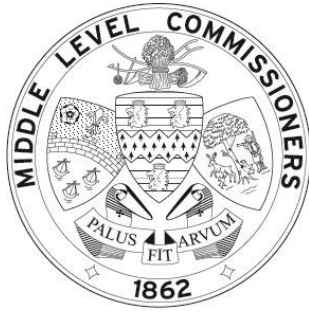




**middle level
commissioners**

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Protocol on the use of powers to remove vessels from the Middle Level Commissioners' navigable waterways

Version 2
Enacted from: 03 June 2024

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A Introduction

The Middle Level Commissioners are responsible for the regulation on the Middle Level navigable waterways as outlined in [Schedule One](#) of the [Middle Level Act \(2018\)](#). This includes within marinas connected to our navigable waterways.

Regulation and enforcement are a necessary part of our role as a navigation authority and this includes for the power to remove vessels from our waterways which are unregistered, sunk, stranded, abandoned or left/moored without lawful authority.

We see removal as a last resort when dealing with unregistered vessels. Whenever possible we will work with the owners of vessels to bring them into compliance, ensuring they meet the requirements for registration which, to help ensure the safety of all who use the waterways, includes boat safety certification and insurance.

Registration income is essential for the maintenance and improvements of the navigation services we provide on our waterways. Not paying a licence fee or defaulting on payments directly affects the service we are able to provide, impacting fellow vessel owners.

The cost of removing vessels is considerable and in our experience so far rarely recoverable from absent and/or unknown owners. This is a financial burden within our navigation account that reduces our ability to deliver other navigation services and improvements.

B This Protocol

[Section 16](#) of the Act 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 we 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 officers, are aware of and will comply with the provisions of the Protocol.

The first version of a protocol was published on 16th October 2020 and this second version is an update based on experience and learning.

C Background

1. If a vessel is unregistered, sunk, stranded, abandoned or left moored without lawful authority, we can serve notice on the owner of the vessel to register or remove their vessel from the waterway.
2. In an emergency situation or if the vessel is obstructing navigation, we may remove the vessel without serving any notice.

3. If the vessel owner fails to comply with the notice, we 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.
4. As part of this function, we 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 our property.
5. The condition and location of a vessel and cost of/capacity for recovery operations, along with the knowledge held regarding vessel ownership are key within our decision making and may mean recovered vessels are immediately disposed of.

D Emergency Situations (inc obstruction to navigation)

If a vessel is unregistered, sunk, stranded, abandoned or left/moored without lawful authority and we deem there to be an emergency situation, including an obstruction to navigation or causing environmental damage, then we can remove or relocate the vessel without serving a notice.

On a case-by-case basis, the following are factors that we will consider when determining if there is an emergency situation:

- Risk posed to other users of our waterways (eg boaters, anglers, walkers)
- Risk posed to our effective operations (eg pumping efficiency, bank and channel maintenance)
- Risk of causing a pollution or environmental damage
- Risk to the vessel from our operations (eg pumping)
- Likelihood of the vessel being targeted for vandalism, theft or antisocial behaviour

E Non-Emergency Situations

1) Stranded, Grounded, Sunken or Abandoned Vessels

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. The owner is responsible for ensuring no environmental harm is caused, including pollution or habitat damage, by the removal activities and must remediate any damage if it is caused. Preventative steps must be taken to minimise the risk of environmental harm such as the installation of absorbent booms and mats during the removal. If the owner of the vessel fails to raise and remove the boat, we may raise and remove/relocate the vessel and any obstruction.

An MLC Authorised Officer shall affix a Notice to the vessel advising that the vessel should be raised/removed/made safe by the owner within 14 days of the date of the Notice. However, where there is a risk of environmental harm, the Notice will advise that immediate steps must be taken to protect the environment, such as the installation and maintenance of absorbent booms and mats, until the vessel can be removed.

The Authorised Officer will make reasonable enquiries to ascertain the owner and contact them to advise them to remove the vessel. This will be followed by another written notice giving a further 14 days served by post to the owner of the vessel or if the owner cannot be ascertained after reasonable inquiry, the notice may be served by leaving it conspicuously attached to the vessel.

2) Vessels without lawful authority left or moored in any waterway

A vessel is considered to be left and/or moored without lawful authority if:

- It is unregistered, including defaulting on any licence payment plan.
- It is obstructing navigation of the waterways.
- The position or mooring of the vessel constitutes as trespass on land owned by the Commissioners.
- Overstaying time limits on an MLC permanent mooring or lock landing stage without prior agreement.

A registered vessel that is not obstructing navigation but moored without the agreement of the riparian owner is an issue for the riparian owner to address.

A registered vessel that is not obstructing navigation but overstaying time limits on non MLC owned public or private moorings is an issue for the mooring owner to address.

The Authorised Officer will affix a Notice to the vessel and also write to the vessel owner if their postal address is known giving no less than 28 days' notice to the owner advising that the vessel should be removed or registered.

The Authorised Officer will make reasonable enquiries to ascertain the owner and contact them to advise them to remove the vessel. This will be followed by another written notice giving a further 28 days served by post to the owner of the vessel or if the owner/owner's postal address cannot be ascertained after reasonable inquiry, the notice may be served by leaving it conspicuously attached to the vessel.

F Boat Removal, Relocation & Disposal

If the first notice (14 or 28 days) and second notice (14 or 28 days) go un-headed then we may remove or relocate the vessel and/or progress prosecution proceedings.

We may recover all expenses reasonably incurred in respect of raising, removal, relocation, disposal and/or storage of any vessel removed or relocated within Emergency and Non-Emergency situations. This includes, if appropriate, any costs associated with tackling and /or the cleaning up of any pollution and any rubbish left. These costs will be added to any registration debt held by the owner.

Vessels will either be:

- Removed and immediately disposed of.
- Removed and stored (eg at MLC depot).
- Relocated (eg to MLC office mooring).

Where practical we will endeavour to remove or relocate the vessel without worsening its condition such that it is recoverable by the owner if they come forward. However, the condition and location of a vessel and cost of/capacity for recovery operations (inc storage), along with the knowledge held regarding vessel ownership, are key within our decision making and may mean recovered vessels are immediately disposed of.

If the owner of any vessel removed and stored or relocated does not come forward, settle their debt and register their vessel within six weeks then the vessel and any goods within/on the vessel shall be considered as transferred to the Commissioners.

In deciding whether to sell or scrap any recovered, stored or relocated vessel we will consider the following:

- The condition and circumstances in which we found the vessel.
- The likely resale value of the vessel and the likely expediency of any sale considered against the ongoing costs of storage and management of such vessel.
- The operational costs already incurred within the vessel recovery.
- The risk of the vessel reappearing on our waterways in an unlawful state.
- Likely scrap value, transportation and recovery costs.
- Capacity within our depot and at our mooring available for storage.

As an indication, it is only likely to be recovered narrowboats with a potential resale value >£1000 that we are likely to consider for sale. Recovery costs to this point are likely to range from circa £500 to £2000.

If, within six months of removal, a claim is made to the vessel by a person who proves to our reasonable satisfaction that they are the owner, we will:

- If the vessel is still stored by the Commissioners, permit the owner to retake possession upon payment of any debt.
- If the vessel is no longer stored by the Commissioners, reduce the debt by the proceeds from vessel sale or scrappage or in the unlikely event that the sale or scrappage proceeds are greater than the owner's debt, pay the owner the difference.

G Accounting

The costs of boat removal operations and any sale or scrappage income will be presented within our Navigation Account.

H Residential Liveaboard Vessels

In the case of residential vessels which are occupied as the main or only residence, the personal circumstances of the owner will be taken into account and vessels only removed as a last resort and following successful action to obtain a court order.

We will seek to work with the relevant authorities to signpost suitable information and support, including with the Local Authority who have a duty of care to provide housing, social care and other support services.

Vessel removal will only ever be undertaken in these circumstances when other avenues have been reasonably exhausted.

I Application of this Protocol

This protocol is applicable to all employees of the Middle Level Commissioners and any contractors involved in its application on our waterways. Awareness briefings will be provided ahead of implementation of the protocol with appropriate employees and contractors.

We will at all times be professional, respectful and courteous within the delivery of our regulatory and enforcement role and wherever possible seek to work with owners supporting their compliance.

There are a range of factors not referred to above that we will consider before and within our use of this protocol, including but not limited to:

- Are there reasons for non-registration of the vessel and have these been notified to us proactively?
- Are there any alternatives to vessel removal?
- Is the vessel owner a repeat offender and what is their registration history?
- Have all reasonable attempts to identify and/or contact the vessel owner been exhausted?
- Have we been made aware of any personal circumstances of the vessel owner that we may need to take into account? For example, disability, age, illness, financial circumstances. Has the owner been in dialogue regarding these?
- Are there any vulnerabilities that we are aware of that may require referral for support and assistance to other authorities? We will sign-post owners as appropriate.
- Has the owner acted on such referrals?

For those with vulnerabilities we will, at our discretion, consider the following:

- Flexible payment options
- Permitted additional time on MLC moorings
- Provision of a list of organisations who can offer free impartial advice, including the nationally recognised chaplains.

Paul Burrows
Chief Executive
Middle Level Commissioners
03 June 2024