

Final Business and Regulatory Impact Assessment

Title of Proposal

Pavement and double parking prohibitions – Transport (Scotland) Bill

Purpose and intended effect

Background

Currently the legislation on parking indicates that, although it is an offence to drive on the pavement under the Roads (Scotland) Act 1984, it is not an offence to be parked on the pavement in Scotland.

Tackling “pavement parking” has been the subject of public consultations over a number of years, with first Ross Finnie MSP in 2010 and then Joe Fitzpatrick MSP in 2012 publishing consultations. In 2015, Sandra White MSP introduced her Bill, entitled “Footway Parking and Double Parking (Scotland).” This took forward the proposals consulted on by Mr Fitzpatrick MSP in 2012. Although Ms White’s Bill was not enacted into law, there was significant cross party support for the general principles for her Bill. Following devolution of the legislative competence on parking via the Scotland Act 2016, the Scottish Government introduced the above Bill in 2018.

The Bill introduces new legal duties and powers that will require local authorities to enforce the national ban on pavement parking and double parking. This replaces the need for each local authority to introduce pavement parking restrictions via Traffic Regulation Orders (TROs).

The new duties will require local roads authorities to assess whether any roads should be exempt from the national restrictions. The Bill also provides powers that enable local traffic authorities, under order making powers, to exempt roads where the ban is not appropriate given the different circumstances which may prevail across local authorities, different regions and towns across Scotland. Although the Bill does not mandate on the technical specification for exempting roads, a separate set of standards/guidance will be provided along with the supporting documents.

Since April 2018, 20 out of 32 local authorities now operate Decriminalised Parking Enforcement (DPE) regimes in Scotland. DPE is a regime which enables a local authority to enforce its own parking policies using parking attendants employed by the Council or outsourced to a third party on behalf of a Council. The powers enable parking attendants to issue Penalty Charge Notices (PCNs) to motorists breaching parking controls in specific areas. The Bill’s objective is therefore to improve safety and accessibility for all road users through consistent enforcement across the country as a matter of law.

The new legal restrictions on pavement parking will come into force one year after royal assent, expected in summer 2019 if the Scottish Parliament passes legislation. This lead-in time is to enable local authorities to undertake the necessary preparatory work required to determine which roads will be exempt by the national ban on pavement parking. However, the ban on double parking will come into force following royal assent. Specific detail on these provisions can be seen in the Policy Memorandum accompanying the Bill at:

[http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33PMS052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33PMS052018.pdf)

Objective

The safety and accessibility of all road users is a top priority for the Scottish Government, whilst reducing the risks on the country's roads and pavements forms a key pillar of its efforts to keep people safe from harm. This is indicated from the following within the Scottish Government's National Performance Framework:

- *Reduce deaths on Scotland's Roads (National Indicator)*
- *We live longer, healthier lives (National Outcome)*
- *Our children have the best start in life and are ready to succeed (National Outcome)*

Scotland's Road Safety Framework to 2020 sets out the Scottish Government's strategic national policy on reducing the risks on Scotland's roads, whilst *Designing Streets: A policy statement for Scotland* contains specific measures to reduce casualties for pedestrians and cyclists through improvements which focus on the creation of quality places and put people before the movement of motor vehicles.

Rationale for Government intervention

Parking forms an essential part of local road authorities' transport strategies to help reduce congestion and improve safety for all road users. While local authorities are free to decide if they want to apply for decriminalised parking enforcement powers, the Scottish Government wants this practice to become universal given the associated benefits it brings for safety and accessibility.

Consultation

Within Government

Discussions have been on-going with colleagues across the Scottish Government in development of the Bill, including, but not restricted to, the following Directorates:

- Transport Policy Directorate
- Directorate for Social Justice and Regeneration
- Transport Scotland Major Transport Infrastructure Projects: Planning & Design

- Transport Scotland Aviation, Maritime, Freight and Canals

Public Consultation

A three-month national public consultation by Scottish Government ran from 31 March to 30 June 2017. However, the consultation was extended to 31 August to enable local authorities and Regional Transport Partnerships to respond following the Scottish Local Elections. The analysis report was published on 21 May 2018 and can be seen at:

<https://www.transport.gov.scot/publication/improving-parking-in-scotland-consultation-analysis-report/>

The consultation received 663 responses, which included responses from Police Scotland and a detailed response from the Transport Research Institute at Edinburgh Napier University.

The consultation also received responses from local authorities and representative bodies with a knowledge about parking enforcement, including:

- The Convention of Scottish Local Authorities (CoSLA)
- Society of Chief Officers of Transportation in Scotland (SCOTS)
- Living Streets Scotland
- British Parking Association (BPA)
- Independent Parking Community (IPC)
- Confederation of Passenger Transport UK - Scotland
- Aberdeen City Council
- Aberdeenshire Council
- Angus Council
- Argyll & Bute Council
- Clackmannanshire Council
- City of Edinburgh Council
- Dumfries and Galloway Council
- Fife Council
- Glasgow City Council
- Inverclyde Council
- North Lanarkshire Council
- Perth & Kinross Council
- Renfrewshire Council
- South Lanarkshire Council
- Stirling Council

In the main, the consultation responses focused on how parking is managed in Scotland, the complexity of existing legislation and how parking enforcement will operate in the future, rather than the effect on business and industry. However,

some themes were identified, including:

1. The potential for significant resource implications for local authorities in assessing parking provision and pavements across the whole of their areas
2. Cost of implementing new car parking facilities would have a financial burden on local authorities, and
3. Freight servicing and delivery to businesses could be affected by displacement of parked cars.

Working Groups

Due to the complexity surrounding the issues of parking enforcement, Transport Scotland formed the Responsible Parking Stakeholder Working Group in 2016 to take forward a collaborative approach to ensure that our policy and the Bill provisions are fit for purpose nationally. The membership of the group includes representatives from:

- Transport Scotland Road Policy Officials
- Scottish Government accessibility and town regeneration officials
- Society of Chief Officials of Transportation in Scotland (SCOTS)
- CoSLA
- Local Authority Parking Officials
- Regional Transport Partnership representatives
- Police Scotland
- RAC UK
- Cycling Scotland
- Living Streets Scotland
- Parking industry representatives
- Freight Transportation Association (FTA)
- Road Haulage Association (RHA)
- Guide Dogs for Scotland
- RNIB Scotland
- Mobility & Accessibility Committee for Scotland (MACS)
- Scottish Disability Equality Forum
- Scottish Council on Visual Impairment (SCOVl)
- Business Improvement Districts Scotland
- Scotland's Town Partnership
- Heads of Planning Scotland (HoPS)
- Federation of Small Business (FSB)

Additionally, Transport Scotland formed a sub-group in February 2018 to develop and shape implementation. This will continue as the legislation progresses towards the development of detailed guidance and technical standards for local authorities, which will define how they should enforce the restrictions or the criteria for exempting streets from the national pavement parking ban. The group consists of representatives from:

- Transport Scotland
- CoSLA
- Living Streets Scotland
- Cycling Scotland
- Mobility & Accessibility for Scotland (MACS)
- Strathclyde Partnership for Transport
- Local Authorities

Both groups have met on numerous occasions and one of the issues for discussion has been the effect the new legal restrictions will have on local authorities in Scotland.

Direct Engagement

In addition to the working group meetings, one-to-one meetings have also been held with a number of organisations to gather feedback, including:

1. Local authorities – in-depth discussions took place with local authorities, such as Edinburgh, Highland and Aberdeenshire to ascertain the financial implication in a rural, semi-rural and urban setting.
2. South East of Scotland Transport Partnership (SESTRAN) – a Regional Transport Partnership, which manages the regional transport strategy for local authorities in the South East of Scotland in order to provide consistency in delivering Scottish Government objectives for the region.
3. CoSLA – This represents all 32 local authorities in Scotland.
4. Sandra White MSP – who introduced the Footway Parking and Double Parking (Scotland) Bill, which fell after Stage 1 in March 2016.
5. Parking Adjudicators – who are responsible for determining appeals from motorists to PCNs issued by local authorities who have DPE.
6. Historical Environment Scotland (HES) - detailed discussions took place with HES about the new restrictions and their possible environmental implications both for town centres and residential areas.

Options

Option 1 – Do not legislate for the requirement.

Option 2 – Legislate without exemptions, and

Option 3 – Legislate with exemptions

Sectors and groups affected

All of the options have impacts for the following sectors and groups:

- Local Authorities
- The Scottish Government
- Businesses
- Individuals, motorists and pedestrians

Option 1 – Do not legislate

Benefits

This option would mean that local authorities would not need to carry out an assessment of roads, signage, lining, construction of footways and construction of additional parking bays. They would be free to continue with their current parking enforcement practices and would not need to take on the responsibility of enforcing the proposed new restrictions. Additionally there would be no new reporting procedures for them to adhere to.

Businesses – particularly those involved in, or dependent on, logistics, delivery or haulage – would not be subject to prohibitions on pavement and double parking if this is part of their current business practice.

The Scottish Government wishes to promote the safety and accessibility of all road users. 'Designing Streets: A Policy Statement for Scotland' contains specific measures to reduce casualties for pedestrians of all abilities, people with visual or mobility issues and cyclists through improvements which focus on the creation of quality places and put people before the movement of motor vehicles.

Engagement with local government, businesses and other stakeholders has shown high levels of support for the principles of the policy as did the public consultation which gathered 663 responses. The 'do nothing' option therefore fails to deliver on these policy objectives.

Costs

There would be no costs to local authorities related to the assessment and implementation such as the provision of new signs or lining. There would also be no on-going costs related to the enforcement of the proposed new restrictions. However, Decriminalised Parking Enforcement has been proven to provide an income for some local authorities and the new proposed restrictions may have led to an increased level of income which is ring fenced for transport matters.

There would be no additional costs to businesses – particularly those involved in, or dependent on, logistics, delivery or haulage – associated with changing their practices where they routinely park on pavements or double park.

In addition there would be no cost to the Scottish Government as there would be no requirement for a nationwide campaign to highlight the new legislation nor a need to administer the annual reporting to the Scottish Parliament.

Option 2 – Legislate without exemptions

Benefits

This would mean that the government's aspirations to improve safety and accessibility for all road users can be realised. The above engagement and public consultation has revealed that there is a significant appetite for such regulation and there has been cross party support for both a national ban on pavement parking and double parking.

This would also support the Scottish Government's National Walking Strategy, in which it published its 10 year Action Plan in March 2016. The plan contains 20 high level objectives designed to raise the status of walking across urban and rural areas of Scotland. It seeks to prioritise the protection of vulnerable road users to ensure that pedestrians of all abilities and other users are safer on Scotland's roads.

However, this option may significantly impact in terms of disbenefits to small businesses and the freight and logistics industry. Respondents to the public consultation highlighted that 20% of respondents raised concerns that small businesses and traditional high street retail businesses "could encounter difficulties in receiving or sending deliveries, thereby depriving custom or restricting access and could result in many affected businesses having to close down." The freight and logistics industry also noted the potential increase in journey times as delivery vans/HGVs could be forced to find parking spaces on the carriageway which in turn, could cause congestion as vehicles that are normally parked on the pavement are forced to park on the carriageway or in other streets thereby creating displacement, which in turn, may create a significant impact to local economies as businesses are unable to receive or send goods. This was also backed up by Strathclyde Partnership for Transport (SPT) who also noted that "increases in journey times for bus operations could result in a significant cost for operators as they would require more buses to be used on routes to maintain headway, which is a significant cost for operators and ultimately could result in reduced or withdrawn services".

Costs

Specific costs for Option 2 have not been quantified. Yet without any level of exemption, costs to businesses and the commercial sector are assumed to be significantly higher than Option 3.

Additionally, local authorities are responsible for parking and traffic management and as part of that responsibility they should already have parking strategies which integrate with wider transport and land use strategies. As such, the new parking restrictions should not be considered in isolation but as part of a wider integrated approach which explores potential solutions to tackle issues of displacement through modal shift (such as construction of park & ride facilities, progressing with TROs to ban cars parking in loading bays so that HGVs can park without blocking streets, and local authorities seeking additional powers to enforce bus lanes.).

Option 3 - Legislate with exemptions

As in option 2, the policy benefits of an automatic ban on parking on footways and double parking in Scotland will be realised yet measures are taken to help mitigate any adverse impacts on business and industry.

The Bill, as introduced, includes exemptions of up to 20 minutes for vehicles delivering or collecting goods which are being loaded or unloaded. This makes allowances in relation to delivery, postal services, and utility company drivers undertaking their duties.

Certain exemptions also exist where the vehicle is being used in connection with the administration of healthcare treatment. Although this is principally framed from the perspective of ensuring no undue impact on public healthcare, this could also alleviate any monetary impact on the corporate body delivering these services such as the NHS.

Costs

Although it is not possible to definitively calculate this precise cost to business and industry across Scotland, it would be expected to be significantly less than if Option 2 was pursued.

In terms of set-up costs for councils, the Scottish Government has an established process with local government, whereby any policy initiatives or legislative changes which places a new duty on local authorities are funded accordingly in addition to the wider local block grant package.

There has been significant discussion between local authorities and CoSLA through the stakeholder working groups. They considered and authorised responses to the public consultation and have welcomed the partnership work undertaken between local government and the Scottish Government to understand the cost implications. The Scottish Government has been working with three local authorities to understand the costs of implementing the policy.

It is the Scottish Government's intention to undertake a nationwide media campaign involving local authorities, Police Scotland and other stakeholder groups on the changes that will impact on parking across Scotland. The campaign will take place prior to commencement of the provisions to ensure there is widespread awareness of the new restrictions. We would estimate that the cost of this campaign would be in the region of £0.5 million, based on previous comparably sized multi-media campaigns such as those for speeding or drink driving. There will also be an annual report produced for the Scottish Parliament containing information on progress.

Individuals

There may be some additional costs to individuals associated with displacement as a result of not being able to park in the area they once did. However, it is envisaged that this would be negated by the improvements in safety and access for the wider community.

Scottish Firms Impact Test

Public Bodies

There will be set-up costs to public bodies such as local authorities – as they will be responsible for implementing the new parking restrictions. However, the new restrictions will improve access for corporate services, such as bin collection which has been hampered due to double parking. This was highlighted by local authorities during stakeholder group meetings and was noted again by community councils in their consultation responses, in which they noted that pavement access was also blocked due to the number of bins on the pavements.

Police Scotland have indicated it would see no additional costs. These are detailed in the Financial Memorandum accompanying the Transport (Scotland) Bill, which can be seen at

[http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33FMS052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33FMS052018.pdf)

Business and Industry

Business & Town Centre Regeneration Sector

The town centre regeneration sector noted that improved pedestrian access to shops and shopping centres are important as footfall is still used in the retail sector to help measure performance and determine the health of the industry. The British Retail Consortium (BRC) announced that sales in retail in June 2018 were up by 3.2% in real terms for both food and non-food items. Information about the figures can be found at: <https://brc.org.uk/retail-insight-analytics/retail-sales-reports/scottish-retail-sales-monitor/reports>.

Regarding parking provision and restrictions in general, while retail sales figures are positive, the industry continues to express concern about adequate parking provision in town centres. The business industry continues to stress the need for a review of parking provision should be looked at as a matter of urgency by local authorities who are responsible for the management and enforcement of parking in Scotland.

Freight & Logistics

Focussed engagement with the freight and logistics industry has taken place via the Responsible Parking Stakeholder Working Group, of which the Road Haulage Association (RHA) and the Freight Transportation Association (FTA) are members. The FTA and RHA represents the interests of a wide range of organisations in the logistics industry, including other courier organisations, as well as retailers and manufacturers whose businesses depend on the efficient movement of goods.

The industry had concerns that the ban on pavement parking would result in the removal of parking/loading bays for HGVs and vans to deliver goods and that the standard 20 min period for load and unloading could be eroded.

However, as outlined above in Option 3, the Bill as introduced includes exemptions to address this. Additionally, wider reassurance was given that there were no plans to change the Road Traffic Act 1988 and the Road Vehicles (Construction and Use) Regulations 1986, which relates to parking for HGVs.

The industry also indicated that the policy proposals could be affected by potential displacement due to cars parking in freight vehicle loading bays. However, as indicated earlier in this document, local authorities have powers to introduce Traffic Regulation Orders to restrict cars parking in loading bays. In addition, the Bill provides opportunities for local authorities to exempt roads.

Small Businesses

The Federation of Small Business (FSB) has shown approval for the parking proposals contained within the Transport (Scotland) Bill, stating that the national ban was a logical approach to improving road safety and accessibility for pedestrians and traffic flows. The FSB supported the exception for delivering goods stressing that the exception is important “as the delivery of goods forms an essential part of the economy, especially the vital service sector...they are a key part of our drive to improve productivity levels”. The FSB welcomed the time-limited exception, but queried if “20 minutes may not be sufficient for complex deliveries”. The FSB also queried how the 20 min exception would be implemented and enforced, questioning if the period begins from the moment the driver parks or the moment the enforcement officer notices.

The freight industry indicated at a recent stakeholder meeting that they were more confident about the proposed parking restrictions. However, they did acknowledge that local businesses in rural areas may also experience issues with the parking ban if they cannot obtain passing trade by enabling customers to park. In addition, the Chartered Institution of Highways & Transportation (CIHT) felt banning pavement parking may only have a marginal effect on such matters.

However, this is contradicted by 56% of public consultation respondents who indicated that balancing competing demands for road space between short term parking, suitable provision for servicing shops and businesses, as well as better controls on parking would improve the impact of town centre businesses. Indeed, Clackmannanshire Council noted in its response that “controls on parking should improve the impact on town centre businesses by allowing Las [local authorities] the opportunity to tailor parking turnover to suit the types of businesses in the town centre”.

This is also noted by the Confederation of Passenger Transport (CPT) who acknowledged that the parking restrictions should be treated as part of a wider transport and land-use strategy which reduces the negative impact on town centre businesses through additional off-street facilities, efficient and affordable Park & Ride Schemes, affordable public transport systems and more designated stops for buses.

As such, the parking restrictions provide local authorities with opportunities to improve the impact on businesses by controlling parking more effectively which encourages turnover of business, suitable parking provision and focus on modal shift through the delivery of Park & Ride facilities, etc.

Engagement and consultation with the business sector will continue as the Transport

(Scotland) Bill progresses through Parliamentary scrutiny.

Competition Assessment

- There is no impact on competition.

Test run of business forms

N/A – No new forms for businesses to complete.

Legal Aid Impact Test

The Bill provides for a civil penalty regime, under which a penalty charge notice is issued, rather than criminal enforcement. Therefore it is not currently expected that the proposals will have any impact on the level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund. This will be further explored and updated as necessary as the legislation progresses.

Enforcement, sanctions and monitoring

The Bill creates no new enforcement process or body and uses existing scrutiny and sanction mechanisms. The provisions of the Bill do place a duty on local authorities to keep accounts and produce reports on the authorities' income and expenditure in relation to the enforcement of the new restrictions.

Implementation and delivery plan

Implementation of the proposals will be aided by parking standards covering issues such as enforcement and compliance, which will be issued ahead of the legislation coming into force. The scheduled timescale, should an Act of Parliament be passed, for implementation is 2019 for double parking and 2020 for pavement parking.

Post-implementation review

There are no formal plans to review the legislation at a specific point in the future. However, the Scottish Government will continue to liaise with the working groups as associated guidance is issued and to monitor implementation, whilst local authorities will be compelled to publish annual reports to Scottish Ministers.

Summary and recommendation

Given the reasons and cost/benefit above, Option 3 is deemed the most appropriate to meet the policy intention whilst taking local authority and business considerations into account.

• **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	<ul style="list-style-type: none"> Wider societal benefits in terms of accessibility and safety of footway/road users is not realised. Businesses and individuals would not have to change behaviours where they double park or park on pavements. 	<ul style="list-style-type: none"> There would be no additional costs to businesses – particularly those involved in, or dependent on, logistics, delivery or haulage – associated with changing their practices where they routinely park on pavements or double park. There would be no impact on the 32 local authorities as they would be free to continue with their current parking enforcement practices and would not need to take on the responsibility of enforcing the proposed new restrictions.
2	<ul style="list-style-type: none"> Wider societal benefits in terms of accessibility and safety of footway/road users realised. No pragmatic exemptions means disproportionate effect on business and commercial sector. 	<ul style="list-style-type: none"> Specific costs for Option 2 have not been quantified. Yet without any level of exemption, costs to businesses and the commercial sector are assumed to be significantly higher than Option 3. Local Government forecasts of the costs in terms of assessment, signs and road markings, footway construction and enforcement costs are defined in the Financial Memorandum (link below).
3	<ul style="list-style-type: none"> Wider societal benefits in terms of accessibility and safety of footway/road users realised, balanced against pragmatic exemptions. 	<ul style="list-style-type: none"> Although it is not possible to definitively calculate this precise cost to business and industry across Scotland, it would be expected to be significantly less than if Option 2 was pursued. Local Government forecasts

		of the costs in terms of assessment, signs and road markings, footway construction and enforcement costs defined in the Financial Memorandum (link below).
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The Financial Memorandum accompanying the Bill can be seen at:

[http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33FMS052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33FMS052018.pdf)

Declaration and publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- Sign-off for Final BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:



Date: 27th August 2018

Minister's name - Michael Matheson

Minister's title - Cabinet Secretary for Transport, Infrastructure and Connectivity

Scottish Government Contact point:

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