Bureau HQ and that a STORM message is created.

3.6 The PNC30 vehicle information marker sent to PNC Bureau HQ is to include details which links the warning to the respective nominal record It should also contain details of the time, date, place and officer issuing the warning and a cross reference to any Force held additional information e.g. Storm message ref. Number.

3.7 The PNC20 which is in respect of the driver receiving the warning must contain a cross reference to the Vehicle Information report, along with the detail contained in that report relating to the warning. As a minimum, the driving licence number should be included on the record along with sufficient descriptive detail to assist in identification of the individual in the future. This may be updated descriptive detail for an existing nominal or complete descriptive information for a new nominal.

3.8 The STORM message created prior to the completion of the officer's tour of duty is to record :-

- Where and when the incident occurred giving rise to the warning
- The identity of the driver/user warned
- The description and registration number of the vehicle
- The identity of the registered keeper of the vehicle
- The nature and circumstances of the offence/use giving rise to the warning
- When and where the warning was given and by whom
- Whether the manner of use was witnessed by the warning officer or who the witness was along with record / statement location.

3.9 All the above information is to be recorded upon the STORM record through use of the vehicle and person fields. A relation type of WARNED has been created for this purpose.

3.10 A disposal code of REF ACT W – S59. PO. REFORM ACT 02 WARN has been created for the disposal following completion of the record upon STORM.

3.11 It is essential that all the above details are correctly and fully recorded.

3.12 The warnings under the legislation are valid for 12 months from the date that the warning was given.

3.13 Where a vehicle is seized in accordance with this policy then the record of that seizure will count as a recorded warning valid from the seizure date for 12 months. Should circumstances arise in the 12 months following the initial seizure which warrant a vehicle subject to that initial seizure being seized again then the prior seizure will be considered to constitute a warning permitting a subsequent vehicle seizure.

3.14 In the circumstances where a second seizure occurs, the original PNC reports relating to the person and vehicle will remain unchanged. A new information report using PNC 30 stating that the vehicle has been seized under Section 59 needs to be submitted to the PNC Bureau together with a further PNC 30 identifying the vehicle against the person record.

3.15 Correct and full recording of the person / vehicle information will enable research, via PNC, STORM or Information Assets searches, and retrieval of previous recorded warnings.

3.16 Where the warning was administered in conjunction with a process file then the fact that the warning has been administered is to be included in the statement of evidence.

3.17 Seizures

3.18 Where an officer has occasion to seize a vehicle under this legislation the officer will record any such seizure in the first instance within their pocket notebook.

3.19 Where the substantive offence under Section 3 or Section 34 of the Road Traffic Act 1988 is evident, then consideration should be given to reporting the driver for the offences as well as pursuing the powers available under Section 59 and Section 60 of the Police Reform Act 2002.

3.20 It should also be remembered that this policy and the powers under Section 59 and Section 60 of the Police Reform Act will also be applicable and should be applied to where there is evidence of an offence of dangerous driving under Section 2 of the Road Traffic Act 1988 as in this circumstance there will always be elements of the lower level of offence under Section 3.

3.21 The officer seizing the vehicle is to ensure that before the completion of his tour of duty that forms PNC30 and PNC20 are submitted to PNC Bureau HQ and that a Storm message is created.

3.22 The PNC30 vehicle information marker sent to PNC Bureau HQ is to include details which links the seizure to the respective nominal record. It should also contain details of the time, date and place of seizure and also details of the officer seizing the vehicle and a cross reference to any Force held additional information e.g. Storm message ref. Number.

3.23 The PNC20 which is in respect of the driver subject of the seizure must contain a cross reference to the Vehicle Information report, along with the detail contained in that report relating to the seizure. As a minimum, the driving licence number should be included on the record along with sufficient descriptive detail to assist in identification of the individual in the future. This information may already exist as a result of the previous PNC20 submission at the time of the original warning but recorded descriptive details should be verified and if necessary updated.

3.24 The PNC records made against a person and vehicle at the time of a vehicle seizure using PNC 20 and PNC 30 remain as valid records on the PNC for 12 months from the date of the seizure and are considered to constitute a valid warning during this period.

3.25 A STORM message will be created prior to the completion of the officers tour of duty recording :-

- Where and when the incident occurred,

- The identity of the driver / user
- The descriptive and registration number of the vehicle
- The identity of the registered keeper of the vehicle
- The nature and circumstances of the offence / use giving rise to the seizure
- When and by whom the previous warning was given
- To whom the previous warning was given
- Whether the manner of use was witnessed by the seizing officer, or who the witness was along with record / statement location

3.26 All the above information is to be recorded upon the STORM record through use of the vehicle and person fields. A relation type of SEIZED has been created for this purpose.

3.28 A disposal code of REF ACT S- S59. PO. REFORM ACT 02 SEIZED has been created for the disposal following completion of the record upon STORM.

3.29 It is essential that all the above details are correctly and full recorded.

3.30 Where the seizure is in association with a process file the seizure is to be included in the statement of evidence. The evidence of the previous warning will need to be included within the process file.

3.31 The legislation does not take account of the possibility of repeat offending by a driver who has already been warned and been subject of a vehicle seizure. Therefore repeat behaviour by a driver within the 12 month period following the original warning and seizure will require the whole procedure to start again and another initial warning will be required before the offenders vehicle can be seized for a second time.

4 Removal, Retention and Disposal of Vehicles

4.1 Any vehicle seized under the legislation will be removed from the place where seized through the Contracted Vehicle Recovery/Removal Scheme as per the existing force policy utilising RMSL (Removal Management Services Ltd). RMSL as the authorised recovery operator will be responsible for vehicle removal, safe keeping of property, service and retention of all relevant documentation, identification and locating of vehicle owners and the return of vehicles, all in accordance with the legislation and this guidance document.

4.2 The procedure and practises of the above scheme will be adhered to.

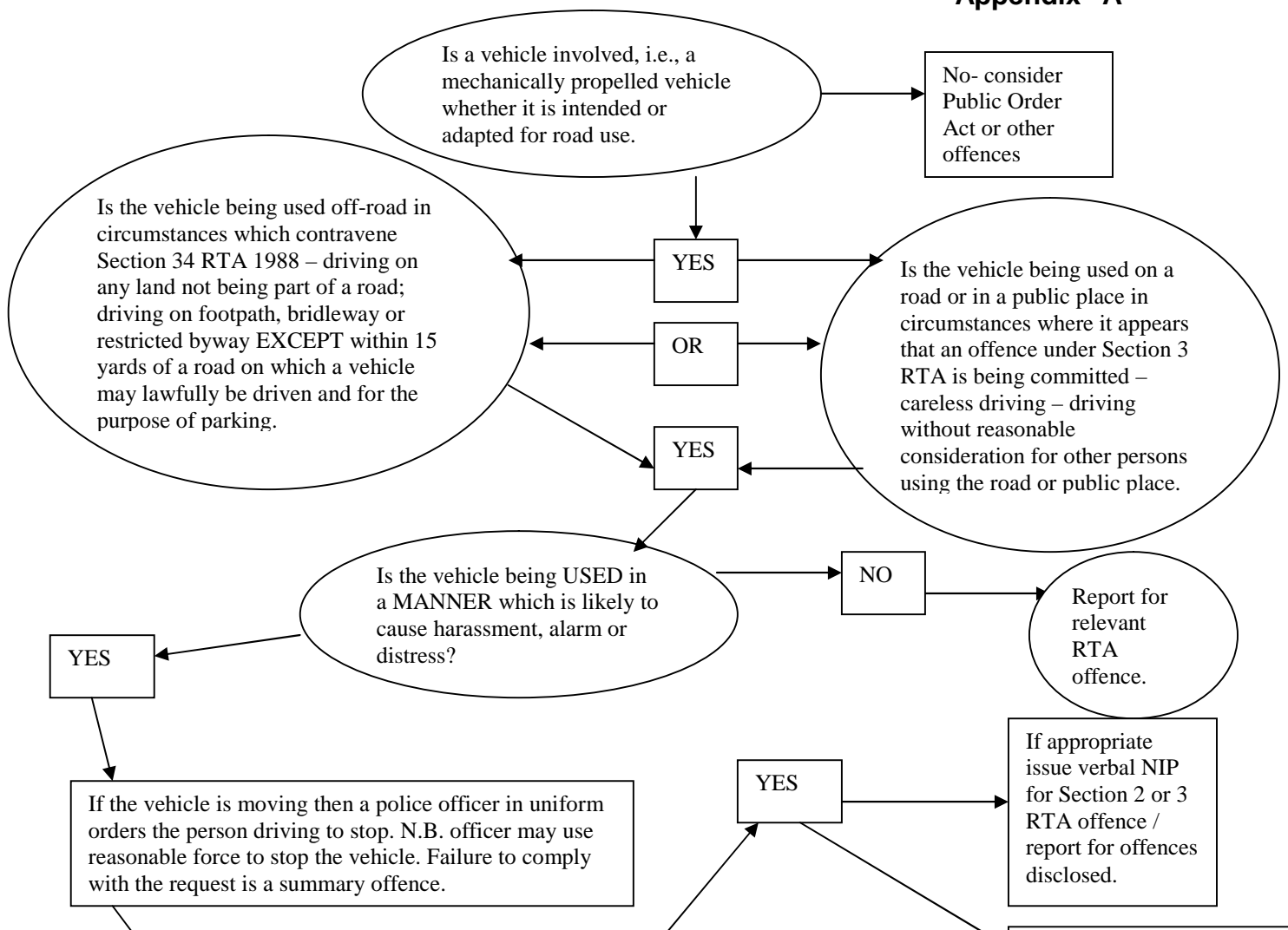
4.3 The OIC will remain with the vehicle seized pending the arrival of, and acceptance of that vehicle, by the authorised recovery operator RMSL.

4.4 The OIC will ensure that the vehicle keys are handed over to the authorised recovery operator RMSL when they collect the vehicle.

4.5 The OIC is responsible for informing RMSL that the vehicle has been seized under these powers and will provide them with the name and address of the owner.

4.6 HQ PNC Bureau will cause on a monthly basis for a print out of all vehicles seized under these powers to be forwarded to HQ Fleet Services who will liase with RMSL to ascertain details of those vehicles that have been restored to the owner after payment of the appropriate fees. Fleet Services will then inform PNC Bureau of the relevant details. HQ PNC Bureau will then in conjunction with the relevant divisional PNC Liaison Officer ensure the cancellation of those vehicle reports using form PNC35 which is to include the date and time of when the vehicles where returned and to whom they were returned.

Appendix "A"



Notice of Seizure for use by RMSL.

(HEADED LETTER PAPER)

Date..... Ref
To
.....
.....
.....
.....

Police Reform Act 2002 and Police (Retention and Disposal of Motor Vehicles) Regulations

NOTICE OF SEIZURE OF VEHICLE

Dear Sir / Madam

Vehicle Registration Number..... Make.....
Model.....Colour.....
Description.....
.....

Acting under the instructions of the Chief Constable of the Dyfed Powys Police
.....(Authorised Removal Contractor)
removed the above vehicle from (location).....
.....
at (time).....on (date).....
It has been removed to.....
.....
.....

The vehicle was seized under Sec 59 and 60 of the Police Reform Act, for being used in a manner which contravenes Sec 3 or Sec 34 of the Road Traffic Act 1988 and was causing or likely to cause alarm, distress or annoyance to members of the public.

As the person who is or who appears to be the owner of the vehicle you are responsible for the Statutory Removal and Storage Fees incurred of:-

Further you may be liable for a disposal fee if you fail to pay these amounts and collect the vehicle as shown below.

Take notice that you are directed to collect the vehicle from the above contractor, at any time prior to the expiry of 21 days from date of service of this notice, upon payment of all costs incurred. Failure to collect the vehicle will result in the Chief Constable authorising its disposal.

Failure to pay the sum due empowers the Chief Constable to direct that the vehicle be disposed of with the Statutory Fees and associated costs being defrayed from any proceeds of disposal. Any net proceeds from the disposal may be claimed within 12 months of the disposal of the vehicle.

In the event of the sum raised being less than the total due then the Chief Constable may pursue this claim by way of civil debt proceedings.

The Authorised Removal contractor will require documentary evidence that the person claiming the vehicle is the owner.

Note: Under para 5.3 of the above regulations the appropriate charges must be waived where the owner can demonstrate that when the vehicle was seized, if

(a) the use by reference to which the **vehicle** was seized under Section 59 of the 2002 was not of use by him/her; and

(b) he/she did not know of the use of the **vehicle** in the manner which led to its seizure, had not consented to its use in that manner and could not, by taking reasonable steps, have prevented its use in that manner.

In the event of dispute, it would be for the Courts to decide what constituted 'reasonable steps' in any particular case.

Signed.....
(Authorised Removal Contractor)

Appendix "C"

Warning Letter

DATE:
Your ref:
Our ref:

Dear

**RE: WARNING ISSUED UNDER SECTION 59 OF
THE POLICE REFORM ACT 2002**

On the (date) at (time) you were warned by an officer of Dyfed Powys Police at (location) for driving a vehicle, index number: contrary to section 34 of the Road Traffic Act 1988 in a manner which was causing or was likely to cause alarm, distress or annoyance to members of the public.

If you continue to drive or repeat such driving the vehicle you are driving may be seized.

Yours sincerely

Chief Superintendent

Warning Letter

DATE:
Your ref:
Our ref:

Dear

RE: WARNING ISSUED UNDER SECTION 59 OF
THE POLICE REFORM ACT 2002

On the (date) at (time) you were warned by an officer of Dyfed Powys Police at (location) for driving a vehicle, index number: contrary to section 3 of the Road Traffic Act 1988 in a manner which was causing or was likely to cause alarm, distress or annoyance to members of the public.

If you continue to drive or repeat such driving the vehicle you are driving may be seized.

Yours sincerely

Chief Superintendent

Appendix "D"

**Statutory Charges Matrix for the Removal and Storage
of Vehicles after 1st October 2008.**

		1	2	3	4	5
	Vehicle position and condition	Two wheeled vehicle	Vehicle equal to or less than 3.5 tonnes MAM	Vehicle exceeding 3.5 tonnes MAM but equal to or less than 7.5 tonnes	Vehicle exceeding 7.5 tonnes MAM but equal to or less than 18 MAM	Vehicle exceeding 18 tonnes MAM
A	Vehicle on road, upright and <i>not substantially damaged</i> or any two wheeled vehicle whatever its condition or position on or off the road	£150	£150	£200	£350	£350
B	Vehicle, excluding a two wheeled vehicle, on road but <i>either not upright or substantially damaged or both</i>	N/A	£250	£650	Unladen- £2000 Laden- £3000	Unladen- £3000 Laden- £4500
C	Vehicle, excluding a two wheeled vehicle, <i>off road, upright and not substantially damaged</i>	N/A	£200	£400	Unladen- £1000 Laden- £1500	Unladen- £1500 Laden- £2000
D	Vehicle, excluding a two wheeled vehicle, <i>off road but either not upright or substantially damaged or both</i>	N/A	£300	£850	Unladen- £3000 Laden- £4500	Unladen- £4500 Laden- £6000
Other Charges						
E	Storage per day	£10	£20	£25	£30	£35
F	Disposal	£50	£75	£100	£125	£150

Definitions

Laden means that the vehicle is carrying a load;

Load means anything other than—

(a) the body and all parts of the vehicle which are necessary to or ordinarily used with the vehicle when working on a road;

(b) any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle;

(c) the driver, any passengers and their personal effects;

(d) a crane, works truck as defined in regulation 3(2) of the Road Vehicles (Construction and Use) Regulations 1986(c), or other special appliance or apparatus which is a permanent or essentially permanent fixture of the vehicle; and

(e) any containers or other equipment intended or adapted for the purpose of holding or carrying a load by the vehicle;

MAM means maximum authorised mass as defined in regulation 3(1) of the Motor Vehicles (Driving Licences) Regulations 1999 (a);

Off road means that no part of the vehicle is in contact with the road;

On road means that any part of the vehicle is in contact with the road;

Road means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes;

Substantially damaged means such damage to a vehicle that in the reasonable opinion of a constable it cannot be driven safely on the road;

Two wheeled vehicle means a mechanically propelled vehicle constructed or adapted to have two wheels or less and the MAM of which does not exceed 3.5 tonnes;

Unladen means that the vehicle is not carrying a load;

A vehicle will only be considered upright if all parts are upright.

