

# **The removal, storage and disposal of vehicles by Traffic Officers and the Secretary of State for Transport**

Summary of responses to the public consultation (29  
November 2007 – 21 February 2008)

---

## Table of Contents

<b>Introduction</b>	<b>3</b>
<b>Overview</b>	<b>5</b>
<b>Consultation questions</b>	<b>6</b>
<b>Responses to question 1</b>	<b>6</b>
<b>The Government's position</b>	<b>7</b>
<b>Responses to question 2</b>	<b>8</b>
<b>The Government's position</b>	<b>9</b>
<b>Responses to question 3</b>	<b>9</b>
<b>The Government's position</b>	<b>10</b>
<b>Other concerns</b>	<b>10</b>
<b>The Government's position</b>	<b>10</b>
<b>Next steps</b>	<b>12</b>

## Introduction

In 2002/03 the Highways Agency and Association of Chief Police Officers (ACPO) conducted a review of each organisation's roles and responsibilities. The review concluded that certain responsibilities should be realigned to reflect respective organisational priorities.

One of the activities that the review recommended in future should be the responsibility of the Highways Agency is the removal of broken down and abandoned vehicles.

In November 2007, the Government published a consultation paper seeking comments on the proposed **Removal and Disposal of Vehicles by Traffic Officers (England) Regulations 2008** ("the Regulations").

These Regulations propose to:

- provide Traffic Officers designated under Section 2 of the Traffic Management Act 2004 ("Traffic Officers") with powers to request, remove or arrange the removal from the strategic road network<sup>1</sup> (and roads affecting it) of vehicles that are parked illegally, broken down, or abandoned, which are causing danger or obstruction to other road users; and
- give the Secretary of State for Transport the power to store and dispose of vehicles that have been or appear to have been abandoned, and that have been removed by Traffic Officers.

The consultation document, the Regulations and Partial Regulatory Impact Assessment were sent to more than 130 individuals or bodies. This included representatives of the vehicle recovery industry, the road haulage industry, the insurance sector, the police and relevant Government departments or agencies. The documentation was also published on the Highways Agency website ([www.highways.gov.uk](http://www.highways.gov.uk)) and was viewed by 1098 people.

The consultation ran for 12 weeks from 29<sup>th</sup> November 2007, closing on 21<sup>st</sup> February 2008.

A total of 35 responses were received and a list of respondents is included in Appendix A. All except one response made no stipulation with regard to confidentiality. The respondent who requested confidentiality has not been directly referred to or quoted in this document.

This document aims to give a comprehensive summary of the responses, although it is not practical to include every response here. Direct quotes from some responses have been included, in some cases referring to the respondent. We wish to reassure those whose arguments may not be specifically referred to that every response has been fully considered.

The Highways Agency would like to thank all respondents for their comments.

In accordance with the Freedom of information Act 2000, if you wish to see a particular response or part of it, this can be made available. All requests for information will be assessed against the requirements of that Act. Requests should be sent to:

**Address:** Miss Kelly Luther  
National Vehicle Recovery Project  
Highways Agency  
Woodlands (1<sup>st</sup> Floor)

---

<sup>1</sup> The strategic road network comprises of most motorways and major trunk roads (usually referred to as 'A' roads) in England and are roads for which the Secretary of State for Transport is the highway authority.

Manton Lane  
Bedford  
MK41 7LW

**E-mail**      [kelly.luther@highways.gsi.gov.uk](mailto:kelly.luther@highways.gsi.gov.uk)

## Overview

The majority of respondents gave the proposals their support. Four respondents did not support Traffic Officers being given additional powers as described in the Regulations, but this was not consistent across any stakeholder group and was exceeded by the 20 responses that expressed an opinion that the proposals are the right course of action. The remaining responses did not express any opinion on whether the proposals were the right course of action or not.

There were a number of requests for clarification as well as questions and concerns related to the way in which the Regulations will be used rather than the Regulations themselves.

The main comments received that were directly relevant to the Regulations were:

- Two responses questioned the need for powers to remove vehicles from land adjoining a relevant road
- One response identified that the method of removing vehicles from land adjoining a relevant road was missing from Regulation 11
- One response recommended that the Regulations should include a definition for 'reasonable' time in which a person should move a vehicle or have it moved under Regulation 3
- Two respondents questioned where a vehicle may be removed to, raising concerns that this may lead to it being abandoned elsewhere on a public highway.

Following the consultation, there have been some drafting amendments made to the Regulations, no substantive changes have been made. In response to the consultation responses the method of removing vehicles from land adjoining a relevant road has now been included in Regulation 11 and Schedule 1 to the Regulations has been amended to include only those prohibitions or restrictions that are relevant to the removal of vehicles by Traffic Officers.

The remainder of this document reviews the consultation questions and outlines the Highways Agency's next steps.

## Consultation questions

This section outlines the responses to the three questions posed in the consultation paper:

Question 1: Do you have any comments on the proposal to give Traffic Officers removal powers, as set out in the Regulations?

Question 2: Do you have any comments on the Secretary of State having storage and disposal powers, as set out within the Regulations?

Question 3: If the Regulations were enacted, would you have any additional concerns in regard to the removal powers provided to Traffic Officers or storage and disposal powers provided to the Secretary of State?

## Responses to question 1

### ***Do you have any comments on the proposal to give Traffic Officers removal powers, as set out in the Regulations?***

There were 31 responses to this question, the majority of which were positive about the proposal to give Traffic Officers removal powers:

- “I believe this is a good idea as [Traffic Officers] seem to do quite well on the motorways and will ease pressure that is piled on to the police.”

Responses made various comments on the Regulations and their implementation. Key themes have been outlined below, including an indication of how many responses made comments on the same area.

### **Time allowed for private arrangements to be made (Regulation 3)**

Four responses referred to a need for clarification of what is a “reasonable” time for the relevant person (owner, driver, etc.) to move a vehicle or to have it moved when required to by a Traffic Officer under Regulation 3.

A further nine responses highlighted the respondents’ preference for the use of private arrangements for recovery wherever possible rather than removal by a Traffic Officer:

- “I am concerned that over zealous officers will set in motion recovery of a vehicle that the owner has already, or is going to recover”
- “we are concerned that vehicles technically owned by Motability will be removed by the Highways Agency incurring costs to the disabled driver when there is a full breakdown service already in existence”
- “RAC is mindful of the scope for differing interpretations of what is 'reasonable' and seeks assurances that roadside assistance providers are given a fair and realistic opportunity to respond to request for assistance from their customers.”

### **Identifying if a vehicle has been involved in crime**

Six respondents commented on the need for Traffic Officers to be able to identify whether a vehicle was involved in crime and ensure that they do not interfere with evidence.

- “should a vehicle have been used in a robbery, is then abandoned and then found to be a criminal pool car, who will detect that the vehicle is crime related?”

- “RoSPA<sup>2</sup> believes that it is essential that systems be put in place to ensure that Highways Agency Traffic Officers do not remove vehicles before the police have completed any investigations they are conducting, or that they might wish to conduct.”

### **Where vehicles may be removed to**

Two respondents recommended that vehicles should not be able to be removed to another public highway because of concern that it would lead to those vehicles being abandoned there.

### **Removal of vehicles from other roads (Regulation 7)**

One response suggested that Regulation 7 could specify which representative of the traffic authority should give consent for a Traffic Officer to exercise powers on roads other than relevant roads.

### **Removing abandoned vehicles from adjoining land (Regulation 8)**

Two responses questioned the need for Traffic Officers to have powers to remove vehicles from land adjoining the strategic road network and suggested that this was unlikely to be necessary.

### **Method of removing vehicles (Regulation 11)**

Five responses referred to how statutory removals are conducted. This included the need to ensure that removals are undertaken by appropriately skilled individuals using appropriate equipment, with particular reference to larger vehicles; and that vehicle recovery operators acting on behalf of the Highways Agency are appropriately selected and their performance monitored.

- “RoSPA would want to point out that as well as specialist equipment to move larger vehicles, anyone doing so should also have the appropriate training”
- “It was felt that it was important to ensure that the correct type of removal was always used for vehicles being removed to avoid any unnecessary damage”.

One response noted that Regulation 11 gives no method for removing abandoned vehicles from land adjoining the strategic road network.

### **The Government’s position**

The consultation responses resulted in one change being made to the regulations. The Government believes that is the only change to the Regulations that was necessary following the responses to question 1 of the consultation. This and our views on each of the areas where comments were made are outlined below.

### **Time allowed for private arrangements to be made (Regulation 3)**

Regulations 3 and 4 set out the specific circumstances under which a Traffic Officer may request and undertake a statutory removal from relevant roads.

The definition of what is “practicable” for a removal is dependent upon the specific situation and is affected by a range of external environmental factors as well as the situation which the vehicle is in. Traffic Officers will be provided with guidance and trained to assess the risk to road users, as well as being supported by colleagues in Regional Control Centres.

---

<sup>2</sup> Royal Society for the Prevention of Accidents

The Highways Agency fully supports individuals making their own suitable private arrangements for the given circumstances and our intention is that a statutory removal is a last resort approach once all other options have been discounted.

### **Identifying if a vehicle has been involved in crime**

Traffic officers already work with police on the network and have procedures in place to determine whether an abandoned vehicle is of interest to the police.

### **Where vehicles may be removed to**

If the vehicle appears to be abandoned, with no owner present, then it will be removed to the vehicle recovery compound.

Where a statutory removal is conducted with the vehicle owner present, the Traffic Officer will (if necessary) specify the location to which the vehicle should be removed and will give due consideration to what is appropriate in the circumstances.

### **Removal of vehicles from other roads (Regulation 7)**

The Regulations will build upon processes already in place to enable Traffic Officers to work on other roads under section 5 (5) of the Traffic Management Act 2004.

### **Removing abandoned vehicles from adjoining land (Regulation 8)**

The Highways Agency expects these powers to be only rarely used. The inclusion of this Regulation is in line with the recommendations of the 2002/03 review of police and Highways Agency roles & responsibilities; to provide the Highways Agency with the same removal powers as the police currently have.

### **Method of removing vehicles (Regulation 11)**

Where Traffic Officers exercise a statutory removal, they will select the most suitable removal method. It is envisaged that the majority of removals will be conducted by a recovery service approved by the Highways Agency. However, in certain circumstances, Traffic Officers may undertake immediate removal to avoid danger.

In developing the shape of our future vehicle recovery capability we have been talking and listening to the extensive experience of our police partners and those whose daily lives are involved with the vehicle recovery industry, together with our own staff and service providers. The focus of these efforts has been on meeting our customers' needs and requirements, both in terms of improved safety and journey time reliability.

We are continuing to refine the shape of our future vehicle recovery service and this will be provided by the Highway Agency through an open and fair competition to deliver a National Vehicle Recovery Manager.

The Highways Agency plans to amend Regulation 11 to include reference to Regulation 8, thereby outlining the method of removal of an abandoned vehicle from land adjoining the strategic road network.

## **Responses to question 2**

***Do you have any comments on the Secretary of State having storage and disposal powers, as set out within the Regulations?***

There were 14 responses to this question. Key themes are summarised below.

### **Finding and contacting vehicle owners (Regulations 14 & 17)**

Four responses commented on finding and contacting vehicle owners. Two raised concern that the steps to be taken to find the owners of certain vehicles may place an administrative burden on the police; and two highlighted the need for contacting the owners of removed vehicles promptly.

- “[The Finance and Leasing Association] emphasise the need for robust procedures in identifying and contacting the owners of vehicles seized by Traffic Officers”

### **Storing property in vehicles**

Two responses recommended that property is removed from vehicles in storage, suggesting disposal of perishable items and raising concerns over the security risk of valuable items.

### **The Government’s position**

The Government does not believe that changes to the Regulations are required in the light of the responses received to question 2 of the consultation.

### **Finding and contacting vehicle owners**

Regulations 14 and 17 set out the steps to finding the vehicle owner and these are similar to current police legislation, so should not incur any greater administrative burden. In addition, the Highways Agency is ensuring that the processes that it puts in place will be efficient and timely in finding and contacting vehicle owners.

### **Storing property in vehicles**

The Highways Agency will take the comments raised into consideration as it develops its policy and procedures for the treatment of property removed from abandoned vehicles that are stored by the Secretary of State. A number of authorities already remove and store vehicles and we will look to these authorities for examples of best practice.

## **Responses to question 3**

***If the Regulations were enacted, would you have any additional concerns in regards to the removal powers provided to Traffic Officers or storage and disposal powers provided to the Secretary of State?***

One response raised a concern about a Traffic Officer requiring a damaged vehicle to be moved:

- “should a Traffic Officer require a vehicle to be moved, particularly to avoid immediate danger, it may place the vehicle operator and driver in such a position as to have been ordered to move a vehicle in an unsafe state which could result in a prohibition order being placed on that vehicle”

## **The Government's position**

The form of removal chosen must be suitable. If a removal is likely to cause danger to other people using the road, the Traffic Officer will require an alternative method of removal. The methods of removal that may be used are described in Regulation 11.

## **Other concerns**

A number of respondents referred to concerns around costs, requesting that they are reasonable and transparent. Comments included:

- The application of statutory charges should be transparent, with removals logged appropriately in case of challenge
- A number of responses from vehicle recovery operators (VROs) raised concern that they would suffer because of non-payment of statutory charges
- Where will any revenue from unclaimed proceeds from vehicle disposal go?

Two responses referred to the impact that the shift in responsibilities would have on current arrangements – one that it may adversely affect police schemes by reducing their size and therefore value and one that it may have an impact on a VRO's business with the police.

Two responses raised concern that Traffic Officers may be opened up to confrontational situations with members of the public.

One response questioned what would happen if a vehicle owner failed to comply with a Traffic Officer's requirement to move their vehicle.

## **The Government's position**

This consultation did not consider statutory charges which are set out in Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc) Regulations 1989. The charges set out in these regulations have been recently reviewed by the Home Office and were consulted on in May 2007. The consultation resulted in new regulations for statutory charges being introduced (the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008) which will come into force on 1<sup>st</sup> October 2008. The statutory charges that will be applied to removals by Traffic Officers and storage and disposal of vehicles by the Secretary of State will be the same as the charges set out in these new regulations introduced by the Home Office..

The owner / driver will be made aware of the statutory charges at the earliest opportunity. These will be also available at any vehicle recovery compound where vehicles are stored on behalf of the Secretary of State.

The Highways Agency plans to implement the Regulations with the support of a new contract with a single National Vehicle Recovery Manager (which may sub-contract to local vehicle recovery operators). This contract will ensure consistent standards and payment terms, with owners paying reasonable costs and vehicle recovery operators receiving appropriate payment for the work carried out. Where a statutory removal is performed, the NVRM will receive a contracted price for the range of services provided.

Any sum remaining after costs have been deducted from disposal of unclaimed abandoned vehicles will be held for the period of 1 year to be returned to the owner if he satisfies the Secretary of State that he was the owner at the time the vehicle was disposed. If no one has claimed ownership of the vehicle within 1 year of it being disposed of the remaining sum will be paid into the consolidated fund.

Existing police schemes will remain as police continue to be involved with the removal of vehicles on local authority roads, A roads and also with serious incidents on the motorways.

There was concern over Traffic Officers dealing with confrontational situations. Currently Traffic Officers deal with road users face to face as part of their existing duties.

If the owner / driver cannot make their own suitable removal arrangements a Traffic Officer will invoke a statutory removal. If the owner / driver attempts to prevent the Traffic Officer undertaking their duties then the Traffic Officer may call the police.

### **Department for Transport's Public Consultation on Drafting Contracting Out Orders for Highway Functions**

Between January 10<sup>th</sup> and February 21<sup>st</sup> 2008 the Department for Transport held a public consultation where the Government proposed to consolidate existing contracting out orders and include new and modified functions into two new orders. The purpose was to enable street authorities and highway authorities to effectively contract out highway functions. Part of this consultation looked at allowing the functions of the Secretary of State under the Removal and Disposal of Vehicles (Traffic Officers) (England) Regulations 2008 to be contracted out in future.

There were 26 responses to this question and all respondents agreed that these proposals could be included in the contracting out orders.

The functions of the Secretary of State will not be contracted out in the short term although this may change in future.

## Next steps

The responses to the consultation do not raise any significant concern about the Regulations. Only change will be made as a result of the consultation responses. We will include the method of removal of abandoned vehicles from land adjoining the strategic road network by including reference to Regulation 8 within Regulation 11.

Other comments and questions will continue to be considered in the implementation of the Regulations.

The following key dates are planned:

Regulations and final Impact Assessment* laid before Parliament	September 2008
Regulations come into force	October 2008
Regulations implemented	Early 2009

\* The final Impact Assessment will be available on the Highways Agency's website. [www.highways.gov.uk](http://www.highways.gov.uk)

---

## **List of respondents**

---

### **Small to medium enterprise**

Auto Recoveries - George Graham  
Eurotow Recovery & Repair  
J K Autos - Jim Kirby  
M J Auto and Commercial - Mr M Johns  
Neil Yates Recovery Service - Neil Yates  
Paul O'Brien  
R & W Recovery and Repairs - Richard Stuart-Turner  
Rydam Universal Ltd - John Green

### **Large company**

Automobile Association (the AA) - Paul Watters  
Aviva plc - Nicola Roulston

### **Representative organisation, trade union or interest group**

Association of British Insurers - Derek Fawell  
Disability Matters - The Marquis de Derval et de Moisdon  
Finance and Leasing Association - Paul Harrison  
Freight Transport Association - Malcolm Bingham  
Institute of Advanced Motorists - Peter Rodger  
Prospect - John Higgins  
Road Haulage Association - Ray Engley  
Road Operators' Safety Council - Tony Beetham  
Road Rescue Recovery Association - Nigel Howarth  
Royal Society for the Prevention of Accidents - Duncan Vernon

### **Local or central government**

London Borough of Hounslow - Christopher Deakins  
Vehicle and Operator Services Agency - Janice James

### **Police**

Association of Chief Police Officers - Superintendent Mick Doyle  
Merseyside Police - Inspector David Corcoran  
Metropolitan Police Service - Graham Webb

---

Police Federation of England and Wales - John Francis  
Wiltshire Police - Andrew Barnett

**Member of the public**

Keith Brickell  
Jameil Chaudhry  
Rob McEwan  
Debra Penny  
David Smith

**Other**

Roger Ewans – LGV instructor and senior observer  
Transport Research Laboratory - Bill Newton

One respondent requested confidentiality, so has not been included in this list.