

MIDDLE LEVEL COMMISSIONERS

PROTOCOL ON THE USE OF POWERS TO REMOVE VESSELS FROM THE MIDDLE LEVEL SYSTEM

Middle Level Offices

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Protocol on the use of Powers to remove vessels from the Middle Level System

Introduction

The Middle Level Commissioners are responsible for the regulation of navigation on the Middle Level Inland Waterways, between the River Nene and River Great Ouse.

Regulation and Enforcement is a necessary part of the powers of regulation and includes the power to remove vessels from our waterways which are unregistered, sunk, stranded, abandoned or left or moored without lawful authority.

Section 16 of the Middle Level Act 2018 provides that the Commissioners must prepare, publish and maintain a protocol on the use of any powers to remove vessels. The Protocol must contain the following:

1. Factors which will be taken into account by the Commissioners when deciding how soon you take action after a minimum time left specified by the Act.
2. Specify action to be taken by the Commissioners to ensure that removal powers are exercised as a last resort.
3. Include in the Protocol other measures the Commissioners think appropriate to ensure that their removal powers are exercised with sensitivity.
4. Specify action to be taken to ensure that persons acting under Section 17 of the Act – the Commissioners authorised offices are aware of and will comply with the provisions of the Protocol.

Background to the requirement to remove Vessels.

1. If a vessel is unregistered, sunk, stranded, abandoned or left moored without lawful authority, the Commissioners can serve notice on the owner of the vessel to register or remove their vessel from Waterway. In an emergency situation or if the vessel is obstructing navigation, the Commissioners may remove the vessel without serving any notice.
2. If the vessel owner fails to comply with the notice, the Commissioners have the power to remove (or relocate) the vessel itself and seek to recover the costs from the owner. If the owner does not pay the costs and/or reclaim their vessel within the period specified in the Act, the vessel becomes the property of the Commissioners.
3. As part of this function the Commissioners become responsible for keeping the vessel and its contents in a safe and secure condition once removed or relocated until such a time that the costs are paid or failing that it becomes the property of the Commissioners.

Boat Removal Process

The removal of a Vessel from the Middle Level Waters will only be exercised as a last resort and the Commissioners will seek to engage with Boat owners both formally and informally to avoid the necessity for the removal of vessels.

The factors which the Commissioners will take into account before exercising their powers of removal are:

1. Is there an emergency situation which requires a vessel to be removed from the Water?
2. Do the Commissioners have the details of the current owner of the vessel (with contact details) and vessel name?
3. Are there reasons for the non-registration of the vessel which have been notified to the Commissioners?
4. Are there alternatives to vessel or boat removal such as a warning letter, formal caution or prosecution?
5. Is the vessel owner a repeat offender?
6. Have the Commissioners previously prosecuted the vessel owner for non-registration?
7. Have all attempts to contact the boat/vessel owner been exhausted?
8. Is anyone living or suspected of living on the vessel and if so, has personal contact been made with the resident boat owner?
9. Have the personal circumstances of the vessel owner been considered and taken into account.
10. Does the vessel owner/occupant have any vulnerability due to disability, age, illness or financial circumstances, unemployment, learning difficulties or mental health needs that may need referred for help and assistance to other Agencies? The Commissioners will work with vulnerable boat owners and signpost them to Agencies/Organisations who can provide support services to avoid boat removal.
11. For those in need of the support, the Commissioners will at their discretion offer the following: (This is not an exhaustive list)
 - Flexible payment options
 - Permitted overnight stays on moorings on medical or other appropriate grounds.
 - Provide a list of Organisations who can offer free impartial and non-judgemental advice.
 - Putting the boat owners in touch with nationally recognised boating organisations/waterways chaplains who have experience to give advice and assistance.

THE ABOVE SERVICES MAY NOT BE OFFERED in these instances:

- There are no vulnerabilities or support needs that have been identified.
- Non-engagement or refusal of any signposting to support agencies.
- Breach of the Terms and Conditions of the Licence that are not related to any vulnerabilities.

Procedure for the removal of boats

1. Stranded, Grounded and Sunken Vessels and Vehicles

If a vessel is sunk in any waterway, the owner of the vessel must as soon as possible raise and remove it and remove any obstructions caused by the sinking and raising of the vessel. If the owner of the vessel fails to raise and remove the boat, the Commissioners may raise and remove the vessel and any obstruction. The Commissioners can at any time move or remove without notice a vessel if it is causing obstruction or is a source of danger, pursuant to the bylaws made under Section 11 or Section 51 of the Middle Level Act 1874. The Authorised Officer of the Middle Level Commissioners will offer Notice to the vessel advising that the vessel should be removed within 24 hours of the Notice.

2. Stranded or Abandoned Vessel in the Waterway

The Authorised Officer shall affix a Notice to the vessel advising that the vessel should be removed within 14 days of the date of the Notice. The Authorised Officer should make reasonable enquiries to ascertain the owner and contact them to advise them to remove the vessel. This should be followed by a written notice served by Post to the owner of the vessel or the owner cannot be ascertained after reasonable inquiry, the notice may be served by leaving it conspicuously attached to the vessel.

3. Vessels without lawful authority left or moored in any waterway

A vessel is left moored without lawful authority if:

- The vessel is unregistered and the charges for use of any Middle Level water have not been paid.
- The position or mooring of the vessel constitutes a trespass or
- The vessel obstructs navigation in the waterways

The Authorised Officer will affix a Notice to the vessel and then write to the owner of the vessel giving no less than 28 days notice to the owner of the vessel, advising that the vessel should be removed or registered.

4. Following service of written notice, the Navigation Officer will take steps to establish occupation of the vessel and depending on the response to the 14 day or 28 day notice, the Navigation Officer will take appropriate steps to encourage registration of the vessel or removal of the vessel from the Middle Level Waterways or that particular mooring.
5. If the matter is unresolved and the vessel is uninhabited then a final written notice is sent to the owner of the vessel, or placed again upon the vessel if the owner cannot be located through reasonable enquiries, advising that the vessel will be removed after a further 28 days. If it is discovered that the vessel is inhabited by a liveaboard owner – the appropriate 14 day or 28 day notice is sent to the vessel owner and file submitted to the Solicitor and Assistant Clerk for further action and if unresolved proceedings be commenced for a Court Order.

Recovery of Costs

The Commissioners may recover from the owners of any vessel all expenses reasonably incurred by the Commissioners in respect of raising, removal and storage of the vessel and where appropriate the cost of cleaning up any contamination caused by the vessel.

If any vessel which is removed from the Waterways is not within six weeks of its removal by the Commissioners proved to the reasonable satisfaction of the Commissioners to belong to any claimant, the vessel and any chattels and goods on the vessel shall vest in the Commissioners.

Within six months of removal, if a claim is made to the vessel, by a person who proves to the reasonable satisfaction of the Commissioners that they are the owner of the vessel the Commissioner must:

1. If vessel is unsold, permit the owner to retake it upon payment of the expenses incurred by the Commissioners in removing the vessel.
2. If the Vessel has been sold, pay the owner the amount of proceeds of sale after deducting the expenses of removal of the vessel and where the proceeds of the sale are insufficient to reimburse the Commissioners those expenses, the deficiency may be recovered by the Commissioners.

Residential Liveboard Boats

In the case of Residential boats which are occupied as a main or only residence, the personal circumstances of the owner of the vessel will be taken into account and vessels only removed as a last resort and following action to obtain a court order. The Commissioners will seek to work with other authorities to provide information and support including liaison with the appropriate local authority and housing authority who have a duty of care to provide services – Housing Social Services benefit/council tax advice and other support agencies. Vessel removal will only ever be undertaken in these circumstances when all other avenues have been exhausted.

Application of the Protocol

This protocol is applicable to all Middle Level Commissioners, employees of the Commissioners, and Contractors who come into contact with vessel owners on the Middle Level Waterways. Training on the protocol will be provided to all appropriate staff of the Commissioners and their Contractors.

The Middle Level Commissioners officers will at all times be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible will seek to work with boat owners towards compliance rather than formal enforcement action.