



**TRANSPORT
SCOTLAND**
CÒMHDHAIL ALBA

Workplace Parking Licensing Guidance

For Local Authorities

Contents

1. Introduction	4
1.1 National Objectives	4
1.2 Legislative requirement versus good practice	5
1.3 Ministers' role in WPL schemes	6
2. Making a Scheme	6
2.1.1 Definition of workplace parking places	7
2.1.2 National Exemptions	8
2.1.3 Local Exemptions	8
2.1.4 Licence Charge	9
2.1.5 Area in which the scheme operates	10
2.1.6 Hours of operation	11
2.1.7 Period in which the scheme is in force	11
2.2 Required Documents for Proposal	11
2.2.1 The Proposal	11
2.2.2 Statement of Objectives	12
2.2.3 Impact Assessment	13
2.2.4 Findings from Transport Scotland Consultation	13
2.3 Consultation	14
2.3.1 Publication of Proposal	15
2.3.2 Who to Consult	15
2.3.3 Consultation Report	17
2.3.4 8-Week Standstill Period	17
2.4 Notice to make a scheme	18
3. Examination	19
3.1 What is an examination?	19
3.2 Scope of examinations	19
3.3 Establishing an examination	20
3.4 Appointment of Reporter	22
3.5 Procedure and timetable for examinations	23
3.6 Opt-in procedure	23
3.7 Further submission and information	24
3.8 Pre-examination meetings	24
3.9 Determination without further procedure	24

3.10	Conclusion on further procedure	24
3.11	Hearings and inquiries procedure	24
3.11.1	Hearings.....	24
3.11.2	Inquiries	26
3.12	Inspections.....	27
3.13	Expenses	27
3.14	Report	28
4.	Operating a scheme	28
4.1	Enforcement and compliance	28
4.2	Liability for charge	29
4.3	Licence application, duration, and conditions	30
4.4	Content of licences	31
4.5	Reviews and appeals against licensing decisions	31
4.6	Penalty Charges	32
4.6.1	Amount of the Penalty Charge	33
4.6.2	Penalty Charge Notice	34
4.6.3	Charge Certificates	35
4.6.4	Review and Appeals	36
4.6.5	Further considerations	38
4.7	Enforcement: Warrants.....	38
5.	Monitoring and Evaluation	39
6.	Use of Proceeds	39
7.	Accounts	40
8.	Future Review of Guidance	40
9.	Definitions and resources	40

1. Introduction

The [Transport \(Scotland\) Act 2019](#) includes provisions introducing a discretionary power for local authorities to set up workplace parking licensing (WPL) schemes. It will be for local authorities to decide whether they wish to use that power and, if so, to shape proposals to suit local circumstances.

Where a WPL scheme is in place, liable employers will be required to obtain a licence from the local authority for each workplace parking place provided for use by employees and certain visitors. A charge may be levied for such a licence on the basis of the number of parking places specified in the licence (except as detailed under 'National Exemptions'). Local authorities can use WPL revenues only to cover costs associated with operation of the scheme and to support the policies in their local transport strategy.

The [Workplace Parking Licensing \(Scotland\) Regulations 2022](#) provide a framework for local authorities on key elements of the scheme but as much as possible it is intended to provide flexibility for local authorities to reflect the objectives set out in their local transport strategy.

Transport Scotland held a public consultation to inform development of the regulations and this guidance. We asked for views on certain technical elements regulations and guidance, and what potential impacts of the regulations and guidance may be expected. The [consultation analysis report](#) identifies a number of key themes evident across consultation questions as well as across respondent groups. Some of these themes were outwith the scope of the consultation and were general comments on WPL and, as such, will be more appropriate for local authorities to consider when designing and implementing local WPL schemes. These themes have been reflected throughout this guidance at the appropriate sections.

At the time of publication, Nottingham City Council is the only local authority currently operating a WPL scheme in the UK, although a number of other English councils have indicated that they are various stages of developing or scoping a WPL scheme. During policy development of the 2019 Act, regulations, and guidance, Transport Scotland officials considered the case study of Nottingham's WPL scheme as well as the legislation which governs WPL schemes in England and Wales. Lessons from Nottingham's experience are reflected in this guidance.

A working group made up of local authority and regional transport partnership representatives met regularly throughout the WPL policy development work to inform the regulations and guidance.

1.1 National Objectives

As a measure addressing demand management of travel, progressing the delivery of the WPL regulations and guidance supports existing Scottish Government policy commitments. WPL has the potential to encourage the use of more sustainable travel modes, reducing congestion and tackling climate/air emissions. As the net revenue generated by WPL schemes must be committed to support policies in local transport strategies, this policy is also intended to raise revenue that could be used to improve public or active transport, making it more attractive and thus encouraging individuals to use public transport instead of driving.

Providing local authorities with discretionary powers to implement a WPL scheme supports the vision and priorities set out in the [National Transport Strategy \(NTS2\)](#). These powers provide a tool for local authorities to influence travel behaviour in a way that discourages private car use and encourages use of public and sustainable transport. The [NTS2 Delivery Plan 2020-2022](#) commits to taking forward supporting regulations and guidance so that local authorities can choose to implement WPL schemes.

Implementing regulations and guidance so that local authorities can move forward with WPL schemes also progresses Scotland's commitment to reach net-zero by 2045. The [Climate Change Plan update \(CCPu\)](#) was laid in Parliament in December 2020. As part of our commitment to reduce car kilometres by 20% by 2030, the CCPu committed to take forward policy consultation in advance of drafting regulations and guidance to enable local authorities to implement WPL schemes that suit their local requirements.

WPL regulations support our [National Performance Framework](#) outcomes: 'value, enjoy, protect and enhance their environment'; and 'live in communities that are inclusive, empowered, resilient and safe.'

1.2 Legislative requirement versus good practice

This guidance includes information on both legislative requirements (as outlined in the 2019 Act and 2022 Regulations) and good practice. The guidance signposts these elements as appropriate.

The intent is for local authorities to design schemes to suit their local objectives. Local authorities have the power to make decisions around key elements such as the amount of the WPL charge, the licensing area, local exemptions, and periodic review of schemes. This guidance offers advice and discussion on these issues but is not intended to be prescriptive, as decisions on these elements will depend on the local context.

1.3 Ministers' role in WPL schemes

Local authorities' adherence to the 2019 Act, regulations, and good decision-making are underpinned by the risk of judicial review and local democratic accountability. Scottish Ministers do not have a role in approving, modifying, or denying local authorities' proposals to make local schemes, nor to review schemes periodically once they are implemented.

Under the 2019 Act, Ministers (and the local authority proposing the scheme) may initiate an examination of proposed WPL schemes. Further detail on the examination process is outlined under 'Examination'. The final decision on schemes sits with the local authority.

The 2019 Act requires local authorities to specify arrangements for the periodic review of the operation and effectiveness of the scheme. There is no requirement for local authorities to provide Ministers with any form of monitoring, although local authorities may choose to do so as part of collaborative efforts towards our climate change goals which are discussed further under 'Monitoring and Evaluation' section of this guidance.

2. Making a Scheme

Under the 2019 Act, local authorities may only make a WPL scheme when they have a local transport strategy in place, and it appears to the local authority that the scheme will (directly or indirectly) facilitate the achievement of policies in its strategy. The local authority may also wish to consider how the scheme would support the objectives set out in the Regional Transport Strategy.

Two or more local authorities may make a WPL scheme jointly, providing they both have a local transport strategy and funds raised will support the objectives in these strategies. In the 2019 Act and in regulations, and in this guidance document, references to 'the local authority' may be understood to mean the two or more local authorities acting jointly, or for example, the local transport strategy of each of the local authorities.

This section sets out what steps local authorities must take before making, amending, or revoking a WPL scheme. These requirements apply any time a local authority seeks to amend or revoke an existing scheme. If a local authority intends future modifications to the scheme, for example for the licensing charge to be adjusted each year in line with inflation, then this should be included in the scheme when it is made.

2.1.1 Definition of workplace parking places

Section 71 of the 2019 Act contains provisions which set out the definition of workplace parking places (WPPs). The 2019 Act allows for local authorities to make different provision for different purposes or different areas within the licensing area.

WPPs are parking places provided at a premise, if the parking place is occupied by a motor vehicle used by business owners, employees and certain visitors such as workers, agents, suppliers, business customers and business visitors for the purpose of attending a place at which the relevant person carries on business at, or in the vicinity of, the premises. Parking places occupied by someone attending a course of education or training, and parking places occupied by members of bodies whose affairs are controlled by its members are also considered WPPs.

The WPP does not have to be a marked parking space for it to be liable for WPL. Bicycles and e-bikes are not included in the definition of motor vehicle and parking for these are therefore not included in the definition of WPP.

Workers, agents, suppliers, business customers and business visitors are defined in the 2019 Act, but generally mean an individual who is visiting that premise in the course of the individual's employment, or in the course of carrying on business. Parking places used by volunteers are not considered WPPs. Neither are parking places used by non-business customers, for example a supermarket customer.

The only test for whether a parking space is a WPP is set out above. The 2019 Act does not make provision specifically for parking places occupied by types of vehicles such as fleet vehicles and car clubs. Cases will need to be assessed based on the particular circumstances to determine whether a parking place is a WPP (ie occupied for the purpose of attending a place at which the relevant person carries on business at, or in the vicinity of, the premises). If a local authority wishes for an exemption for certain types of vehicles, they will need to provide for that exemption in their local schemes. If the parking is provided off-premise, for example an employer has arranged for car parking at a neighbouring premise or in a multi-storey car park, then these places are liable for WPL. Regulations make provision for liability for charge under these circumstances, which is outlined further under "Liability for Charge."

Since the 2019 Act requires a workplace parking place to be occupied by vehicles used by certain people, local authorities will not be able to determine the number of WPPs simply by counting the number of parking spaces provided in the car park. We expect that the local authority will need to engage with the employer to verify that the licence covers the number of WPPs provided, ensuring, for example, that vehicles used by non-business customers are not included in the local authority's assessment

during compliance checks. This is discussed further in the section 'Enforcement and Compliance.'

2.1.2 National Exemptions

Section 79 of the 2019 Act contains provisions for national exemptions from WPL charges. These national exemptions are:

- Places reserved for Blue Badge holders
- Places for NHS workers at qualified NHS premises
- Places at hospices

Local authorities can require a licence to be held for these places but may not levy a charge.

2.1.3 Local Exemptions

Section 78 of the 2019 Act contains provisions for local authorities to make further exemptions in their schemes. Local authorities are not required to create any local exemptions but have discretion to include exemptions in their scheme design that suit their local circumstances, and support the objectives in their local transport strategy. Local exemptions may either be from charge (as the national exemptions) or from the licensing scheme altogether. Exemptions may take the form of:

- specific premises, or premises of a specified description,
- premises with a specified number of parking places (or fewer), or
- descriptions of persons or motor vehicles (including descriptions by reference to any parking places provided for the exclusive use of such persons or motor vehicles).

The appropriate exemptions will depend on the local authorities' circumstances and the objectives of the scheme. When deciding whether to provide for local exemptions within their schemes, local authorities should carefully consider how they may support the objectives set for the scheme, and the objectives set in their local transport strategy.

As an example, the Nottingham scheme provides for:

- a 100% discount for employers (and any associated employers) who between them provide 10 or fewer workplace parking places in total at all of their premises within the council boundary (Premises which provide more than 10 spaces do not receive a discount for their first 10 WPPs).

- a definition and exemption for “occasional business visitors” so that only WPP occupied by employees, contractors, suppliers etc for whom the premise is a “regular place of work” must be licensed
- An exemption for motorcycles and mopeds

Additional other local exemptions have been suggested by respondents to the consultation on WPL regulations and guidance. These include exemptions for charities, parking reserved for electric vehicles, parking for certain types of workers (such as specific occupations or working particular hours), businesses not adequately served by public transport, and car clubs/share. Other respondents suggested that local exemptions would hinder local authorities in realising the full value of their WPL scheme. Local authorities should carefully consider whether exemptions support their local objectives: and may wish to consider the objectives and evidence set out in other documents such as the national route map to achieve a 20% reduction in car km travelled by 2030 and information for employers on car clubs or shared¹.

2.1.4 Licence Charge

Under the 2019 Act, the amount of the licence charge is for local authorities to determine and will depend on their local circumstances and the objectives of their local scheme. In setting the charge, a local authority must have regard to the purposes for which the authority is to apply any of the net proceeds of the scheme.

WPL schemes may provide for different charges (or no charge) for different cases, such as (but not limited to): different days, different times of day, different parts of the licensing area, different descriptions of persons, different descriptions of premises, including different numbers of workplace parking places provided at a licensed premises, and different classes of motor vehicles.

Details on how the charge and revenue will support the objectives in the LTS should be included in the statement of objectives (see section ‘Statement of Objectives’). The impact of the level of charge should also be included in the assessment of the impacts of schemes (see section ‘Impact assessment’). As set out elsewhere in this guidance, local authorities have a statutory duty to include the proposed charge in the proposal which is published for consultation (see section ‘Consultation’). As a matter of good practice, local authorities may consider setting out the analysis which supports the proposed level of charge.

¹ [Shared transport: an action kit for employers](#), Transport Scotland / CoMoUK

There are a number of factors that local authorities may consider when determining the licence charge(s). The following list is not exhaustive and the order does not indicate the relative weight a local authority should place on each factor: these factors are intended to help guide local authorities as they begin to consider the level of charge(s) which is appropriate for their circumstances and objectives.

- The precedent set by Nottingham, and others in UK. Further information on the Nottingham scheme can be found at the end of this guidance document under 'Definitions and Resources' – in 2022/23 the annual licence charge is £458 and increases in line with RPI on 1 April each year.
- The impact of the amount on employers, and potentially employees or students if the employer chooses to charge for parking provision.
- The intended use of revenue and how the amount of revenue raised will support the objectives set out in the LTS.
- The level of charge which will incentivise behaviour change by employers and employees and will have an impact on the local authority's objectives of the scheme (i.e. traffic, congestion, air quality, emissions).
- The response and themes arising from engagement activities and impact assessment work.
- The potential impact on investment in the local authority area, both positive (for e.g. improving public transport and reducing traffic) and detrimental (increased cost of providing workplace parking places).
- Prevailing parking charges in public and other car parks (as comparators) and controlled parking zones.
- Prevailing public transport fares and availability (as comparators).

This analysis may support different charges being set in different circumstances, as set out above. Equally a local authority may determine that a single charge level will best support the objectives of the scheme.

The requirements set out in this document when making a scheme also apply when a local authority amends a scheme. If the local authority intends periodic adjustments in the licence charge, such as annual adjustments in line with inflation, then this should be set out in the proposed scheme.

2.1.5 Area in which the scheme operates

It is for the local authority to determine the area in which a WPL scheme operates, within their local authority boundary.

For the WPL scheme to operate effectively, local authorities may need to consider parking displacement onto neighbouring streets, and the relationship between controlled parking zones and WPL schemes. Additionally, respondents to the

consultation on WPL regulations and guidance indicated that the area in which a scheme operates will have a significant impact, with a number of respondents raising the availability of public transport alternatives to commuting by car as an issue of concern.

In Nottingham, the WPL scheme operates in the whole local authority boundary.

2.1.6 Hours of operation

The 2019 Act provides for local authorities to vary the hours or days of the week that the scheme is in effect.

Respondents to the consultation on WPL regulations and guidance indicated that the hours during which a scheme operates will have an impact with concerns raised about the availability and safety of public transport late at night and early in the morning.

Provisions on hours of operation (including potential grace periods or other variations) would be for local authorities to determine based on their local circumstances and objectives of the scheme. For example, in Nottingham, the WPL scheme operates at all times and days and provides for employers to arrange with the local authority a short grace period to allow for shift changeovers during which the licenced number of WPPs may be exceeded.

2.1.7 Period in which the scheme is in force

The 2019 Act provides for local authorities to set out in their schemes the period in which the scheme is to remain in force, or that the scheme is to remain in force indefinitely.

2.2 Required Documents for Proposal

The 2019 Act and regulations set out certain requirements for local authorities as they develop and implement a WPL scheme. Local authorities proposing a scheme must prepare

- An outline of the proposed scheme ('the proposal'),
- A statement about the objectives of the proposal, and
- An assessment of the impacts of the proposal.

Further details on each of these is outlined in this section.

2.2.1 The Proposal

Under the 2019 Act, the outline of the proposed scheme that is published for consultation must include the proposed:

- licensing area,
- period during which the scheme is to remain in force (or that it is to continue indefinitely),
- charges payable on licences (expressed as a specified sum of money for each workplace parking place provided),
- persons, premises or motor vehicles (or descriptions of such persons, premises or motor vehicles) that are to be exempt from the scheme or from paying charges under it (also see “National Exemptions”).

Regulations allow for schemes to include provision for enforcement by way of penalty charge. Further detail on this is included under the section “Penalty Charges.” If a local authority includes provision for penalty charge, they may consider including details on the penalty charge as part of their proposal. This would be a matter of good practice and is not required in the 2019 Act or in regulations.

- The amount of the penalty charge
- Whether the amount will be reduced if paid within a certain period of time, and by how much.

Finally, there are further elements which must be included in the final scheme as made, and which could be included in the proposal, but are not required to be:

- the date on which the scheme is intended to come into effect,
- the days on which, and hours during which, a licence is required,
- arrangements for the periodic review of the operation and effectiveness of the scheme including, in particular, how the outcome of a review is to be communicated to persons affected by it, and
- Process for review of local authorities’ licensing decisions.

2.2.2 Statement of Objectives

A statement of objectives must be published and this statement must include

- the objectives that the local authority intends the proposal to achieve,
- its assessment of how (or the extent to which) the proposal will achieve those objectives, and facilitate (directly or indirectly) the achievement of policies in its local transport strategy, and

- how it intends to apply any net proceeds of the scheme.

WPL schemes may only be set up if it appears to the local authority that the scheme will (directly or indirectly) facilitate the achievement of policies in its local transport strategy. Revenue may only be spent on the expenses of operating the scheme and on facilitating the achievement of policies in the authority's local transport strategy.

2.2.3 Impact Assessment

The 2019 Act requires that an assessment of the impacts must be undertaken by the local authority. The assessment must, in particular, set out what the local authority considers to be the likely effects of the proposal on

- persons who may have to pay charges under (or as a result of) the scheme, and
- the environment.

We expect that local authorities will have existing models to ensure that other statutory or good-practice impact assessments are undertaken as with any local authority decision, such as a Business Impact Assessment. These may vary based on the circumstances of the local authority and the detail of the proposal (for e.g. the Islands Community Impact Assessment).

2.2.4 Findings from Transport Scotland Consultation

The Transport Scotland consultation on WPL regulations and guidance received a number of responses on the impact of WPL schemes on people without access to alternative forms of transport, including low-paid and shift workers, and on people with protected characteristics.² Many of the themes raised in consultation were outwith the scope of regulations and the impacts will arise from decisions for local authorities. These themes have been reflected in the impact assessments on the regulations for local authorities to refer to as they undertake engagement and impact assessment. The [Equalities Impact Assessment \(EQIA\)](#) outlines potential impacts by each protected characteristic; the [Fairer Scotland Duty assessment](#) considers the potential impacts on disadvantaged groups; and the [Business and Regulatory Impact Assessment \(BRIA\)](#) considers the potential impacts on business.

In the consultation on WPL regulations and guidance, respondents had further suggestions for elements local authorities may wish to consider as part of their engagement and consultation. It is not possible or appropriate to provide an

² The protected characteristics are age, disability, gender reassignment, marital or civil partnership status, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

exhaustive list given that each local authority and each proposed scheme will be different and will give rise to different considerations for local assessment. The following is therefore a non-exhaustive list of examples of things which a local authority might consider as part of its assessment of impacts of a proposal:

- The impact on low paid workers
- Alternative forms of transport including provision of, and access to, sustainable transport or public transport.
- The impact of costs of a WPL scheme on businesses and on city centres
- Potential exemptions to the scheme
- How the revenue will be spent (this could be included in the statutorily-required statement about the objectives of the scheme)

2.3 Consultation

The 2019 Act sets out requirements for who must be consulted, and what must be included in the proposal which is published for consultation. The regulations set out further detail on where and how the proposal must be published. This section provides an overview of the requirements set out in the 2019 Act and regulations, as well as signposting to best practice.

The 2019 Act sets out requirements that the proposal, statement of objectives, and impact assessments must be published for consultation. There is a level of detail required to be in the proposal as set out in this guidance section ‘the proposal.’ The Act requires that this proposal be put to consultation. Due to the level of detail required to be set out in the proposal, we expect that in practice, the local authority may need to do substantive initial scoping and stakeholder work to develop the final proposal for the statutory consultation, for example, putting forward different options for consideration by stakeholders. This initial scoping and engagement work could take the form of an initial consultation to help develop the proposal, although this is not required in statute and it will be for the local authority to determine the best way to develop the proposal, taking into account best practice to inform decision making.

Depending on the approach taken by the local authority, then the final statutory consultation would act in a similar manner to the ‘objection period’ under the rules governing LEZ scheme implementation: i.e., a final opportunity for persons impacted by the proposal to comment. The statutory consultation required under the 2019 Act would therefore be a final stage in the process of stakeholder engagement.

Guidance on consultation best practice can be found in [Scottish Government Consultation Good Practice Guidance](#).

The consultation also plays an important role in the examination process (if an examination is initiated by the local authority proposing the scheme or Scottish Ministers). For example, the consultation report must be sent to the reporter when initiating an examination (and may help inform the reporter's determination of which procedure to follow in conducting the examination), and consultees must be notified of an examination and may be invited by the reporter to provide further representations. Further detail on this is provided under the 'Examination' section of this guidance.

2.3.1 Publication of Proposal

Regulation 2 contains provisions regarding the publication of the proposed scheme. The local authority must publish certain documents in relation to the proposal. They must make these documents available on the local authority's website, and make a copy available at the local authority's office during normal office hours, and, if the local authority thinks appropriate, at other such places and times as it determines. The local authority must send a copy of these documents to the Scottish Ministers. The documents referred to are:

- The notice which has been published in the newspaper (below)
- an outline of the proposed scheme (as set out under "The Proposal")
- a statement about the objectives of the proposal (as set out under "Statement of Objectives"), and
- an assessment of the impacts of the proposal (as set out under "Impact Assessments").

Under the regulations, the local authority must publish a notice in at least one local newspaper circulating in the area of the proposed scheme. The notice must include

- The name of the local authority.
- A description of the scheme proposal and its general nature and effect.
- The address and times at which the documents referred to above can be inspected (ie at the local authority's office and any other locations as appropriate)
- The fact that the information referred to above is available on the local authority's website.

The local authority must also take such other steps as it considers appropriate for ensuring that adequate publicity about the proposal to make the scheme is given to persons likely to be affected by it.

2.3.2 Who to Consult

Under the 2019 Act, local authorities must consult “persons as the authority considers appropriate in relation to the proposal (including, in particular, persons that the authority has identified as likely to be affected by the proposal).” It is for the local authority to determine who the appropriate consultees may be. During their consultation, local authorities should request respondents’ contact details so that they can satisfy the requirement to notify consultation respondents in the case that an examination is initiated (further discussed under the section ‘Establishing an Examination’).

In the consultation on WPL regulations and guidance, Transport Scotland asked whether regulations should specify further statutory consultees that local authorities are required to consult. A majority of respondents supported specifying statutory consultees, with a wide range of suggested statutory consultees provided in comments. The reasons for the proposed statutory consultees were primarily concerns about a lack of available public transport and the need to ensure that alternative forms of travel are made available.

However the range of suggested consultees by respondents indicates that it would not be appropriate to specify named statutory consultees in regulations, because the appropriate consultees will depend on the specific proposal and the local circumstances of individual schemes. In addition, many of the suggested consultees would reasonably be included under the requirement of the 2019 Act to consult those likely to be impacted by the proposal.

Therefore there are no named statutory consultees in either the 2019 Act or regulations, and it is up to local authorities to determine who is appropriate, and in particular who is likely to be affected by the proposal. Local authorities will need to determine whether a public consultation would be appropriate based on their proposal however there is no requirement in the 2019 Act to do this and the requirement is to consult those who are likely to be impacted as outlined above.

While not an exhaustive list, the following organisations have been identified through engagement and consultation as potential consultees for local authorities to consider when deciding how to fulfil their duty to consult persons likely to be impacted by a scheme:

- businesses that would be subject to a charge
- trade unions, employees, and students
- organisations representing business interests (such as Chambers of Commerce or other trade bodies such as the Federation of Small Businesses)
- transport providers
- transport user groups (including sustainable travel)

- equalities groups, in particular groups advocating on poverty and disability, with further discussion on potential equalities issues to be considered under “Impact Assessments”
- neighbouring local authorities
- regional transport partnerships (RTPs)
- Community Planning Partnerships
- Nearby residents and businesses who may be impacted by parking displacement and/or by investment in transport funded by WPL revenue.

2.3.3 Consultation Report

Following the consultation, the local authority must prepare and publish a report (‘consultation report’) which

- summarises the consultation responses received,
- states whether or not the authority intends to proceed with the proposal (or the proposal as modified in light of the consultation), and
- sets out the authority’s reasons for whether or not it intends to proceed.

The local authority may also wish to include information on the number of consultation responses, an overview of who responded to the consultation, and the local authorities’ response to the issues raised by consultation respondents. We expect that the consultation report will be an important piece of evidence that the local authority and Ministers consider when deciding whether to initiate an examination on the proposal. If an examination is initiated, the report will form part of the evidence the reporter considers (as set out under the “Examination” section below). Therefore local authorities may wish to carefully consider this report and their response to the issues raised in consultation to demonstrate good decision-making in relation to proposals and the decision to amend or take forward the scheme.

The consultation report must be

- published on the local authority’s website,
- sent to consultees, as outlined above
- sent to the Scottish Ministers.

2.3.4 8-Week Standstill Period

Section 73(5) of the 2019 Act requires a period of 8 weeks to elapse during which time the local authority may not proceed with implementing their proposal (i.e. making, amending, or revoking a WPL scheme). Under the 2019 Act, the 8 week

period begins when the local authority publishes the consultation report. The standstill period is intended to allow the local authority and Ministers to consider whether it would be appropriate for either party to initiate an examination, as set out under the section “Examination.” If no examination is initiated, then local authorities may proceed with making the scheme following the 8-week period.

The local authority may proceed with making a scheme on conclusion of the 8 week standstill period, unless an examination has been initiated, in which case, they may proceed on completion of the examination (under section 75(5) of the 2019 Act – further details under ‘Examination’ section).

2.4 Notice to make a scheme

Regulation 5 makes provision for the steps a local authority must take within 14 days of making a scheme.

Local authorities must publish notice of making the scheme on their website and at least once in a local newspaper circulating in the area to which the scheme relates. The notice must include the following information:

- The name of the local authority,
- A description of the scheme as made,
- The date of the making of the scheme and the date on which it comes into effect,
- Each address at which a copy of the scheme, as made, can be inspected, and the times when inspection can take place at each such address, and
- The fact that a copy of the scheme as made is available on the local authority’s website.

The local authority must make a copy of the scheme as made, and a statement of the date on which it comes into effect, available for inspection at their offices during normal office hours, and (if the local authority think fit) at such other places within its area and during such times at those places as it may determine. If an examination was held on the proposal, a copy of the examination report must also be made available.

The local authority must publish the scheme and (if an examination was held) a copy of the examination report on the local authority’s website.

The regulations also require the local authority to take such other steps as it considers appropriate for ensuring that adequate publicity about the making of the scheme is given to persons likely to be affected by it.

3. Examination

Section 75 of the 2019 Act contains provisions in relation to examinations of WPL proposals, which applies when a local authority proposes to make, amend or revoke a WPL scheme.

Regulations 6 to 20 set out the procedures necessary for an examination to be conducted in a consistent manner.

3.1 What is an examination?

An examination allows one or more elements of a WPL proposal to be independently reviewed where either the Scottish Ministers or a local authority feel it would be appropriate.

In practice, it is anticipated that any examination would be initiated during the 8-week 'standstill' period referred to under the section "Consultation report and 8-week standstill period." Following that 8-week period, local authorities will be free to proceed with making, amending, or revoking the scheme (as set out in their proposal). An examination can only be triggered on proposals, not schemes once they are made.

If an examination has been initiated, a local authority may not proceed with making, amending, or revoking the scheme until the examination has been completed.

Reasons why an examination may be initiated (either by the local authority or by Scottish Ministers) are not stated in the 2019 Act or the regulations and therefore either the local authority or Scottish Ministers may initiate an examination for any reason. Whilst not being an exhaustive list, the below examples may be considered potential reasons to initiate an examination:

- Failure to comply with the requirements and provisions set out in the 2019 Act or in regulations – this could include lack of evidence on how the WPL proposal supports the objectives set out in the LTS,
- Failure to adequately consult on proposals
- Lack of clarity on an element of the proposal

3.2 Scope of examinations

The scope of an examination should be established by the party who initiates the examination. This can be either the local authority or the Scottish Ministers. The scope of an examination should focus specifically on the elements which have been

raised as areas of concern by the Scottish Ministers or a local authority making a WPL proposal.

The scope will include any issues raised by the initiating party in their initiating notice requesting the appointment of a reporter to examine the proposal, as well as any further issues agreed by the local authority and Scottish Ministers after notice has been sent but before the reporter has begun the examination. However, wherever possible, we would encourage the initiating party to agree the scope with the other party prior to sending the initiating notice. This approach will remove the need to make a further request for responses to the additional matters within scope (as set out below under 'Establishing an Examination').

If there were further issues that one party wishes to include in the scope (that are not set out in the initiating statement) and the two parties could not agree on whether to include them in the scope, those issues would not be included in the scope of the examination. For those issue(s) to be examined, another examination would need to be initiated and the issue(s) set out in the statement by the initiating party. In practice, we consider it likely that both parties will have an interest in a single examination and early discussion of the scope will help to avoid disagreement on the scope of the examination.

The reporter will only consider matters which are within the scope of the examination. Any matters raised which are considered outwith the scope will be disregarded.

3.3 Establishing an examination

Only Scottish Ministers or a local authority making the WPL scheme can initiate an examination (known as the 'initiating party').

The initiating party must give written notice of its intention to appoint a reporter to carry out an examination to the following parties Scottish Ministers, if the initiating party is the local authority proposing to make the scheme, or the local authority, (if the initiating party is the Scottish Ministers).

Notice must also be provided to any person who responded to the consultation carried out under section 73(1)(b) of the 2019 Act. If the initiating party is Scottish Ministers, then the local authority must send this notice as soon as reasonably practicable after a request to do so by Scottish Ministers. This provision is due to the local authority rather than Scottish Ministers holding the information on respondents to the consultation.

The notice of intention to appoint a reporter to carry out an examination must be accompanied by:

- a) a statement setting out full details of the matters which the initiating party considers are required to be taken into account by the reporter in examining the proposal to make the scheme (i.e. what the initiating party considers the scope of the examination),
- b) a statement on which procedure the initiating party considers is most appropriate in the circumstances, in tandem with a list of any persons (and their qualifications) whom the initiating party wishes to provide a written statement for the purposes of the hearing or a list of any witnesses (and their qualifications) whom the initiating party wishes to give evidence at an inquiry,
- c) all documents, materials and evidence upon which the initiating party intends to rely in the examination,
- d) copies of the following documents: the proposal, a statement about the objectives of the proposal, and an assessment of the impacts of the proposal³, and the consultation report.

The persons who have been given written notice of the intention to carry out an examination may respond in writing within the scope of the examination. Responses must include:

- a) representations setting out full details of the matters which the respondent considers require to be taken into account by the reporter in examining the proposal,
- b) a statement as to which of the procedures the respondent considers is most appropriate for the examination in the circumstances. If the respondent indicates that a hearing is most appropriate, responses must include a list of any persons (and their qualifications) whom the initiating party wishes to provide a written statement for the purposes of the hearing; or if the respondent indicates an inquiry is appropriate, then a list of any witnesses (and their qualifications) whom the initiating party wishes to give evidence at an inquiry,
- c) copies of all documents, materials and evidence which the respondent intends to rely on in the examination, if they intend to provide additional documents to those provided with the notice of intent to initiate an examination,

³ These three documents are required under Section 73(1)(a) of the 2019 Act and further discussed under 'Developing the Proposal'

- d) a list of the documentation which the respondent intends to rely on in the examination, if they only intend to rely on the documents provided with the notice of intent to initiate an examination.

All matters which a respondent intends to raise in the examination must be set out in this response or in the documents which accompany the response.

3.4 Appointment of Reporter

A reporter is in charge of the examination process. Either the local authority making the WPL proposal, or the Scottish Ministers can appoint a reporter to carry out an examination of, and prepare a report on, the proposal or any aspect of it.

The reporter must be a member of the staff of the Scottish Ministers, or selected from a panel provided by the Scottish Ministers. In practice, we expect that a reporter would be sourced from the [Scottish Government's Planning and Environmental Appeals Division \(DPEA\)](#), as their officials already undertake a range of casework around 'inquiries' for the Scottish Government and is consistent with arrangements for the examination of LEZ proposals.

DPEA will lead on the administration and delivery of a WPL examination in conjunction with support (as required) from Transport Scotland and local authorities, but acting as a credible and independent lead for a WPL examination. The reporter will manage the whole process and consider what action is needed to gather enough information to make a decision.

The reporter has the following powers:

- To establish the procedure for the examination e.g. written representations only, by hearing, or by holding an inquiry.
- To send out notice of the time and place of the hearing or inquiry to those entitled to appear at the hearing or inquiry.

When appointing the reporter, the initiating party must send to the reporter a copy of the notice of intention to initiate and examination (including all accompanying documentation) that was sent to either the Scottish Ministers or the local authority proposing the scheme.

The reporter will organise the administration (including booking the venue(s)) for all elements of the examination and will administer the engagement with stakeholders (e.g. providing contact details for written submissions to be received, setting up virtual meetings etc.)

3.5 Procedure and timetable for examinations

Once a reporter has been appointed, the reporter must, in writing, invite the local authority proposing to make the scheme, and the Scottish Ministers to agree and finalise the scope of the examination. The reporter must also include a deadline for which this is to be agreed and sent to the reporter.

The reporter is responsible for establishing the procedure and timetable for the examination. This will be based on the scope of the examination, and also any evidence which has been received from the parties which have responded to the notice of intention to appoint a reporter. Section 75(3) of the 2019 Act outlines the different procedures for conducting an examination:

- Invite **written representations** only, where this approach is the quickest, simplest and normally cheapest method of deciding an examination.
- Hold a **hearing(s)** where a person who has made representations in respect of the proposal may be given an opportunity to appear and be heard in front of the reporter.
- Hold an **inquiry**, which is a more formal event, where witnesses give their evidence in front of the reporter and can be cross-examined by other parties (normally by their legal representatives).

The reporter must establish the procedure and timetable for the examination, and provide notice to Scottish Ministers, the local authority, and respondents to the consultation. The notice must include

- the scope of the examination,
- the fact that that responses to the notice must be within scope of the examination, and comply with the same requirements as responses to the examination being initiated as set out previously, and that responses must be sent to the reporter and all other persons,
- how responses may be sent,
- the fact that persons given notice under this paragraph may send comments on any matters raised in the responses to the reporter and to all other persons given notice under this paragraph, and
- the period within which any such comments are to be sent.

3.6 Opt-in procedure

In addition to the ability to set the procedure and timetable for examinations, and to invite responses, the reporter has a discretion to invite the persons to whom the notice of the scope, procedure and timetable of the examination has been sent to

'opt-in' to further participation in the examination. The reporter is to give at least 14 days for a reply to this opt-in invitation. If such persons wish to participate in any further procedure conducted in relation to the examination they must send a notice ('an opt-in notice') to the reporter, and if they do not do so, they lose the opportunity to participate in any further procedure.

3.7 Further submission and information

Before holding an examination, the reporter may wish to seek further written submissions within the scope of the examination. If so, they would need to give written notice to the parties via a 'procedure notice' outlining the matters on which additional representations or information is requested and by which date.

The party who receives a procedure notice must, by the date specified in that notice, provide the additional representations or information requested to the reporter and provide a copy of that response to the other involved parties. Within 14 days of receipt of copy of the response, parties may send comments in writing to the reporter in reply to that response and must, when doing so, send a copy of such comments to the other parties.

3.8 Pre-examination meetings

The reporter may hold a "pre-examination meeting" to consider the manner in which the examination is to be conducted with a view to ensuring that the examination is conducted expeditiously.

3.9 Determination without further procedure

If the reporter is content that they have the necessary information (and thus do not need to hold either a hearing or inquiry), they may carry out the examination and prepare a report on it without further procedure.

3.10 Conclusion on further procedure

Where the reporter determines that they require further information to undertake the examination, following any pre-examination meeting the reporter must determine whether to carry out the examination by either a hearing or inquiry, and then inform the parties in writing of that determination.

3.11 Hearings and inquiries procedure

3.11.1 Hearings

Schedule 2 of the regulations contain the procedure under which hearings will be held. Hearing sessions may be required where:

- The reporter needs to enhance their understanding by asking questions, seeking explanations of evidence or opinions.
- There is some dispute but where cross examination of professional or other witnesses is not necessary.
- The evidence to be examined is largely a matter of opinion rather than settled fact, so the issue could benefit from being explored through discussion led by the reporter to enable the reporter to reach their own opinion.

As a hearing would take the form of a discussion led by the reporter, cross examination will not be permitted (this would be more appropriate for an inquiry).

Where the reporter determines that a hearing is to be held, the reporter must give notice of the hearing to the parties and any other person from whom the reporter wishes to hear at the hearing.

Anyone who has received notice of the hearing and who intends to appear at a hearing must inform the reporter of that intention in writing within 14 days of the date of receiving a notice. If a person does not reply to the reporter, they will not be entitled to appear at the hearing.

The notice must also provide all parties with a website address where copies of everything submitted to the reporter can be inspected.

Only parties which have received a hearing notice, and have informed the reporter of their intention to appear at the hearing are entitled to appear at the hearing.

The reporter will set the date and time for holding the hearing, and the manner in which the hearing will be conducted including its location (if not being held virtually). The reporter must ensure that all those entitled to appear at the hearing are aware of these details by written notice.

The reporter may also request a written statement from the list of witnesses provided by the initiating party or any other relevant parties. A written statement must not be longer than 2000 words (unless prior agreement with the reporter has been reached).

The local authority proposing to make the scheme is to allow inspection, and allow copies to be taken of any documents relevant to the hearing.

The procedure at the hearing is determined by the reporter, which will be communicated at the start of the hearing.

Any person entitled to appear at the hearing may do so on their own behalf, or be represented by another person.

The reporter may from time to time adjourn the hearing. When this happens, the reporter must provide all parties entitled to appear at the hearing of the new time, date and location of the adjourned hearing. This can either be done at the hearing, or by written notice to all entitled parties.

3.11.2 Inquiries

Schedule 3 of the regulations contain the procedure under which inquiries will be held. An inquiry, or inquiry sessions may be appropriate where:

- there is a dispute between the parties on complex or technical matters and the evidence needs to be thoroughly tested by cross-examination to enable the reporter to reach clear conclusions either on an important material consideration, or whether the proposal is in accord with a key provision of the development plan;
- essential facts are in dispute and cross-examination is necessary to clarify matters;
- there is a conflict of professional opinion or evidence and the reporter would find it helpful for that evidence to be tested by cross examination.

Where the reporter determines that an inquiry is to be held, the reporter must give notice of the inquiry to the parties and any other person from whom the reporter wishes to hear at the hearing.

Anyone who has received notice of the inquiry and who intends to appear at the inquiry must inform the reporter of that intention in writing within 14 days of the date of receiving a notice. If a person does not reply to the reporter, they will not be entitled to appear at the inquiry.

The notice must also provide all parties with a website address where copies of everything submitted to the reporter can be inspected.

Only parties which have received an inquiry notice, and have informed the reporter of their intention to appear at the inquiry are entitled to appear at the inquiry.

The reporter will set the date and time for holding the inquiry, and the manner in which the inquiry will be conducted including its location (if not being held virtually). The reporter must ensure that all those entitled to appear at the inquiry are aware of these details by written notice.

The reporter may require the initiating party or any other relevant party to send the reporter a 'precognition' in respect of any evidence to be given to the inquiry by a person included in the list of witnesses. Precognition is a written statement of the evidence proposed by a witness to be given to the inquiry. The precognition must not contain more than 2000 words, unless the reporter agrees otherwise.

The precognition must be made available to the initiating party and other such other persons entitled to appear at the hearing session.

A witness would be contacted and 'called' by the Reporter to provide evidence in whatever form the Reporter considered most appropriate (writing, informal hearing or inquiry)

The local authority proposing to make the scheme is to allow inspection, and allow copies to be taken of any documents relevant to the inquiry.

The procedure at the inquiry is determined by the reporter, which will be communicated at the start of the inquiry.

Any party entitled to appear at the inquiry is entitled to call evidence and to cross-examine persons giving evidence and to make closing statements (this is a significant difference to the procedures for a hearing). However, the reporter can refuse to permit the giving of evidence or cross examination of persons giving evidence if they consider this approach to be irrelevant or repetitious.

The reporter may proceed with an inquiry session in the absence of any party entitled to appear at the inquiry.

3.12 Inspections

The reporter may make an unaccompanied inspection of the proposed WPL scheme area, and must inform parties of such an intention. The reporter may make an inspection of the area accompanied by a party to the examination, and they should inform the notified parties of the date and time that they intend to undertake an inspection. The reporter is not required to delay an inspection if the party intended to accompany them is not present at the time of the inspection.

3.13 Expenses

The reporter may make orders as to the expenses incurred by the parties contributing into the examination. Orders in favour of the Scottish Ministers may include expenses in relation to the examination's administration costs.

3.14 Report

Once the reporter is content that they have the necessary information, the reporter will prepare a report with the outcome of the examination. The purpose of this report will be to provide recommendations for consideration, and to inform decision making with regards to a WPL scheme proposal.

It is important to note that the recommendations in the report are not binding on the local authority as it considers whether to proceed with making, amending, or revoking the scheme, and there is no role for Ministers to intervene beyond initiating the examination.

The reporter must provide all relevant parties (Scottish Ministers, the local authority, and any parties who have 'opted in' to the examination) with a copy of the report, and arrange for publication of the report on the Scottish Ministers' website.

The report should summarise the method of the examination, the evidence and representations considered, and the outcomes of the examination.

Once the report is issued, the local authority may consider its findings and whether it is appropriate to proceed with the scheme as proposed. Post-examination, a local authority may proceed with their proposal to make, amend or revoke a WPL scheme.

4. Operating a scheme

4.1 Enforcement and compliance

As outlined under 'Definition of workplace parking places,' a parking place is only considered a WPP if the space provided is occupied by a vehicle used by certain people. These means that determining the correct number of spaces cannot rely simply on counting the number of spaces provided, or even counting the number of employee spaces provided, if the employer provides a separate parking area for employees and customers.

In Nottingham, it is the responsibility of the WPP provider to determine the correct number of WPPs to be licensed. To support compliance, Nottingham has taken a collaborative approach to verifying that the correct number of WPPs have been licensed, beginning compliance checks with a meeting with the occupier of the premises.

Nottingham places conditions on WPL licences to require employers to provide the local authority with certain information to support compliance checks, such as the vehicle registration numbers of vehicles occupying WPPs. This can then be

compared to the vehicles which are regularly parked on the premises (without connecting to other databases which could involve the processing of personal data).

Identification of vehicles regularly parked on liable premises that are not on the list provided by the employer are not, on their own, evidence that a contravention of the WPL scheme has occurred. For example a space occupied by a non-business customer would not be liable for charge, even if it was regularly parked at the premises during the compliance survey period.

Section 76(6-7) of the 2019 Act makes provision for offences in relation to WPL licence applications. A person commits an offence if the person intentionally provides false or misleading information in or in connection with an application in respect of a workplace parking licence. A person guilty of an offence is liable on summary conviction, to a fine not exceeding the statutory maximum, or conviction on indictment, to a fine.

4.2 Liability for charge

Under the 2019 Act, the occupier of the premises is liable for WPL charges. Regulations make further provision for situations where an arrangement has been made to provide parking at another premises. This would apply when the occupier of a premise has made arrangements with another party (ie other entity that would be liable for WPL) to provide WPP. As examples of when this might be relevant:

- An employer makes arrangements with a neighbouring premise to allow employees to park on the neighbouring premise
- An employer makes arrangements for their employees to park at a nearby multi-storey car park
- Several employers share a car park, for example in an office or retail park.

This provision allows the occupier of the premise (ie the car park operator, retail/office park landlord etc) to pass on the liability for the WPL charge to the employer. Under the regulations, the local authority may require evidence of these arrangements to be provided before the liability passes on.

There are no circumstances when an employee (or other occupier of a WPP) is liable to pay the WPL licence charge. There is no provision within the 2019 Act or 2022 Regulations about employers 'passing on' the charge. As occupiers of private property, businesses make decisions in regard to their premises including whether to provide parking and whether to charge for parking via private contractual arrangement. It will be a decision for employers, as it currently is, whether to charge employees for parking on their premises.

4.3 Licence application, duration, and conditions

Section 76 of the 2019 Act makes provisions in relation to licence applications, duration, and conditions to be placed on the licence. This section also makes provision in regards to short-term licences.

Local authorities may make provision within their schemes on

- applications for a workplace parking licence,
- granting, issuing and renewing a licence,
- imposing conditions on a licence,
- the standard duration of a licence,
- varying or revoking a licence,
- suspending the requirement to hold a licence for a period (and reimbursing charges for such a period).

Local schemes may include provisions on short-term licences in special circumstances. The duration of a short-term workplace parking licence (or the total duration of a series of such licences) may not exceed 12 months. Local schemes may include provision conferring discretion on any person in connection with the granting of short term licences in special circumstances (for example to make decisions on a case-by-case basis).

There are no provisions in Scotland constraining the duration of a licence (except short-term licences as set out above) and therefore this is for the local authority to determine.⁴ The local authority may wish to consider the balance between administrative burden and supporting the objectives of the scheme: too short a period would pose a substantial burden on the local authority and the licensee. However if one objective of the local scheme is behaviour change in employers, then too long of a licencing duration (or provisions such as automatically renewing a licence) may not serve as a regular prompt for employers to re-assess and reduce their parking provision.

Similarly the local authority can determine provision within their schemes on variation of licences (ie if the number of WPPs has increased or decreased). For example, a local authority may determine how frequently the licences may be varied (ie quarterly, monthly, whether changes can be backdated, how often licences may be

⁴ WPL licences must be no longer than 12 months in duration under the legislation governing English and Welsh WPL schemes.

varied, etc). These decisions will have impacts on the objectives of the scheme (ie motivating behaviour change in parking provision) and resource implications for the local authority. As an example of how this might work in practice, detailed provision is included on page 14 of Nottingham's Employer Handbook and paragraph 7 of Nottingham's Order.

4.4 Content of licences

Section 77 of the 2019 Act makes provision as to the content of licences.

A workplace parking licence must

- state the name of the person to whom it is granted,
- specify the duration of the licence,
- identify the premises to which it relates,
- specify the maximum number of motor vehicles which may be parked at those premises at any one time, and
- state the amount of the charge paid on the licence and set out the calculation of that amount.

A workplace parking licence may include such other information in relation to the workplace parking licensing scheme or licensing processes as the local authority considers appropriate.

4.5 Reviews and appeals against licensing decisions

Regulations 22 to 24 make provision in regards to reviews and appeals against licensing decisions. For the avoidance of doubt, this does not refer to reviews and appeals against the scheme itself (or the examination process), or any element of schemes. This section also does not refer to reviews and appeals of penalty charges, which are discussed under "Penalty Charges" below. These regulations deal with reviews and appeals against a licensing decision that the local authority has made to grant, deny, or place conditions on a WPL licence. The regulations require local authorities to include a mechanism for reviewing licensing decisions in their local schemes. The review process must allow 28 days for a written application for review to be made after the licensing decision has been served onto the licence holder or applicant. Local authorities have discretion on accepting applications for review after 28 days. If a review is sought, then the licensing decision in question does not take effect until the review has been completed and a decision made. The local authority must consider the application for review, and advise the licence holder of its decision to confirm or revise the decision by serving a "notice of determination",

which must state the reasons for the local authority's decision, and advise how the determination may be appealed to the sheriff.

The local authority must determine the appropriate internal process for reviewing its licensing decisions, ensuring the review is meaningful to avoid unnecessary appeals to the sheriff as set out below. The local authority may need to consider internal escalation to avoid a situation where the original decision is simply assessed by the same resource.

An appeal against the local authority's determination may be made by summary application to the sheriff. This is a standard procedure which allows the sheriff to decide the appeal. If the sheriff allows the appeal, they must remit the decision back to the local authority to reconsider their decision. The sheriff can make a determination on expenses. Any licensing decision being appealed does not take effect until the appeals process has been fully completed.

4.6 Penalty Charges

Section 83 of the 2019 Act and regulations 25 to 33 include provisions on enforcement of WPL schemes and the issuing of penalty charges. These regulations allow local authorities to make provision within schemes to issue penalty charges for contraventions under WPL schemes. The regulations also provide a framework for penalty charges to be issued, reviewed, and appealed.

If a local authority intends to issue penalty charges for contraventions, they must include provision in their local scheme, including the amount (or formula) of the penalty charge.

Schemes may set out that a penalty charge can be issued in cases:

- where a person is providing a workplace parking place at any premises in respect of which a licence is required under a scheme and there is no licence in force in respect of those premises,
- where a person is providing a workplace parking place at any premises in respect of which a licence under a scheme is in force in circumstances where the number of vehicles occupying workplace parking places at those premises exceeds the maximum number of workplace parking places covered by the licence,
- where a condition in a licence under a scheme (other than a condition as to the number of vehicles which may occupy workplace parking places at the premises to which the licence relates) has been contravened.

Schemes which include penalty charges must set out the period within which a penalty charge must be paid (“payment period”), and this period must be at least 28 days. The scheme can specify different payment periods for different circumstances.

The penalty charge must be paid by the occupier of the premises, except in situations where an arrangement has been made to provide WPPs for someone other than the occupier, as set out under this guidance document’s ‘liability for charge’ section, above.

The consultation highlighted the potential for misunderstanding and confusion around WPL penalty charge, with many of the comments around penalty charge seemingly arising from the misperception that the WPL penalty charge and enforcement will be similar to other parking contraventions (for example, that it will be charged on individual vehicles). It should be made clear in the local authority’s communication that the WPL penalty charge is a licensing matter, and will always be on the occupier of the premises rather than individual drivers or employees.

4.6.1 Amount of the Penalty Charge

The scheme (if it makes provision for penalty charges) must state the amount of the penalty charge. The scheme can specify different amounts in different circumstances, and that the amount will be reduced if paid within a certain period of time. The scheme can also provide for the amount of the penalty charge to increase if it is not paid within the payment period (as set out below under the section ‘Charge certificates’).

In the WPL consultation, Transport Scotland asked questions whether the amount of the penalty charge should be set nationally via a formula in regulations or determined by local authorities. A majority of respondents indicated that felt that a formula would be appropriate; however very few respondents commented on the formula they considered appropriate. The comments provided indicated that the respondents understood the question but there was no consensus on the appropriate amount, with suggestions varying on the basis of schemes and local circumstances. On this basis, the decision on the amount of the penalty charge has been left to local authorities.

However the comments provided by consultation respondents provide some themes local authorities may wish to consider as they determine the amount of the penalty charge in their local scheme.

- **Proportionate** – respondents suggested that penalty charges should be proportionate with other decriminalised offences such as parking fines and bus lane infringements, or for other offences such as speeding or using a

mobile phone while driving. It is important to note that the types of contraventions cited by respondents are on individuals, rather than on occupiers of premises. While it is appropriate for penalty charges to be proportionate, they should be proportionate to the amount of the licence charge rather than other contraventions on motorists.

- **Fairness and consistency** –some respondents felt the amount of the penalty charge should be consistent across Scotland to ensure a fair approach and to minimise confusion for businesses that operate in multiple locations. While difference in penalty charge amounts by local authorities should not cause confusion for businesses (both since many aspects of WPL schemes will vary by local authority, and because very few, if any, businesses are expected to be issued with penalty charge notices) this response does emphasise that penalty charges should be transparent and easy to understand.
- **Reduction for early payment and increase for late payment** – the regulations make provision for local authorities to include this in their local schemes
- **Challenge for local authorities to determine penalty charge** – at least one respondent felt that a national formula for the penalty charge would reduce the risk local authorities may face a legal challenge on the basis of their penalty charge amount. While it is not a requirement for local authorities to make provision for penalty charge as part of their local scheme (and therefore no requirement for local authorities to include the amount (or other details) of the penalty charge in their proposal documents), it is likely to be best practice for local authorities to include details on proposed enforcement (such as the amount of the penalty charge) in their proposal and consultation.

In Nottingham, the amount of the penalty charge is set at one-half of the annual charge per contravention (ie per space, per day). Nottingham’s penalty charges for WPL are intended to strongly encourage co-operation and compliance. However, an alternative approach may be to set charges at levels comparable to other penalty charge notices or other non-payment of licence fee penalties.

4.6.2 Penalty Charge Notice

When a local authority decides to issue a penalty charge, they must send a penalty charge notice to the person liable to pay the charge, and the notice must include information on the amount of the charge, why the penalty charge was issued, how to pay the penalty charge, and information on how to appeal the penalty charge. Service of these documents is governed by section 26 of the [Interpretation and Legislative Reform \(Scotland\) Act 2010](#).

Local authorities should engage with the Scottish Courts and Tribunals Service (SCTS) to determine the contravention codes which should be used on the penalty

charge notice. This is not a statutory requirement but may aid with administration of appeals.

4.6.3 Charge Certificates

If a penalty charge is not paid or appealed within the period of time set by the local authority in the scheme, then the authority can issue a charge certificate: this means that an increased charge is payable by such a percentage as set out under the local authority's scheme.

The period of time after which a charge certificate can be issued would normally be the payment period set by the local authority, except if a review or appeal of the penalty charge has been sought or made by the recipient of the penalty charge notice:

- (a) where a notice of rejection is served under regulation 31 but no appeal is made under regulation 32, the period of 28 days beginning with the date of service of the notice of rejection,
- (b) where there has been an unsuccessful appeal against the imposition of the charge to the First-tier Tribunal and no subsequent application for review, or review, of the First-tier Tribunal's decision or appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision of the First-tier Tribunal is sent to the appellant,
- (c) where an application for review of the decision of the First-tier tribunal in an appeal against the imposition of the charge has been rejected and there has been no subsequent appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision rejecting the application for review is sent to the applicant,
- (d) where there has been an unsuccessful review of the decision of the First-tier tribunal in an appeal against the imposition of the charge and no subsequent appeal to the Upper Tribunal, the period of 28 days beginning with the date on which the decision refusing the review is sent to the applicant,
- (e) where there has been an unsuccessful appeal against the imposition of the charge to the Upper Tribunal, the period of 28 days beginning with the date on which the decision of the Upper Tribunal is sent to the appellant,
- (f) where an appeal to either the First-tier Tribunal or Upper Tribunal is withdrawn, the period of 14 days beginning with the date on which it is withdrawn, and
- (g) where no representations are made under regulation 30(1) within the payment period, that period.

If the recipient seeks a review of the penalty charge after the end of the payment period and the local authority chooses to undertake a review, then the charge certificate must be cancelled.

If the relevant period as set out above has expired, and the increased charge as set out in the charge certificate is not paid 14 days after the charge certificate is served, then the local authority may recover the increased charge as if it were payable under an extract registered decree arbitral bearing a warrant for execution issued by the sheriff for any sheriffdom. This process is in line with other local authority debt recovery processes.

4.6.4 Review and Appeals

The recipient of a penalty charge may seek a review of the penalty charge within the payment period. The representations made by the recipient to the local authority must include evidence relevant to the grounds the recipient is making for seeking a review of the penalty charge. The local authority has discretion on whether to consider representations made after the end of the payment period and may consider whether it is appropriate to do so. Local authorities will have existing review processes for matters such as parking, littering, dog fouling, fly tipping, or noise abatement and may wish to consider those when developing a process for reviewing penalty charges related to WPL.

Recipients of penalty charges must rely on one of the following grounds when making representations:

- on the grounds that the penalty charge is incorrect,
- or the amount of the penalty charge is too high for the circumstances set out in the penalty charge notice,
- or that the penalty is payable by someone else. If this ground is relied on by the recipient seeking a review, then the representations must include a statement of the name and address (if known) of the person who is considered by the recipient of the penalty charge notice to be responsible for payment of the penalty charge.

Local authorities must consider the review and serve either a notice cancelling the penalty charge, or a “notice of rejection”. If the local authority accepts that at least one of the grounds outlined above have been established, it must

- (a)cancel the penalty charge notice,
- (b)serve a notice on the person by whom the representations were made—
 - (i)stating that the penalty charge notice has been cancelled,

- (ii) explaining the local authority's decision, and its reasons for that decision, on each of the grounds on which representations were made,
- (c) refund any penalty charge paid in relation to the cancelled penalty charge notice.

If a local authority is satisfied that none of the grounds on which representations are made is established, it must serve a notice of rejection. The notice of rejection must

- state the reasons for the local authority's decision on each ground on which representations were made,
- state that an appeal against the imposition of the penalty charge may be made to the First-tier Tribunal within the appeal period, or such longer period as the First-tier Tribunal may allow,
- state the grounds upon which an appeal may be made (being the same grounds as are specified above),
- describe in general terms the manner and form for making an appeal,
- state that the First-tier Tribunal has power to make an award of expenses,
- where the scheme allows for it, state that if the penalty charge is paid before the end of such period as may be specified in the scheme, the penalty charge will be reduced by a percentage specified in that scheme, and
- where the scheme allows for it, state that unless, before the end of the appeal period the penalty charge is paid, or an appeal is made to the First-tier Tribunal against the imposition of the charge, then the local authority may issue a charge certificate and describe the effect of the charge certificate.

If the recipient receives a notice of rejection, an appeal can be made to the First-tier Tribunal for Scotland. The period in which an appeal may be made to the First-tier Tribunal will be set by the First-tier Tribunal. The Tribunals (Scotland) Act 2014 created a new two tier structure for devolved tribunals (First-tier Tribunal and Upper Tribunal) known collectively as the Scottish Tribunals. Further information on the Scottish Tribunals may be found on the [Scottish Courts and Tribunals website](#).

Draft regulations have been produced to allocate the new Transport Appeals functions to the First Tier Tribunal for Scotland General Regulatory Chamber. In addition, it is intended that amendments will be made to the First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Cases and Upper Tribunal for Scotland (Composition) Regulations 2020 and the First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals (Rules of Procedure) Regulations 2020. On 22 March 2022 the Scottish Government published a consultation on the regulations which will govern where appeals are heard within the First-tier Tribunal, and proposes that they be heard in the same Chamber as existing bus lane and parking appeals, the General Regulatory

Chamber. There will be an onward route of appeal to the Upper Tribunal and ultimately to the Court of Session.

The current expectation is for these regulations to come into force in June 2023. As a matter of fairness, these rules must be in place before local authorities issue penalty charges related to WPL: otherwise there would be no route to appeal the penalty charge to the First-tier tribunal.

4.6.5 Further considerations

If local authorities in Scotland model their compliance and enforcement on Nottingham's example, then we consider it likely that very few, if any, WPL penalty charge notices will be issued by local authorities. However enforcement by way of penalty charge, and particularly the amount of the penalty charge, are expected to play an important role in compliance and the success of the scheme.

Nottingham has a compliance process (as set out earlier in this section under 'Enforcement and Compliance') which involves WPL officers engaging with employers before undertaking inspections to verify the correct number of spaces are being licensed. It is employers' responsibility to determine the correct number of WPPs and apply for a licence on that basis.

An appropriate level of penalty charge will provide motivation for providers of WPPs to approach these conversations collaboratively. We expect that the local authority may also wish to approach compliance collaboratively to avoid issuing a penalty charge, as the local authority would need to prove (in court, presuming it was appealed) that the parking places they have issued the penalty charge for are in fact WPPs and are not customer or other parking, a potentially resource-intensive set of evidence to compile with the information local authorities hold and the fluctuating nature of workplace parking.

While the Nottingham model has been successful, local authorities in Scotland may take an alternative approach if they conclude that it would be more appropriate for their local circumstances.

There is no time limit in legislation in which a local authority must issue a penalty charge notice. This is intended to allow time for the local authority to engage with providers of WPP and support them to become properly licenced before resorting to issuing a penalty charge notice: an approach which is more likely to support the objectives of the scheme.

4.7 Enforcement: Warrants

Section 87 of the 2019 Act makes provision for offences in relation to enforcement and warrants. Under this section, a person commits an offence if the person without reasonable excuse, fails to comply with a requirement of an authorised person, or intentionally obstructs an authorised person in the exercise of a power conferred by section 85(1). A person who commits an offence under subsection (7) is liable on summary conviction, to a fine not exceeding the statutory maximum, and on conviction on indictment, to a fine.

5. Monitoring and Evaluation

Section 70(2)(g) of the 2019 Act requires local authorities' WPL schemes to include arrangements for the periodic review of the operation and effectiveness of the scheme, including how the outcome of a review is to be communicated to persons affected by it.

WPL schemes are not intended to sit on their own: they may only be made when a local authority has an LTS and the local authority considers that the WPL scheme would support the objectives of the LTS. The schemes will raise revenue to fund objectives in the LTS. Therefore we expect that monitoring and evaluation will sit within the wider monitoring and evaluation of the LTS alongside other transport and climate change measures.

During policy development of the WPL regulations and this guidance document, the working group agreed that there is a shared interest in monitoring the outcome of WPL schemes within the context of broader climate change objectives and evidence. This monitoring may sit within [the route map to achieve a 20 per cent reduction in car kilometres by 2030](#), which was published in draft for consultation by Transport Scotland and COSLA in January 2022. Further arrangements for monitoring and evaluation may be arranged through these collaborative efforts.

6. Use of Proceeds

Section 81 of the 2019 Act makes provision for the use of proceeds from the WPL scheme.

The local authority may only apply the net proceeds of a WPL scheme for purposes of facilitating the achievement of policies in the authority's local transport strategy.

If the local authority is acting jointly with another local authority (or authorities), the local authority may apply their share of the net proceeds to facilitate the achievement of policies in the local transport strategy of a local authority with whom the authority is acting jointly. However in order to do so, the local authority must be satisfied that doing so will benefit some part of its own area.

“Net proceeds” means the amount of money (if any) by which the gross amount received under the WPL scheme for a financial year exceeds the expenses of operating the scheme for the financial year.

7. Accounts

Regulation 34 makes provision in relation to the keeping of accounts. The regulation requires that accounts are prepared and published in line with other local authority accounting practices, showing the net proceeds of a WPL scheme and how they have been applied.

Specifically, the local authority must keep adequate accounting records for the scheme showing for each financial year how the net proceeds of the scheme have been calculated, how the net proceeds of the scheme have been applied, and the value of the net proceeds of the scheme unspent at each financial year end. Local authorities must prepare, in respect of each financial year, a statement of account based on these accounting records in such form as is required by proper accounting practices, and publish the statement of account, in such manner as is required by proper accounting practices, in the annual accounts of the authority for the financial year.

If a scheme is operated by two or more local authorities acting jointly, the local authorities must also keep adequate accounting records showing each authority’s share of net proceeds of the scheme, and how the gross and net revenue of each authority’s share of the net proceeds of the scheme is calculated in accordance with the apportionment of any monies received from licence charges and penalty charges.

For the purposes of these regulations, “adequate accounting records” has the meaning given in regulation 6 of the [Local Authority Accounts \(Scotland\) Regulations 2014](#), “proper accounting practices” has the meaning given in section 12 of the [Local Government in Scotland Act 2003](#).

8. Future Review of Guidance

This guidance has been drafted in advance of any WPL schemes being proposed or implemented by any local authority in Scotland and is intended as a resource for local authorities. Following implementation of a WPL scheme by one or more local authorities, COSLA, SCOTS and Transport Scotland may wish to agree to review this guidance document.

9. Definitions and resources

Legislation referred to in this guidance document:

- [Transport \(Scotland\) Act 2019](#)
- [The Workplace Parking Licensing \(Scotland\) Regulations 2022](#)
- [Local Authority Accounts \(Scotland\) Regulations 2014](#)
- [Local Government in Scotland Act 2003](#)

Policy development and engagement

- [Consultation Analysis Report](#): Workplace Parking Licensing - Regulations and Guidance
- [Impact Assessments](#): The Workplace Parking Licensing (Scotland) Regulations 2022

Nottingham City Council resources:

- Draft [Workplace Parking Levy Order](#) 2008 which must be read alongside [Secretary of State's confirmation order](#) (which makes significant amendments to the proposed scheme)
- Nottingham City Council [website](#)
- [Employers Handbook](#)
- [Small Employer Leaflet](#)
- [Evidence from Nottingham City Council officials](#) to the Scottish Parliament Rural Economy and Connectivity Committee at the time of Stage 2 consideration of the Transport (Scotland) Act 2019

Other WPL schemes in development:

- [Leicester City Council](#)
- [Oxford City Council / Oxfordshire County Council](#)



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