

<b>Report on</b>	Collection of abandoned vehicles and dead animals
<b>Date of Meeting</b>	16th April 2024
<b>Reporting Officer</b>	Mark McAdoo, Assistant Director: Environmental Services
<b>Contact Officer</b>	Mark McAdoo, Assistant Director: Environmental Services

<b>Is this report restricted for confidential business?</b>  If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To update members on the collection of abandoned vehicles and dead animals.
<b>2.0</b>	<b>Background</b>
2.1	<p>The Waste Collection Service policy, as approved by Council in October 2022, states the following in relation to the collection of abandoned motor vehicles.</p> <p><i>Under the Pollution Control &amp; Local Government (NI) Order 1978 and Clean Neighbourhood and Environment Act (NI) 2011 a Council is permitted to collect and dispose of abandoned motor vehicles. The procedures are as follows:-</i></p> <ul style="list-style-type: none"> <li>• <i>The Council will require notification from the local PSNI requesting collection.</i></li> <li>• <i>The Council Supervisor/Officer investigates, placing seven day notice on vehicle. Upon expiry of seven days, the vehicle is photographed and arrangements made for collection and disposal.</i></li> <li>• <i>Special arrangements will be made in terms of urgent removal e.g. burnt out vehicles. Council will not collect abandoned vehicles from private land.</i></li> </ul>
2.2	<p>However given a recent complaint and queries from members on the application of the policy (including a request from the Chair at the previous meeting) a review of the procedures for the collection on abandoned vehicles has now been undertaken. A previous request was also made by the Chair concerning Council's responsibility in relation to the collection of a dead animal on the Cookstown Road and so this service/issue is also addressed in this report.</p>

<b>3.0</b>	<b>Main Report</b>
	<p data-bbox="244 259 719 293"><u>Collection of abandoned vehicles</u></p> <p data-bbox="145 333 1398 589">3.1 The Pollution Control and Local Government (Northern Ireland) Order 1978 Article 36 (1) defines what constitutes a motor vehicle for the purpose of the Order. “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 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”.</p> <p data-bbox="145 629 1382 842">3.2 Article 29 (2) (1) provides when a vehicle shall be deemed to have been abandoned. “For the purposes of paragraph (1), a person who leaves any motor vehicle or thing which formed part of a motor vehicle on any land in such circumstances or for such a period that he may reasonably be assumed to have abandoned it there shall be deemed to have abandoned it there or to have brought it to the land for that purpose unless the contrary is shown.”</p> <p data-bbox="145 882 1398 1357">3.3 Article 30 (1) and 30 (2) confers power to remove abandoned vehicles.</p> <p data-bbox="244 958 1398 1099">(1) Where it appears to a district council that a motor vehicle in its district is abandoned without lawful authority on any land in the open air or on any other land forming part of a road the council shall, subject to the following provisions of this Article, remove the vehicle.</p> <p data-bbox="244 1142 1398 1357">(2) Where it appears to a district council that the land on which a motor vehicle is abandoned as aforesaid is occupied by any person, the council shall before removing the vehicle under paragraph (1) serve on that person notice that it proposes to remove the vehicle and the council shall not be entitled to remove it if within the prescribed period that person serves on the council notice that he objects to the proposal.”</p> <p data-bbox="145 1397 1382 2016">3.4 Article 31 sets out the case under which a District Council may dispose of removed vehicles. In particular it states,</p> <p data-bbox="244 1509 1382 1615">(a)in the case of a vehicle which in the opinion of the district council is in such a condition that it ought to be destroyed, at any time in the course of or after its removal;</p> <p data-bbox="244 1619 1382 1653">(b)in the case of a vehicle, not falling within sub-paragraph (a), which—</p> <p data-bbox="244 1657 1350 1727">(i)does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and</p> <p data-bbox="244 1731 1382 1800">(ii)does not display any registration mark (whether indicating registration within or outside the United Kingdom), at any time in the course of or after its removal;</p> <p data-bbox="244 1805 1382 1874">(c)in any other case, at any time after the council has taken reasonable steps to find a person appearing to it to be the owner of the vehicle and either—</p> <p data-bbox="244 1879 935 1912">(i)the council has failed to find such a person, or</p> <p data-bbox="244 1917 1350 2016">(ii)he has failed to comply with a notice served on him by the council requiring him to remove the vehicle within the prescribed period from the custody of the council”</p>

3.5	<p>Article 31 (5) sets out the circumstances under which the Council may permit the removal of a vehicle from its custody. The onus is on the person claiming he is the owner to provide proof that he is the owner. "If before a vehicle is disposed of by a district council under the foregoing provisions of this Article the vehicle is claimed by a person who satisfies the council that he is its owner and pays to the council any expenses reasonably incurred by it in respect of its removal and storage, the council shall permit him to remove the vehicle from its custody during such period as may be prescribed; and if before the expiration of the period of one year beginning with the date on which a vehicle is sold by a district council under this Article any person satisfies the council that at the time of its sale he was the owner of the vehicle, the council shall pay over to him any sum by which the proceeds of sale exceed any expenses reasonably incurred by the council in respect of the removal, storage and disposal of the vehicle."</p>
3.6	<p>The former Department of Environment issued guidance for NI Councils on the provisions on abandoned vehicles in the Pollution Control and Local Government (Northern Ireland) Order 1978 ("the 1978 Order") as amended by sections 7 to 10 of the Environment (Northern Ireland) Act 2011 ("the 2011 Act") and The Removal and Disposal of Vehicles (Prescribed Periods) Regulations (NI) 2012.</p>
3.7	<p>The guidance states there is no legal definition of 'abandoned' and council officers must use their discretion when making decisions on this point. However, the following characteristics are generally common to abandoned vehicles and one or more of the following considerations may assist a council officer in making a decision on the point:</p> <ul style="list-style-type: none"> <li>(a) untaxed;</li> <li>(b) no current vehicle keeper on the Driver and Vehicle Agency's (DVA) record;</li> <li>(c) stationary for a significant amount of time;</li> <li>(d) significantly damaged or vandalised, run down or unroadworthy;</li> <li>(e) burnt out;</li> <li>(f) lacking one or more of its number plates;</li> <li>(g) containing waste</li> </ul> <p>The above list is not exhaustive and a vehicle may be considered to have been abandoned in circumstances where none or few of these considerations apply.</p>
3.8	<p>Where a vehicle, which is deemed to be abandoned is on land that is occupied, the council must give the occupier 7 days notice of their proposal to remove the vehicle. The council is not entitled to remove the vehicle if the occupier objects to the proposal within that period. Under a change introduced by the 2011 Act, a 7 day notice is not required where a vehicle is abandoned on a road (including any street, carriageway, highway or roadway to which the public has access) however this can still be helpful in bringing the matter to an owners' attention. The 2011 Act also removed the requirement to affix a notice to a vehicle that is deemed fit for destruction and all such vehicles can now be removed immediately. Furthermore a Council shall not be required to remove an abandoned vehicle if the cost of removal to the nearest 'carriageway' would be unreasonably high (although this defence would really only apply to private land).</p>

3.9

In consideration of the above legislation and related guidance the specific steps of the procedure which will be followed after receipt of a report of an abandoned vehicle are:

1. Acknowledge receipt of communication and create record of request.
2. Check the location to ascertain if it is on public or private land (Council will not collect vehicles abandoned on private land). If it is on public land proceed to step 3.
3. Assess if the vehicle has been burnt out. If so, arrange for immediate removal and disposal. If the vehicle is not burnt out proceed to step 4.
4. Carry out a series of checks i.e. MOT, tax and insurance and consult with PSNI/DVA to determine if the vehicle is to be classed as abandoned. If the vehicle is classed as abandoned then go to step 5.
5. Arrange for a 7 day removal notice to be affixed to the abandoned vehicle in accordance with Article 30 of the Pollution Control and Local Government (NI) and record/take photographs.
6. If upon expiry of the seven day period no objections have been received and the vehicle is still in place arrange for its removal and record/take photographs. If the vehicle is taxed and displays a registration mark go to step 7, if not arrange for the immediate disposal of the abandoned vehicle
7. Arrange for the temporary storage of the abandoned vehicle at an appropriate Council facility and send a written notice to the owner (if details available from PSNI/DVA) declaring that their vehicle has been removed and is being held in the Council's custody and that should they wish to reclaim it, they should do so within 7 days of the notice being served otherwise the vehicle will be disposed of.
8. Upon expiry of 7 days if there have been no response, arrange for disposal of the abandoned vehicle at an Authorised Treatment Facility (ATF) for End of Life Vehicles (ELV) or if not ELV arrange for sale at an approved auction.
9. Inform PSNI/DVA on the disposal of the vehicle.
10. Record actions and outcome. This step will end the process.

#### Collection of dead animals

3.10

The Environmental Services department is also responsible for the collection of and disposal of dead animals and carcasses from the highway and other public open spaces. The department is not responsible for the collection of dead animals from private land. Highway and public open spaces is defined as any:

- Road including verges (not major routes and must be safe to stop on)
- Footpaths
- Council owned sites
- Public grassed areas which are normally maintained by the Council

3.11

Animals which will be collected by Environmental services staff include road kill such as foxes, badgers, dogs and cats etc. Larger animals such as cows, horses etc. will normally be referred to an approved/licensed contractor for collection.

3.12	The Department of Agriculture, Environment and Rural Affairs enforces the legislation on the disposal of animal by-products (ABP) including fallen stock.
3.13	Where any carcass is fly-tipped or dumped on private land, wherever possible the owner of the animal will be identified and held responsible. If ownership cannot be proven, responsibility for disposal rests with the landowner. The Council has powers to take actions against fly-tipping and appropriate action may subsequently be taken against the owner of the carcass.
3.14	Where a carcass is dumped elsewhere, including on public land or highways, and ownership of the carcass cannot be ascertained, responsibility for disposal rests with the local Council and The Animal By-Products (ABP) (Enforcement) Regulations (Northern Ireland) 2015 places a duty on the Council to ensure any animal carcass in its care, is disposed of in accordance with the regulations i.e. to a facility licenced for the disposal of fallen stock.
3.15	If the carcass is causing an obstruction on a road/highway and could cause an accident, then this will be dealt with as an emergency and will be reported to the PSNI and Transport NI if the nature of the location poses serious risks.
3.16	In relation to an incident on 9th February a fence was blown down following high winds and horses escaped onto the main Cookstown to Dungannon Road. Where horses are straying like this onto the road they become the responsibility of the PSNI as they constitute a road safety issue. Unfortunately one of the horses was involved in a road traffic incident and was killed. PSNI then attended the scene and 'secured' the remaining horses in the field as best they could.
3.17	The dead horse was reported to Environmental Services for removal and a sub contractor collected and transported it to Lynergy for disposal on 10th February.
3.18	Environmental Health deals with concerns about animal welfare and refer on any complaints to the Animal Welfare team based in Omagh. However this incident was not referred on as it was not considered that there were any specific welfare concerns with the condition of the horses. The concern was more in relation to the possibility of the other horses escaping again and causing another accident however the owner was informed and took responsibility for securing the ground.
<b>4.0</b>	<b>Other Considerations</b>
4.1	<b>Financial, Human Resources &amp; Risk Implications</b>
	<p>Financial: The Environmental Services department has a dedicated revenue budget/code for both the collection and disposal of abandoned vehicles and dead animals.</p> <p>Human: None</p>

	<p>Risk Management:  The Environmental Services department has a risk assessment and safe system operating procedure in place for the collection of dead animals from the highway.</p>
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4.2	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: None
	Rural Needs Implications: None
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	Members are asked to note the contents of this report.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	None