

TECHNICALLY SPEAKING . . .

with Professional Recovery technical expert Dudley Stones

Dudley Stones is a consultant in management support services and has wide knowledge and experience of commerce generally and contractual, statutory and other legal matters in particular. He also has experience in the creation and operation of Quality Management Systems. Dudley has spent much of the last 10 years researching and reviewing the application of such matters to the vehicle recovery industry.

He is currently secretary of Thames Valley Operators (TVO) and consultant to Hertfordshire Recovery Operators, Surrey Vehicle Recovery Operators and to a number of individual organisations.

Dudley will be writing a regular column in Professional Recovery, tackling technical matters close to the industry. His topic for this issue is the recent developments relating to statutorily prescribed charges in Scotland.

Review of Statutory Charges

It is, of course, encouraging to learn that some progress is apparently being made in connection with the Home Office review of statutorily prescribed rates of charges and related matters.

However, one thought which persists in intruding into the cautious optimism is that the motoring public is still reeling from the potential impact of a number of other increases in cost (some actual, some proposed) and all indications are that resistance is stiffening and is likely to become more widespread.

The question, therefore, has to be asked as to whether or not the Government will be prepared to target the motorist yet again by imposing an increase in statutory charges sufficient to render them 'reasonable and proper'. It may be perceived that to do so could alienate the motorists' vote.

Whilst an increase may come to pass it would appear somewhat unlikely that it will be sufficient to satisfy the clear requirements.

Underlying the whole issue of public liability for statutory charges is the fact that the existence of such liability payable by 'persons responsible' provides a way whereby police forces can seek to escape direct liability for the proper cost of services provided to them by civilian contractors. This despite abuse of the regulations relating to such statutorily prescribed charges, and of basic

contractual principles.

The principle must surely be that if an organisation goes to the commercial market place seeking the provision of services to it or for its benefit; then it must expect to pay reasonable and proper charges as consideration for such services. If that organisation is fortunate enough to be able to recoup all or part of its initial outlay - all well and good but this should not affect liability to pay contractors at a proper rate in the first instance.

There are numerous examples where civilian administrators of police vehicle recovery schemes offer terms and conditions, which purport to provide the service at little or no cost to the police.

Whilst, of course, this is attractive to police forces struggling with budgetary constraints and is thus instrumental in assisting the civilian administrator in securing the desired contract: nonetheless it is reliant upon the use (or misuse) of statutorily prescribed charges and is prejudicial to the interests of the civilian recovery operators called upon to provide the actual service.

In most, if not all, other aspects of commerce where a service is required by a client/customer the service provider will state its terms and conditions including rates of charge. Some negotiation resulting in minor adjustments may follow (eg discounts

for volume etc) after which agreement is reached and a proper contractual relationship direct between the parties comes into being. It follows that the beneficiary of the services is then liable for the payment of the charges agreed.

Any retrieval of all or part of the charges so paid is a separate matter and one which should not involve the service provider.

It will be seen that a mere (and probably inadequate) increase in rates does not address the fundamental principle.

It is assumed that the Home Office is aware of current practices yet no point has been taken thereon and new schemes on the flawed basis continue to come into being.

It can only be concluded that even the Home Office itself is more readily influenced by the financial position of the police force budgets than by the plight of the civilian recovery operators who seek simply reasonable recompense, paid on a proper basis, for their skilled services frequently provided in difficult and sometimes dangerous circumstances.

The ever increasing cost of complying with justified criteria and operational needs coupled with decreasing levels of return must be seen as a 'wake up call' to the recovery industry which necessitates reform far more fundamental than merely a placatory and inadequate increase in statutorily prescribed charges.

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