

Report To:	Environment & Regeneration Committee	Date:	15 June 2017
Report By:	Corporate Director Environment, Regeneration & Resources	Report No:	ERC/ENV/WR/17.309
Contact Officer:	Steven Walker	Contact No:	714828
Subject:	Transport Scotland – Parking Consultation March 2017		

1.0 PURPOSE

- 1.1 The purpose of this report is to seek Committee approval for the response to the Transport Scotland Parking Consultation March 2017.

2.0 SUMMARY

- 2.1 The Scottish Government is undertaking a detailed review of parking in Scotland. Due to the complex nature of parking, a public consultation paper has been prepared which provides an opportunity to explore how parking is managed across the country.
- 2.2 The Council's proposed response to the Consultation is noted in Appendix 1.
- 2.3 The Scottish Government's original Consultation document is noted in Appendix 2.

3.0 RECOMMENDATION

- 3.1 That the Committee approve the Council's proposed response to the Transport Scotland Parking Consultation March 2017.

Willie Rennie
Head of Environmental and Commercial Services

4.0 BACKGROUND

4.1 The Scottish Government is undertaking a detailed review of parking in Scotland. Due to the complex nature of parking, a public consultation paper has been prepared which provides an opportunity to explore how parking is managed across the country. The paper seeks views on:

- Making parking laws clearer,
- What parking restrictions and exemptions should apply,
- The best approach to managing parking,
- The location of vehicles in today's town centres, including improved accessibility for all.

The consultation was developed in partnership with representatives from the Responsible Parking Stakeholder Working Group, which was established in August 2016. The group includes representatives from Local Authorities, SCOTS, RTPs, Police Scotland, Living Streets, Guide Dogs Scotland, Mobility Accessibility for Scotland (MACS), RNIB, Freight Transportation Association, Cycling Scotland, RAC Motoring Services, Head of Planning Scotland, CILT UK, Parking Industry, Federation for Small Business, Scottish Council for Development and Industry (SCDI) and Business Improvement Districts for Scotland (BIDS).

4.2 The Council's proposed response to the Consultation is noted in Appendix 1.

4.3 The Scottish Government's original Consultation document is noted in Appendix 2.

5.0 IMPLICATIONS

5.1 Finance:

There are no financial implications arising from the submission of the Council's response to the Consultation. However, the outcome of the consultation process and any move to new/amended parking regulations is likely to have financial implications for the Council, and arising from increased enforcement activity and new Traffic Regulation Orders.

One-off costs:

Cost Centre	Budget Heading	Budget Years	Proposed spend this report (£000s)	Virement from	Other comments
N/A					

Annually recurring costs:

Cost Centre	Budget Heading	With Effect From	Annual Nett Impact (£000s)	Virement from	Other comments
N/A					

Legal

5.2 There are no legal implications arising from the submission of the Council's response to the Consultation. However, the outcome of the consultation process and any move to new/amended parking regulations is likely to have legal implications for the Council, and arising from increased enforcement activity and new Traffic Regulation Orders.

Human Resources

5.3 There are no specific HR implications arising from the submission of the Council's response to the Consultation. However, the outcome of the consultation process and any move to new/amended parking regulations may have HR implications for the Council, arising from increased enforcement activity.

Equalities

5.4 There are no equalities implications arising from this report.

Repopulation

5.5 The provision of parking arrangements will contribute to the overall appeal of Inverclyde as a preferred place to reside.

6.0 CONSULTATIONS

6.1 The Chief Financial Officer has been consulted on this report.

6.2 The Head of Legal and Property Services has been consulted on this report.

7.0 LIST OF BACKGROUND PAPERS

7.1 None.

Appendix 1 – Response to Parking Consultation March 2017

TRANSPORT SCOTLAND PARKING CONSULTATION MARCH 2017

ANNEX A Consultation on improving parking in Scotland RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name:

Steven Walker (Service Manager, Roads) Inverclyde Council

Phone number:

01475 714828

Address

Environmental & Commercial Services (Roads),
Vehicle Maintenance Facility
8 Pottery Street
GREENOCK
PA15 2UH

Email

roads@inverclyde.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (anonymous)
 Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
 No

CONSULTATION QUESTIONS

General

Q 1. Do you think parking, including on pavement, at dropped kerbs and double parking is a problem in your area?

- **If yes, how have you, your family or friends been affected by parking problems?**
- **Where did this occur (e.g. type of street or area) and how often?**

There have been a number of complaints with regards to footway (pavement) parking within Inverclyde this can cause problems for people with mobility issues and prams/buggies. There have also been some complaints with regards to parking across dropped kerbs. The majority of these complaints arise in areas without formal parking restrictions so it becomes a matter for Police Scotland to take enforcement action as appropriate, although this may not be a priority for Police Scotland.

Legislation

Q 2. Why do you think the motorists may choose to pavement park?

Motorists believe that they cause less obstruction to the road carriageway when they park partly on the footway. In residential areas, there may be insufficient off-road parking available which leads to residents parking on the footway as they think it makes best use of the available road space even though it is detrimental to pedestrians.

Q 3. Do you think new legislation is needed ?

- **If yes, what areas of the law need to be amended?**

Yes, new legislation is required to make it illegal to park on a footway rather than the current situation where it is illegal to drive onto a footway.

Parking on a footway or cycle track should be an offence, subject to specified exceptions.

Q 4. If a new law is required, should it cover all roads with footways, including private roads that are not adopted by local authorities and trunk roads?

- **If not, why not?**

Yes, these problems may exist regardless of who maintains the road.

Q 5. Do you think any new law should apply to all vehicles (e.g. HGVs, vans, taxis, cars, motorbikes, etc.)?

- **If not, which type of vehicles should the law not apply to?**

Yes, However, parking on footways by HGVs is already an offence under section 19 of the Road Traffic Act 1988. To avoid confusion, the same offence should not be covered by two separate acts.

Q 6. Do you think there should be exemptions applied to allow pavement parking

to take place, particularly due to local concerns about access for vehicles and lack of alternative parking provision?

- **If yes, what should those exemptions be?**
- **If no, why not? (Please be as specific as possible)**

Yes, the legislation should allow the traffic authority to make traffic orders permitting footway parking in specified areas. The Road Traffic Regulation Act 1984 contains adequate provisions for this, so long as any new act is not written in such a way as to limit this power. For example, this would allow local authorities to permit footway parking in housing estates where a ban would cause serious parking problems for residents.

There should be an exemption to permit loading or unloading. This would be the same exemption that currently exists in relation to the prohibition of the parking of HGVs on footways.

Consideration would need to be given as to how exemptions are signed on the relevant roads.

Implementation & Enforcement

Q 7. Should there be consistent approach to parking enforcement across Scotland?

- **If yes, how should this be taken forward?**

Yes, Via National guidance/legislation.

Q 8. Local authorities in some parts of Scotland have DPE powers and are responsible for parking enforcement. In other areas Police Scotland retains responsibility.

- **What is your views on rolling out Decriminalised Parking Enforcement regimes across Scotland?**
- **What is your views about the proposal to share services to provide some access to a “traffic warden service” in areas without DPE?**
- **What should Police Scotland’s involvement be in future?**

DPE has been a success in Inverclyde since it started in 2014. We support the concept of collaboration between local authorities to share services to enable enforcement of parking controls. Police Scotland do not seem to see parking enforcement as a priority so we would encourage local authorities to adopt and extend DPE to include parking on pedestrian crossing zig-zags, for example.

Q 9. Currently moving traffic violations are a matter for the police, however, do you think local authorities should be able use CCTV and/or Automatic Number Plate Recognition (ANPR) systems for enforcement of:

- **parking in areas where safety benefits can be delivered to all road users, around schools for example?**
- **Some moving vehicle contraventions like banned turns?**
- **If not, why not? (Please be as specific as possible)**

No, the use of ANPR/CCTV should remain with Police Scotland/ Safety Camera Partnerships.

Traffic Regulation Orders (TROs)

Q 10. Do you think it is a good idea in principle to allow local authorities to exempt specific streets or areas from national restrictions for pavement parking?

- **If so, what is the best mechanism for doing this (e.g. TRO or other form of local resolution)?**

Yes, via a TRO. Consideration would need to be given as to how such exemptions would be signed on the road. There is a concern that this could encourage footway parking to take place more than happens at the moment. Also, to what extent of the footway would the exemption apply - would any such footway parking still need to avoid being obstructive (i.e. a minimum footway width to be left clear).

Displacement of vehicles

Q 11. Do you think controlling pavement, dropped kerbs and double parking could have unintended or negative consequences in your area?

- **If so, what would the effects be?**
- **Who would be affected?**
- **What type of street or area would experience these consequences?**

If there were no provision for local authorities to make exemption orders, parking could become difficult or impossible in some locations, especially residents in streets with inadequate parking provision or housing estates with narrow streets and little or no off-street parking provision.

Controlled parking could lead to pressure to provide off-street parking particularly in dense housing areas with limited on-road parking. This parking would be unlikely to attract parking charges so would require new funding and in most locations land is not available to provide such parking.

Town Centre Regeneration

Q 12. Do you think controls on parking are likely to increase or reduce the costs and impact on businesses in town centres?

- **If yes, what should we be doing to reduce any impact on businesses in town centres?**
- **What other arrangements should be considered to deliver parking improvements that help support town centre regeneration?**

The duty of the local authority is to balance the competing demands for road space this should be reflected in the arrangements which the local authority promotes its own town centres parking strategy. An appropriate balanced approach should not adversely impact on local businesses and, indeed, ensuring a good turnover of parking may help local businesses.

Disabled Parking Bays

Q 13. Do you think that on-street disabled persons' parking places are being enforced in your area?

- **If not, how could this be done better?**
- **Do you think members of the public should report misuse where it is observed?**

Yes, in line with all other competing demands on Parking Attendants' time. Members of the public should report any misuse of disabled parking bays.

Q 14. Have you witnessed misuse of a disabled persons' parking space?

- If so, did you report it?
- If not, did anything prevent you from reporting it?
- Should disabled persons' parking places be enforceable at all times?
- Do you think the level of penalty for misuse of local authority disabled persons' parking space is acceptable?
- If not, what level would you consider to be acceptable?

Yes, they should be enforced at all times to ensure consistency.

Q 15. Do you think off-street disabled persons' parking spaces, including private car parks, are being enforced in your area?

- If not, how could this be done better?

Yes, in the case of public pay and display car parks which necessarily have the greatest overall level of enforcement.

Inverclyde Council enforces off-street disabled persons' parking spaces in public car parks.

Inverclyde Council does not have any TRO's for such spaces in private car parks so cannot comment on whether they are being enforced by the private owners. Many supermarkets and shopping centres have car parking enforcement companies patrolling their sites and are signed as such. Other private car parks such as flatted developments are unlikely to be enforced.

It is reasonable for the public to expect that all disabled persons' parking spaces are enforced equally but this may be difficult to achieve.

Q 16. What impact do you think disabled persons' parking space misuse has on Blue Badge holders?

Blue badge holders may have difficulty in finding a convenient parking place if spaces are used by those not entitled to do so.

Emissions Vehicles

Q 17. Are you supportive of local authorities' trialling or introducing parking incentives (such as discounted, free or preferential parking) for ULEVs?

- If yes, what should these incentives be?
- If no, why not?

Yes, we should encourage ULEVs, but we do not think discounted, free or preferential parking is sustainable in the long term since as ULEVs grow in number the local authority will not be able to afford to continue such incentives. There is no evidence that owners of ULEVs have difficulty in affording parking charges so as to justify a public subsidy.

Q 18. Are you supportive of local authorities trialling or introducing specific measures to help people who, live in flats or tenements (with no dedicated-off street parking) charge their vehicles?

- **If yes, what should these incentives be?**
- **If not, why not?**

An incentive to provide on street charging needs to take into account the loss of high demand parking to specific individuals.

In addition, it would be impracticable to provide a facility that could be rolled out to all flat dwellers in a street. Any small scale trial would amount to a subsidy for a few individuals and could not lead to a sustainable way forward. ULEVs for flat dwellers etc. will only become practicable on a large scale when fast charging develops to the point where a commercial filling station network similar to that currently operated for petrol and diesel becomes feasible.

Q 19. Do you think the use of ULEV-only charging bays should be monitored and enforced by local authorities?

- **If yes, please say why.**
- **If no, how should they be enforced and who should be responsible for this enforcement?**

Yes, where they are provided in public car parks they should be monitored and enforced by local authorities. Private facilities should be monitored and enforced by their owners.

Assessing Impact

Q 20. Are there any likely impacts the proposals contained within this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above? Please be as specific as possible.

Any misuse of a dedicated parking space for disabled person leads to a reduction in the availability of such spaces and this could reduce the access to shops, services etc. This would be detrimental to those of disability.

Parking on a footway could lead to a loss of safe walking infrastructure to everyone but could be significantly detrimental to very young children in prams and buggies who are forced onto a live road, and by extension the maternity category i.e. parents pushing the prams are also forced onto the road. Those in wheelchairs and those who require assisted walking would also be impacted detrimentally.

Therefore there is likely to be a beneficial impact on some of those with a disability.

Q 21. Apart from safety, are there any other aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?

No.

Q 22. Do you think the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector? Please be as specific as possible.

Unless there are suitable exemptions to a ban on footway parking, there could be additional burdens placed on those making or receiving deliveries and those undertaking works in or adjacent to footways.

Having additional legislation to make parking on footways illegal will create additional burdens on local authorities with DPE.

Such legislation could also put a burden on local authorities who would be expected by displaced parties to provide additional parking provision.

Any change in the making of private off street disabled person spaces is likely to put an additional burden on local authorities in terms of creating TRO's and enforcement. In theory it would also put a burden on Police Scotland to enforce such spaces in local authority areas without DPE in place.

The introduction of on-street spaces dedicated to ULEV's would create a burden on local authorities in terms of creating TRO's. If that includes EV charging points that would also create a cost to local authorities and other funding bodies.

Q 23. Are there any likely impacts the proposals contained in this consultation may have upon the privacy of individuals? Please be as specific as possible.

No, provided any such CCTV is used in accordance with legislation.

Q 24. Are there any likely impacts the proposals contained in this consultation may have upon the environment? Please be as specific as possible.

Making parking on footways illegal should create a safer environment for pedestrians and if the proposals were to reduce damage to footways caused by overrunning vehicles, this would have a positive impact on the environment owing to the reduced requirement of new materials for repairs.

Greater take up of ULEV's which additional parking provision should facilitate would lead to carbon reduction locally, although not a similar reduction in congestion.

Conclusion

Q 25. Do you have any other comments that you would like to make, relevant to the subject of this consultation that you have not covered in your answers to the previous questions?

Will the Scottish Government produce national Guidance to assist Local Authorities in relation to the matters proposed in this consultation. For example, in relation to minimum permitted footway widths in the situation where exemptions are proposed.

**TRANSPORT SCOTLAND
PARKING CONSULTATION
MARCH 2017**

Ministerial Foreword

From Minister for Transport and the Islands, Humza Yousaf

Parking policies form an essential part of a local road authority's traffic management strategy to help reduce congestion and improve safety. Irresponsible parking can and does have a negative impact, particularly when inconsiderate, obstructive or even dangerous parking takes place thereby restricting access for emergency services or putting the safety of pedestrians and other motorists in jeopardy by forcing people onto the road amongst moving traffic.

In May 2015, Sandra White MSP introduced a Member's Bill entitled, "The Footway Parking and Double Parking (Scotland) Bill" intended to introduce prohibitions on pavement parking, parking at dropped kerbs and double parking, as well as attempting to clarify the laws surrounding parking.

Parking is regulated by a variety of primary and secondary legislation, including the Road Traffic Regulation Act 1984, the Roads (Scotland) Act 1984, the Road Traffic Act 1991 and numerous traffic regulation orders made for local purposes. It is recognised that the legal position on parking is complex and I am committed to making it clearer for all road users.

Although Ms White's Bill was not enacted into law by the Scottish Parliament, there was significant cross party support for the general principles of her Bill. The Scottish Government made a commitment in December 2015 to progress this important matter once powers on parking were devolved. In March 2016, the UK Parliament passed the Scotland Act 2016, which included devolution of powers that enable the Scottish Parliament to now legislate on parking matters.

It is important to remember that parking can and does, play a positive aspect in many people's lives. For disabled people, dedicated parking spaces provide access to places of employment, education, health and leisure facilities, thereby enabling them to lead independent lives.

This consultation paper seeks views on how we can address the issue of pavement parking, as well as views on how best to manage disabled parking provision, and determining what parking incentives local authorities can provide for the uptake of ultra-low emission vehicles.

The consultation paper therefore sets out our proposals to deliver a consistent approach to these issues. It invites views on how we can improve the clarity of the laws on parking, what restrictions and exemptions should be applied, how we can deliver an integrated approach to managing and enforcing parking on public roads, including the displacement of vehicles while supporting town centre regeneration and improving accessibility for all.

I look forward to receiving your views on our proposals.



HUMZA YOUSAF

Minister for Transport and the Islands

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ABBREVIATIONS

Automatic Number Plate Recognition	ANPR
Business and Regulatory Impact Assessment	BRIA
Closed Circuit Television	CCTV
Convention of Scottish Local Authorities	COSLA
Decriminalised Parking Enforcement	DPE
Department for Transport	DfT
Disabled Persons' Parking Places (Scotland) Act 2009	DPPPA
Electric Vehicles	EVs
Local Government & Regeneration Committee	LG&R
Members of the Scottish Parliament	MSPs
Penalty Charge Notices	PCNs
Society of Chief Officers for Transportation in Scotland	SCOTS
Traffic Regulation Order	TRO
Traffic Signs Regulations and General Directions	TSRGD
Transport Scotland	TS
Ultra-Low Emission Vehicle	ULEV

RESPONDING TO THIS CONSULTATION

About this Consultation

Consultation is an essential part of the policy making process. It gives us the opportunity to seek your opinions. This consultation details issues under consideration and asks you questions about what we are proposing. After the consultation is closed we will publish responses where we have been given permission to do so.

Responses are analysed and used as part of the policy making process, along with a range of other available information and evidence. Responses to this consultation will help to inform the development of future laws and guidance on parking in Scotland.

Deadline

The consultation will be published on 31 March 2017 and closes at **midnight on 30 June 2017**.

How to respond

To encourage wide participation, the Scottish Government has created a number of ways for you to engage in the consultation. You can respond online, by email or by post.

The consultation will also be available in alternative formats on request, including Large Print, Braille and Easy Read. In addition to publishing this consultation document, we have also produced an information leaflet.

Respond Online

To respond online please use the Scottish Government's Consultation Hub, [Citizen Space](#). You can respond in English or British Sign Language (BSL) using this method. You can save and return to your response at any time while the consultation is open. But please ensure that your response is submitted before the consultation closes at midnight on 30 June 2017.

You will automatically be emailed a copy of your response after you submit it. If you choose this method you will be directed to complete the Respondent Information Form. The Respondent Information Form lets us know how you wish your response to be handled, and in particular whether you are happy for your response to be made public. Alternatively you can respond by using one of the following methods as specified in the table below.

Table of response methods

You Tube	Upload your videos and paste the URL into the Citizen Space consultation.
Facebook	Go to the Improving Parking Consultation Facebook page and upload your video. This option is public, other people will see your response. Please include the Respondent Information Form.
Email	Send us an email with YouTube links to a video of your response. Please do not attach videos to the email as we cannot receive large files. Please include the Respondent Information Form.
Post	Send your responses in English to: The Road Policy Team Trunk Road and Bus Operations Transport Scotland Buchanan House 8 th Floor 58 Port Dundas Road GLASGOW G4 0HF Please include the Respondent Information Form

With each of these methods you need to include your Respondent Information Form because this lets us know how you wish your response to be handled, and in particular whether you are happy for your response to be made public. You can find this in Annex A in this document.

Next Steps

After the consultation has closed we will analyse all the responses received and use your feedback to help inform the development of future laws and guidance on parking. Where permission has been given, we will make all responses available to the public at <https://consult.scotland.gov.uk/road-policy/improving-parking-in-scotland>. The responses to the consultation and analysis will be published in autumn 2017.

Need assistance?

If you need support in answering this consultation or alternatively have a query about the consultation process, or a complaint about how this consultation has been conducted you can send your query by email to parkingconsultation@transport.gov.scot or by writing to:

The Road Policy Team
Trunk Road and Bus Operations
Transport Scotland
Buchanan House, 8th Floor
58 Port Dundas Road
GLASGOW, G4 0HF

INTRODUCTION

“...the legislative landscape on this issue is complex and confusing.”
(2016, Local Government and Regeneration Committee)¹

Background

1. Disability and pedestrian organisations have long advocated on footway parking due to the impact on the groups they represent. These groups cite numerous examples of people being unable to travel safely within their communities. In response to these concerns, work to change legislation on parking commenced in 2009 with a consultation on a Private Member’s Bill.
2. The introduction of Sandra White MSP’s Private Member’s Bill in May 2015, follows similar work undertaken by Joe Fitzpatrick MSP and Ross Finnie MSP in recent years. Ms White’s Bill sought to consolidate and clarify the current laws surrounding pavement parking, parking adjacent to drop kerbs and double parking. While the Bill had cross party support, it was recognised by the Scottish Parliament that there were significant policy and operational concerns raised by stakeholders and the Local Government and Regeneration Committee, which require further examination.
3. Due to the complex nature of the issues and the concerns raised by stakeholders, the Scottish Government set out a general intention to use the powers devolved by the Scotland Act 2016 in developing parking provisions in a Government Bill, which will be introduced in this Parliamentary session.
4. The purpose of this consultation paper is to invite views from stakeholders on providing clarity and delivering a consistent approach to managing and enforcing parking on different types of public roads, including trunk roads, and thereby improving accessibility for all. The consultation responses will inform our policy on how this can best be achieved, and help to develop the provisions for a Government Bill, which will be presented for consideration by the Scottish Parliament.
5. In developing our plans, the Scottish Government will be actively engaging with relevant stakeholders, including Living Streets, Guide Dogs Scotland, Scottish Disability Equality Forum, RNIB Scotland, CoSLA, local authorities, Regional Transport Partnerships, Society of Chief Officers for Transportation in Scotland (SCOTS), Cycling Scotland, representatives from small businesses and the retail sector, Planning groups, the freight transportation organisations, motoring organisations, emergency services and other stakeholders.
6. We hope that as many members of the public as possible will respond to this consultation. We appreciate that some of the more technical questions in this consultation are aimed at road authorities, but we would encourage everyone to respond to any or all of those areas where you feel you have a contribution to make.

¹ Local Government and Regeneration Committee (2016) Stage 1 Report on the Footway Parking and Double Parking (Scotland) Bill, (Session 4), Edinburgh, Scottish Parliament

CHAPTER 1 – SETTING THE SCENE

Current laws on parking

7. Parking is regulated by various Acts and Regulations, including the Road Traffic Regulation Act 1984 and the Road Traffic Act 1991, as well as Traffic Regulation Orders (TROs) made by local authorities for local purposes.

8. A TRO is a legal instrument used by road authorities to give effect to traffic management measures on roads within their areas (e.g. yellow lines). Under the Road Traffic Regulation Act 1984, local authorities can use TROs to apply local restrictions, which are enforceable when the appropriate road signs or markings are displayed. The restrictions can be applied for various reasons and could cover particular hotspots or larger areas. They can have effect at all times or during specific periods, and certain classes of traffic may be exempt from the TRO. It all depends on the wording of the TRO being promoted by the local authority.

9. However, the work involved and the cost of producing TROs means that this approach has not been used regularly by road authorities to restrict pavement parking.

Local Authorities and the Equality Act 2010

10. In addition, local authorities also have duties in relation to the Equality Act 2010 and the Public Sector Equality Duty, particularly in relation to shared spaces. Section 20(4) of the 2010 Act, requires that:

“where a physical feature puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, an authority is required to take such steps as is reasonable to remove the disadvantage”.

11. As part of a campaign by the RNIB² in 2015, it highlighted some of the difficulties that disabled people were encountering when using shared space, these included issues such as “the absence of a conventional kerb, which posed problems for blind or partially-sighted people, who rely on this feature to find their way around.” It also noted that “shared space schemes undoubtedly place those with a sight loss at a particular disadvantage”.

12. The Public Sector Equality Duty places a requirement on public bodies, such as local roads authorities to “consult with blind and partially sighted people about shared space schemes and to carry out an equality impact assessment for the scheme. Where negative impacts are identified, the local roads authority will need to consider changes to the scheme in order to eliminate discrimination.” The RNIB’s campaign sought changes, particularly to local roads authorities’ policies on ‘shared space’ and the impact of design and enforcement by taking account of best practice (i.e. Transport Scotland’s [Roads for All: Good Practice Guide for Roads](#)), working

² RNIB (2015) Briefing: Who put that there! The barriers to blind and partially sighted people getting out and about – RNIB Campaign Report

with stakeholders to identify and mitigate issues for existing and future shared spaces.

Parking on the pavement

13. While it is currently not an offence to be parked on the pavement in Scotland, it is an offence to drive on a pavement under Section 129(5) of the Roads (Scotland) Act 1984 (“the 1984 Act”). It is also an offence under Section 129(2) of the 1984 Act for a person:

“without lawful authority or reasonable excuse, place or deposit anything in a road so as to obstruct the passage of, or endanger, road users”

14. Furthermore, it is also an offence under regulation 103 of the 1984 Act to leave, cause or permit a vehicle to stand on a road so as to cause any unnecessary obstruction of the road. The Removal and Disposal of Vehicles Regulations 1986 grants police the power in certain circumstances, including the causing of obstruction, to require the driver, owner or person in charge of a vehicle to move it.

15. Yet there is no statutory definition of what constitutes an obstruction and the decision on whether a vehicle is causing an obstruction would initially be a matter for the police officer dealing with the incident. The variety of overlapping provisions has led to complaints that the law on parking on a pavement is not clear.

Greater London Council (General Powers) Act 1974³

16. As a result of the ambiguity surrounding the current laws on pavement parking, successive governments and Members of Parliament have sought ways of reducing pavement parking. In 1974, the UK Government provided for a national ban on pavement parking in urban roads under Section 7 of the Road Traffic Act 1974. However, full implementation required that the ban had to be brought in by secondary legislation, which was never implemented. Section 7 of the 1974 Act was repealed by the Road Traffic (Consequential Provisions) Act 1988⁴.

17. Since 2011, a number of campaigns promoted by Living Streets and Guide Dogs have taken place both in Scotland and England calling for the introduction of a complete ban on pavement parking, enforceable by local authorities or in terms of Scotland, local authorities or the police.

18. A ban on pavement parking, in general with exceptions, is already in place in London, under Section 15 of the Greater London Council (General Powers) Act 1974. However, there has also been pressure from MPs, including Mark Lazarowick and Simon Hoare MP for this to be rolled out elsewhere. In 2015, Simon Hoare MP introduced a Private Member’s Bill entitled “[The Pavement Parking \(Protection of Vulnerable Pedestrians\) Bill](#)”. The Bill was to provide a framework for local authorities in England and Wales to consult on and subsequently to ban pavement

³ Butcher, L (2016) Briefing Paper: Pavement and on-street parking in England – Number SN01170, London, House of Commons

⁴ Road Traffic (Consequential Provisions) Act 1988 (c.54) ss. 3, 5, Sch. 1, Pt. 1, Sch. 4

parking, subject to certain exemptions to be set out by the Secretary of State in secondary legislation and guidance. Following agreement by the then Parliamentary Under-Secretary of State for Transport, the Rt. Hon. Robert Goodwill MP⁵ to:-

“undertake a full and impartial impact analysis, evidence-gathering exercise and consultation, in order to fully understand the legal implications and the costs that might be imposed on local government of changing the existing system”.
(2015, House of Commons Hansard)

Simon Hoare MP withdrew his Member’s Bill on 4 December 2015.

19. In Scotland, MSPs, such as Ross Finnie, Joe Fitzpatrick MSP and Sandra White MSP, have also sought to pursue legislation on the matter. In 2010, Ross Finnie MSP had lodged a proposal for a “Regulation of Dropped Kerbs and Pavement Parking (Scotland) Bill”⁶. A consultation on the proposal ran from 1 October 2010 until 31 January 2011, which received 123 responses. Approximately 83% of responses supported the proposals in full or part. While the proposal had received sufficient support from MSPs to be introduced as a Bill, it fell on dissolution of the Scottish Parliament on 22 March 2011. However, a further proposal for a “Responsible Parking (Scotland) Bill” was lodged by Joe Fitzpatrick MSP on 28 March 2012, but was then withdrawn on 26 September 2012 following Mr Fitzpatrick’s appointment as a Minister for the Scottish Government.

20. Prior to the withdrawal of the proposal for a Responsible Parking (Scotland) Bill, another consultation had been undertaken, which resulted in a total of 414 responses (the highest of any proposed Private Member’s Bill). 95% of responses (5th highest level of support ever received for a Member’s Bill) supported the proposals contained in the “Responsible Parking (Scotland) Bill” in full or in part. Although the proposal for the Bill was withdrawn by Joe Fitzpatrick MSP in September 2012, it was then lodged again by Sandra White MSP in January 2013. One month after lodging her proposal to introduce a Private Member’s Bill on Responsible Parking, Sandra White MSP obtained sufficient cross-party support and introduced her Bill in the Scottish Parliament in May 2015. The Bill was re-named as the “Footway Parking and Double Parking (Scotland) Bill”.

Footway Parking and Double Parking (Scotland) Bill

21. Sandra White MSP Member’s Bill sought to consolidate and clarify the laws surrounding pavement parking, and prohibit parking on pavements, adjacent to drop kerbs and double parking. The primary aim of the bill was to enhance the freedom of movement for all pedestrians, which would be particularly beneficial for those with disabilities and their carers, older people and people with pushchairs.

22. During the scrutiny of Ms White’s Bill it was acknowledged by a number of key stakeholders, including the Scottish Parliament’s Local Government and Regeneration Committee that further detailed work and engagement was required to

⁵ “The Pavement Parking (Protection of Vulnerable Pedestrians) Bill”, HC, 4 December 2015, Cols. 646- 660

⁶ Rehfish, A (2015) SPICe Briefing: Footway Parking and Double Parking (Scotland) Bill – No. 15/55, Edinburgh, Scottish Parliament

examine the policy and operational concerns that were raised. Whilst the Committee was content with the general principles of the Bill, it highlighted several issues requiring consideration, including:

- the interpretation of existing legislation
- clarity on the definitions used within the Bill
- impact on local authorities from implementing and enforcing the Bill's provisions
- impact of vehicle displacement, and
- town centre regeneration and planning

23. The Local Government and Regeneration Committee Report, published in February 2016 acknowledged the:

“significant challenges facing many local authorities in managing Scotland’s road system to ensure it works effectively for footway users and cyclists as well as motorists and businesses”⁷.

The Committee stressed the importance of consistent enforcement if we are to make a difference to vulnerable groups across Scotland.

24. During the scrutiny of Ms White’s Bill it also heard about Greater London’s ban on footway parking which has been in operation since 1974 (see paragraph 16 above). However, it should be noted that London’s parking arrangements do permit exceptions for footway parking, such as indicated in figures 1 and 2 below, which form part of the Department for Transport’s (DfT) guidance to local authorities in England on “Inclusive Mobility”.

25. The DfT [Inclusive Mobility guidance](#) suggests – “a clear width of 2000 mm allows two wheelchairs to pass one another comfortably. This should be regarded as the minimum under normal guidance. Where this is not possible because of physical constraints – 1500 mm could be regarded as the minimum acceptable under most circumstances, giving sufficient space for a wheelchair user and a walker to pass one another. A blind person using a long cane or with an assistance dog needs 1100 mm. A visually impaired person who is being guided needs a width of 1200 mm”.

26. However, there has been little research on how effective the ban and exceptions applied above by local authorities have been in providing improved accessibility for pedestrians in the London boroughs or on how councils deal with vehicle displacement and town centre regeneration.

Parking at dropped kerbs

27. While there has been considerable focus on banning footway parking, members of the public and disability groups have also highlighted other parking

⁷ Local Government and Regeneration Committee (2016) Stage 1 report on the Footway Parking and Double Parking (Scotland) Bill, 4th Report, SP Paper 907, Scottish Parliament, Edinburgh

issues that have been causing just as much of a concern, including the misuse of disabled parking, double parking and parking at dropped kerbs.

28. The latter of these was considered further by the Scottish Parliament’s Local Government and Regeneration Committee. During the Committee’s enquiry into Sandra White MSP’s Bill there were a number of questions raised by stakeholders about the provision to ban parking at dropped kerbs and the potential difficulties to enforce this provision. Dropped kerbs can be provided both as designated crossing points usually marked with tactile paving to aid people with visual impairments and also for vehicles to access driveways. However, stakeholders, including SCOTS sought clarification on the definition of ‘dropped kerbs’ and asked that the “definition be refined to distinguish between –

“dropped kerb for vehicular access to residential premises and pedestrian or cycle crossing points which happens to be outside a residential property.”

(2016, SCOTS)

29. While, other stakeholders questioned “the principle that residents should be given permission for someone to park on the road outside their homes”⁸. As such, the questions below seek to develop a clearer picture of the parking arrangements across Scotland and help define the specific areas of parking legislation that need clarified or improved.

Question
<p>Q1. Do you think parking, including on pavements, at dropped kerbs and double parking is a problem in your area?</p> <ul style="list-style-type: none"> • If yes, how have you, your family or friends been affected by parking problems? • Where did this occur (e.g. type of street or area) and how often?
<p>Q 2. Why do you think the motorists may choose to pavement park?</p>
<p>Q 3. Do you think new legislation is needed ?</p> <ul style="list-style-type: none"> • If yes, what areas of the law need to be amended?
<p>Q 4. If a new law is required, should it cover all roads with footways, including private roads that are not adopted by local authorities and trunk roads?</p> <ul style="list-style-type: none"> • If not, why not?
<p>Q 5. Do you think any new law should apply to all vehicles (e.g. HGVs, vans, taxis, cars, motorbikes, etc.)?</p>

⁸ Local Government and Regeneration Committee (2016) Stage 1 report on the Footway Parking and Double Parking (Scotland) Bill (Session 4) Edinburgh, Scottish Parliament

- If not, which type of vehicles should the law not apply to?

Q 6. Do you think there should be exemptions applied to allow pavement parking to take place, particularly due to local concerns about access for vehicles and lack of alternative parking provision?

- If yes, what should those exemptions be?
- If no, why not? (Please be as specific as possible)

CHAPTER 2: CURRENT ENFORCEMENT ARRANGEMENTS

Traffic Regulation Orders

30. As highlighted earlier in this consultation paper, local authorities already have powers under Section 1 of the Road Traffic Regulation Act 1984 to specify restrictions or exemptions in relation to parking within specific areas via the use of Traffic Regulation Orders (TROs).

31. A TRO is a legal instrument most commonly used by local authorities to give effect to traffic management measures (e.g. yellow lines or restrictions for parking) on specific roads within their area.

Decriminalised Parking Enforcement (DPE)

32. In some areas of Scotland, parking offences have been decriminalised as local authorities have been granted Decriminalised Parking Enforcement (DPE) powers under the Road Traffic Act 1991. The first local authority to be granted these new powers was the City of Edinburgh Council in 1998.

33. Out of 32 Scottish local authorities, 16 now have DPE powers while the remaining 16 local authorities are either actively working towards DPE or rely on Police Scotland to undertake parking enforcement on their behalf through separate agreements. Table 1 below and the supporting DPE map highlights which local authorities have or are actively working towards DPE powers to manage traffic management in their areas.

Table 1 Local Authorities with, actively working towards or without DPE powers

DPE INTRODUCED	ACTIVELY WORKING TOWARDS DPE	UNCONFIRMED
Aberdeen City (2003)	Aberdeenshire	Clackmannanshire
Argyll and Bute (2014)	Angus	Dumfries & Galloway
Dundee (2004)	Falkirk	Moray
East Ayrshire (2012)	Midlothian	North Ayrshire
East Dunbartonshire (2014)	North Lanarkshire	Orkney
East Lothian (2017)	Stirling	Scottish Borders
East Renfrewshire (2013)		Shetland
Edinburgh (1998)		West Dunbartonshire
Fife (2013)		West Lothian
Glasgow (1999)		Western Isles
Highland (2016)		
Inverclyde (2014)		
Perth and Kinross (2002)		
Renfrewshire (2010)		
South Ayrshire (2012)		
South Lanarkshire (2005)		

34. 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.

35. DPE seeks to ensure that parking policies are implemented effectively. The ultimate objective of DPE should be 100% compliance with restrictions meaning no PCNs would be issued. In areas with DPE, stationary traffic offences cease to be part of the criminal law enforced by the police and instead become civil matters enforced by local authorities. Enforcement of other parking offences such as obstructive or dangerous parking and moving traffic violations continues to remain the responsibility of Police Scotland. However, some local authorities, such as the City of Edinburgh Council, Glasgow City Council and the Highland Council have started calling for additional powers to tackle some moving traffic violations, particularly obstructive parking at or near schools, parking on white zig zags and stopping in yellow box junctions. Indeed, obstructive parking at or near schools has become a significant cause of concern to local authorities, as well as parents, children, residents living near schools and other road users.

Financing of DPE regimes

36. Local authorities seeking to acquire DPE powers must ensure that their regime should insofar as possible be self-financing. Section 55 of the Road Traffic Regulation Act 1984 provides that any deficit accrued by a local authority as a result of the authority's operation of DPE must be made good out of the local authority's general fund.

37. As PCNs are civil debts local authorities with DPE powers can retain the income from the PCNs as well as on and off street parking income. However, section 55 of the 1984 Act requires that any surplus may only be used to make good any amount charged to the general fund over the preceding 4 years or for certain transport-related purposes, including:-

- the provision and maintenance of off-street parking,
- the provision or operation of (or facilities for) public passenger transport services; or
- for road improvement projects in the local authority area.

Enforcement in Non-DPE areas

38. In areas where DPE does not operate, specific and prioritised needs are identified at community level by the local roads authority. These are then agreed between the local Police Area Commander and the appropriate senior roads officers from each authority and a Minute of Agreement is produced for the provision of a traffic warden service, which is operated by the Police. The Agreement covers the funding of the traffic wardens, which is split between the local roads authority and Police Scotland.

39. However, a number of these Agreements are being terminated by Police Scotland as it continues to remove its traffic warden service. Police Scotland's

decision to remove its traffic warden service was as a result of a review in 2013, on how parking enforcement was being conducted in Scotland. The decision was part of an approach by Police Scotland to ensure that resources are utilised in the most efficient and effective manner to protect the safety of the people of Scotland. Since February 2014, Police Scotland has been in the process of removing its traffic warden service from a number of local authority areas, including those that have recently obtained DPE powers.

40. Police Scotland has acknowledged the important role of local partnership working, particularly with those local authorities without DPE powers and where problematic parking has been identified as a significant issue/ local priority, police officers will continue to engage in targeted responses to help address specific issues. As a result, parking enforcement in Scotland is either primarily the responsibility of the local authority or the Police depending on whether the local authority has sought and been granted DPE powers.

41. During the Local Government and Regeneration Committee's scrutiny of Ms White's Bill in 2016 it was stated by Police Scotland⁹ that –

“enforcement of parking offences would be a low priority that would be conducted either alongside daily business or during bespoke operations to address significant problems”.

(2016, Superintendent Fraser Candlish)

Proposals for Consistent Enforcement

42. This approach by Police Scotland did raise concerns with members of the LG&R Committee, particularly in how any new legislation would be implemented and applied. However, it was also acknowledged by the Committee that the police have to deal with a number of competing pressures. As such, providing local authorities with DPE powers would play an essential part in assisting Councils in managing local traffic management in their areas, and improve and maintain traffic flows while reducing congestion. In addition, DPE also improves road safety while encouraging increased use of more sustainable and healthy forms of travel.

43. The provision of DPE powers to a local authority is not an automatic process and requires substantial work from both the local authority and Scottish Government to deliver a robust, effective and successful regime. Although there is no standard timescale for introducing DPE, it can typically take upwards of 24 months from feasibility stage to introduction.

⁹ Local Government and Regeneration Committee (2016) Stage 1 report on the Footway Parking and Double Parking (Scotland) Bill (Session 4) Edinburgh, Scottish Parliament

44. The Scottish Government supports DPE, but we realise that DPE may not be the right option for all local authorities. As such, we are exploring with stakeholders how a consistent approach to enforcement can be delivered without the need for a DPE regime.

45. One possible option to explore is local authorities without DPE making a DPE application and sharing services, such as the provision of parking attendants with neighbouring authorities via a service level agreement, in which the Councils share the cost of enforcement. This approach could help to ensure that all 32 local authorities have access to some form of “traffic warden service” that can effectively enforce councils’ parking policies across Scotland. However, this approach may require changes in the existing law once a model has been developed. The questions below seek your views on the delivery of a consistent approach to enforcing parking.

Questions

Q 7. Should there be consistent approach to parking enforcement across Scotland?

- If yes, how should this be taken forward?

Q 8. Local authorities in some parts of Scotland have DPE powers and are responsible for parking enforcement. In other areas Police Scotland retains responsibility.

- What are your views on rolling out Decriminalised Parking Enforcement regimes across Scotland?
- What are your views about the proposal to share services to provide access to a “traffic warden service” in areas without DPE?
- What should Police Scotland’s involvement be in future?

Q 9. Currently moving traffic violations are a matter for the police, however, do you think local authorities should be able use CCTV and/or Automatic Number Plate Recognition (ANPR) systems for enforcement of:

- parking in areas where safety benefits can be delivered to all road users, around schools for example?
- Some moving vehicle contraventions like banned turns?
- If not, why not? (Please be as specific as possible)

National restrictions applied via TROs

46. A further proposal that has been suggested is local authorities using the TRO process to exempt specific roads in their area from national restrictions on pavement parking. To put TROs in place requires extensive work by the road authority to identify appropriate areas and undertake surveys of the road network along with a public consultation. Following the decision-making process to exempt particular areas from pavement parking restrictions, road authorities would need to ensure that the signing and road markings that are required to be in place meet the specifications set out in the [Traffic Signs Regulation and General Directions](#) 2016. These Directions were developed by the UK Government and prescribe the designs and conditions of use for traffic signs, which include road markings, traffic signals, pedestrian, and cycle and equestrian crossings, to be legally used on or near roads across Great Britain.

47. Taking forward a single TRO to exempt specific roads from national restrictions would help limit the impact on resources and costs for local authorities with and without DPE powers. The Local Government and Regeneration Committee¹⁰ noted in its Stage 1 report on Sandra White MSP Bill that:

“responses received from local authorities suggested that councils would want to exempt areas under a single TRO”,

but acknowledged concerns that –

“...the process could be protracted and costly to implement”.

(2016, p10, Local Government and Regeneration Committee)

48. In certain London boroughs they provide exemptions from enforcement without the use of TROs and instead use Committee Resolutions to authorise signing and lining to show where enforcement doesn't apply because footway parking is permitted.

Question
<p>Q 10. Do you think it is a good idea in principle to allow local authorities to exempt specific streets or areas from national restrictions for pavement parking?</p> <ul style="list-style-type: none">If so, what is the best mechanism for doing this (e.g. TRO or other form of local resolution)?

¹⁰ Local Government and Regeneration Committee (2016) Stage 1 report on the Footway Parking and Double Parking (Scotland) Bill (Session 4) Edinburgh, Scottish Parliament

CHAPTER 3: IDENTIFIED ISSUES

49. During the scrutiny of Sandra White MSP Bill it was acknowledged by a number of stakeholders, including the Scottish Parliament’s Local Government and Regeneration Committee that further detailed work and engagement was required to examine the policy and operational concerns. Local authorities, freight organisations, motoring organisations, and members of the public provided responses to the [Committee’s Stage 1 inquiry](#) to Ms White’s Bill which are contained in Table 2 below.

Table 2 – Specific concerns about the Footway Parking & Double Parking (Scotland) Bill

<p>Legislation</p>	<ul style="list-style-type: none"> • What the legislation will mean for cities where it is often impossible to avoid parking on a pavement to avoid blockages to busy roads. • A blanket ban would be impractical to enforce for many areas and a cautious approach should be reflected in any subsequent legislation. • Further consideration needs to be given on how future legislation would work alongside existing parking legislation. • Clarifying the terminology to be used within future legislation to ensure the intention and purpose of any Bill is clear. • Any exemptions to the legislation need to be justified in terms of being greater importance than the additional danger and inconvenience caused to pedestrians or cyclists.
<p>Resourcing</p>	<ul style="list-style-type: none"> • Any future legislation needs to take account of resource implications, particularly staffing and financial. • Need for education and raising awareness relating to the new laws.
<p>Implementation/Enforcement</p>	<ul style="list-style-type: none"> • Introduces further traffic signs and regulation into our streets, which are already cluttered and where good street design policy and Traffic Signs Regulation and Generals Directions (TSRDG) seeks to remove such clutter and “over-engineering”. • Over provision of traffic signs can have a detrimental impact on the environment and can dilute more important messages. • There should be consistency across the country and the restrictions on footway parking should be enforced the same way as any infringement of the Highway Code.

	<ul style="list-style-type: none"> • Proper enforcement with Police and local authorities, which is simple as possible along with parking tickets backed up by photographic proof and not convoluted procedures.
Vehicle displacement	<ul style="list-style-type: none"> • Lack of parking alternatives could result in the Bill being enforced. • Leads to a potentially significant and on-going workload and budget commitment in addressing the aftermath of parking displacement issues which may not be identifiable or envisaged at the outset.

50. In addition to the issues highlighted in Table 2 by stakeholders, the Local Government & Regeneration (LG&RC) Committee and Scottish Ministers also recognised the significant challenges facing many local authorities in managing Scotland’s local road network and ensuring it works effectively for pedestrians and cyclists, as well as motorists and businesses. Indeed, getting the right balance between residential needs, accessibility, town centre design, planning principles around regeneration and economic opportunities must be carefully considered.

Potential ‘unintended consequences’ of the Bill

51. The Committee also acknowledged the unintended consequence of introducing a ban on pavement parking, parking at dropped kerbs or double parking and the potential risk of displacing vehicles across towns and cities with limited parking provision. Evidence provided by South Lanarkshire Council during the scrutiny of Ms White’s Bill acknowledged that:-

“areas of dense housing and insufficient parking ...would put unfair burdens on local authorities to provide additional off-street parking in residential areas, which is not in their remit”

(2016, South Lanarkshire Council)

52. Furthermore, some stakeholders, including local MSPs feared that a blanket ban on pavement, dropped kerb and double parking would be seen as a “cash cow” to extract extra revenue from the public through PCNs thereby providing a negative, not a positive impact both to the public and local businesses. Indeed, it was acknowledged by Cameron Buchanan MSP¹¹ during the Footway Parking and Double Parking (Scotland) Bill Stage 1 Debate in the Scottish Parliament that -

“we must recognise the unintended consequences of a ‘blanket ban’..... “careful not to impose counterproductive or unfair burdens as a side effect.”

(2016, Cameron Buchanan MSP)

¹¹ Scottish Parliament (2016) Official Report – Footway Parking and Double Parking (Scotland) Bill: Stage 1 – 1 March 2016 <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10400>

Questions

Q 11. Do you think controlling pavement, dropped kerbs and double parking could have unintended or negative consequences in your area?

- **If so, what would the effects be?**
- **Who would be affected?**
- **What type of street or area would experience these consequences?**

Q 12. Do you think controls on parking are likely to increase or reduce the costs and impact on businesses in town centres?

- **If yes, what should we be doing to reduce any impact on businesses in town centres?**
- **What other arrangements should be considered to deliver parking improvements that help support town centre regeneration?**

CHAPTER 4: ENFORCEMENT OF DISABLED PERSONS' PARKING PLACES

“When they leave their home in the morning, they have to think about how they are going to reach their destination.....The issue has a fundamental impact in every way on a disabled person’s life if they have mobility problems”

(2016, Scottish Disability Equality Forum)¹²

53. Disabled persons’ parking places play a vital role in enabling disabled people to carry out day-to-day activities that non-disabled people can take for granted. Scottish Ministers recognise that it is socially unacceptable to misuse disabled persons’ parking spaces and anyone using a disabled persons’ parking space other than a Blue Badge holder is liable to a Penalty Charge Notice (PCN) if it is enforced by a local authority or a Fixed Penalty Notice (FPN) if enforced by the Police.

Blue Badge Scheme

54. The Chronically Sick and Disabled Persons Act 1970, created the Blue Badge scheme formerly entitled “the Orange Badge Scheme”¹³, which has been in place since 1971. The scheme operates UK-wide, and is administered by Scottish local authorities on behalf of the Scottish Ministers. It applies primarily to on-street parking, but does include some off-street car parks where applicable. However, the scheme does not operate in privately owned car parks, such as supermarkets unless a TRO is introduced as part of the Disabled Persons’ Parking Places (Scotland) Act 2009 (DPPPA).

55. The Blue Badge enables holders to access parking bays situated close to places of employment, education and leisure. The Badge also exempts holders from certain parking restrictions, such as:

- On single or double yellow lines for as long as is required, unless there are restrictions on loading and unloading (indicated by yellow kerb dashes)
- Free parking, and without limit (unless the sign states otherwise); and
- Free parking without limit in on-street parking bays managed by parking meters and pay-&-display machines.

56. However, in 2010 the Scottish Government undertook a consultation on proposals to reform the Blue Badge scheme, particularly on eligibility assessments; enforcement; blue badge design and security, administration, organisational badges and concessions.

¹² Local Government and Regeneration Committee (2016) Footway Parking and Double Parking (Scotland) Bill: Stage 1 Report, Edinburgh, Scottish Parliament

¹³ Wane, K (2016) SPICe Briefing: Disabled Parking and the Blue Badge Scheme, 16/19, Edinburgh, Scottish Parliament

Enforcement of the Blue Badge Scheme

57. The scheme places a number of responsibilities upon the Blue Badge holder to ensure proper use. Misuse of the badge is a criminal offence which can result in a £1,000 fine and the badge being confiscated. The [Disabled Person's Parking Badges \(Scotland\) Act 2014](#) seeks to improve the ability of local authorities to tackle misuse. The 2014 Act gives local authorities stronger enforcement powers via the Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2015, including the power to designate certain persons (other than parking attendants in uniform) to examine and retain badges in reviewing matters relating to fraud or misuse.

Disabled Persons' Parking Places (Scotland) Act 2009 (DPPPA)

58. In addition to tackling the misuse of the Blue Badge Scheme, the Scottish Government also wanted to prevent disabled persons' parking places being used by non-Blue Badge holders. The DPPPA ("the 2009 Act") which came into effect on 1 October 2009, is primarily aimed at making all disabled persons' parking places enforceable and places a duty on all local authorities to:

- Undertake a one-off audit of all disabled persons' parking places within their area. Local authorities had 12 months from the Act coming into force to identify all advisory disabled persons' parking spaces, whether on-street (residential), or off-street in private car parks (including supermarkets), and
- Convert all appropriate advisory on-street disabled persons' parking places into enforceable parking places. Any parking places deemed unnecessary would be removed.

59. As advisory parking places are not enforceable, local authorities must under section 5(3) (b) of the 2009 Act, commence statutory procedures through a TRO to provide enforceable parking places. The timescales for providing such parking places can and does vary with each local authority - the time it takes local authorities to identify a parking place and commence the statutory procedure can be between 12 and 36 months¹⁴. However, some local authorities have stressed that the 2009 Act "places significant duties and obligationsto progress and regulate disabled parking places.....and therefore the process is taking longer than hoped as we prioritise and balance the time allocation of the available staff resources" (Wane, 2016).

Reporting on the performance of local authorities

60. Under section 12 of the 2009 Act, each local authority is required to prepare a report on the performance of its functions in relation to parking places for disabled people, and provide a copy of that report to Scottish Ministers. In turn, the Scottish Ministers are required to publish each year (and to lay before Parliament) a report on

¹⁴ Wane, K (2016) SPICe Briefing: Disabled Parking and the Blue Badge Scheme, 16/19, Edinburgh, Scottish Parliament

the performance by the local authorities of their functions in relation to parking places for disabled persons' vehicles. The 2015/16 report (published on the Transport Scotland website [here](#)) shows that local authorities are continuing to make progress in ensuring those on and off-street disabled persons' parking places operated by them are becoming enforceable.

61. However, in recent months there has been concern raised by members of the public about the slow progress by local authorities in making disabled parking bays in privately owned car parks enforceable. Although the Blue Badge Scheme does not apply to all off-street car parks, such as shopping centre car parks, the Equality Act 2010 requires service providers to make 'reasonable adjustments' for disabled people in order for them to access such services.

62. As such, section 6 of the 2009 Act places a duty on local authorities to identify all advisory disabled off-street parking places and enter into negotiations with off-street car park owners to see if they could make any disabled parking places enforceable. Any misuse of these off-street disabled parking places that are covered by a TRO can be enforced by the local authority where they have decriminalised parking enforcement powers or by Police Scotland.

63. However, if a local authority is unable to reach agreement with off-street car park owners, the authority is obliged to continue to seek agreement with the owners at least once every two years.

64. The questions below therefore seek your views about the process for making on-street disabled parking places enforceable, and to explore what opportunities there are to deal with the misuse of advisory disabled persons' parking places in off-street car parks.

Questions

Q 13. Do you think that on-street disabled persons' parking places are being enforced in your area?

- **If not, how could this be done better?**
- **Do you think members of the public should report misuse where it is observed?**

Q 14. Have you witnessed misuse of a disabled persons' parking space?

- **If so, did you report it?**
- **If not, did anything prevent you from reporting it?**
- **Should disabled parking places be enforceable at all times?**
- **Do you think the level of penalty for misuse of local authority disabled persons' parking places is acceptable?**
- **If not, what level would you consider to be acceptable?**

Q 15. Do you think off-street disabled persons' parking places, including private car parks, are being enforced in your area?

- If not, how could this be done better?

Q 16. What impact do you think disabled persons' parking space misuse has on Blue Badge holders?

CHAPTER 5 – PARKING FOR ULTRA-LOW EMISSION VEHICLES

65. The Scottish Government has set a vision of freeing Scotland’s towns, cities and communities from the damaging emissions from petrol and diesel fuelled vehicles by 2050. In order to achieve this vision, the widespread adoption of ultra-low emission vehicles (ULEVs) such as battery electric vehicles, plug-in hybrid electric vehicles and hydrogen fuel cell electric vehicles, will be vital.

66. In recognition of the fact that ULEVs are generally more expensive than fossil-fuelled equivalents, a range of incentives are in place, or being considered, to encourage motorists to make the switch. Further detail on these incentives can be found in the [National Framework of Local Incentives for Electric Vehicles](#), developed for Transport Scotland and published in November 2016.

67. Parking offers many opportunities for Scotland’s local authorities to encourage the uptake of ULEVs. Parking incentives can be very flexible. They can save time, where preferential spaces are allocated closer to amenities and they can save money, where discounts on parking fees are levied. These incentives could potentially apply to all parking bays, not just those that contain a charging point.

68. One significant barrier to free or discounted parking is that there is a need to manage and maintain the turnover of traffic in local areas. Offering free parking encourages vehicle owners to leave their vehicles for extended periods of time in prime locations, which regardless of the emissions produced by a vehicle, will contribute to congestion.

69. It is likely that all measures relating to discounted parking or preferential access to prime spaces will need to be set with stringent time limits, therefore, monitoring the use of car parking and enforcement, becomes fundamental to the effectiveness of the measures.

70. In addition, consideration needs to be given to the identification of ULEVs, to distinguish them from fossil-fuelled vehicles. Options include the use of in-car stickers or the creation of ULEV-specific number plates (currently reserved to the UK Government). Also, although there is standard marking for on-street EV parking bays, currently no standards exist for bays within car parks. The introduction of such markings would help establish a consistent approach across local authority boundaries.

71. Parking initiatives can therefore impact on resources by reducing income from fees and increasing costs as personnel are needed to manage such schemes, and therefore may require subsidy.

72. Furthermore, as ULEV uptake increases, it is likely that some of these measures will need to be withdrawn, therefore setting limits on the number of total vehicles or a time frame in which the benefits will apply to allow the measure to be effective, without becoming too onerous to manage. Experimental TROs, which have a time limit of 18 months, may be a useful tool to trial particular measures, or to enable amendments to schemes to be made once introduced.

72. Parking is at a premium for car owners in urban areas and areas of tenements and other flatted developments and has been noted as a particular challenge for the uptake of ULEVs in Scotland. This is clearly linked to the need for residential charging and is a matter that needs to be considered carefully in order to ensure that residents are not excluded from the benefits of owning an ULEV.

73. Ensuring that private car parks, those not owned or operated by a local authority, are operated in a way that supports positive trends is also a major challenge. Councils have a role to play in informing and educating private car park owners of the need for consistency in incentivising ULEV ownership. Similarly, the need to enforce these incentives has to be established. Councils and other public sector organisations can lead by example with the car parks they own and operate themselves.

Questions

Q 17. Are you supportive of local authorities' trialling or introducing parking incentives (such as discounted, free or preferential parking) for ULEVs?

- If yes, what should these incentives be?
- If no, why not?

Q 18. Are you supportive of local authorities trialling or introducing specific measures to help people who, live in flats or tenements (with no dedicated-off street parking) charge their vehicles?

- If yes, what should these incentives be?
- If not, why not?

Q 19. Do you think the use of ULEV-only charging bays should be monitored and enforced by local authorities?

- If yes, please say why.
- If no, how should they be enforced and who should be responsible for this enforcement?

CHAPTER 6: ASSESSING IMPACT

Equality

74. In creating a consistent approach to managing parking in Scotland the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

75. These three requirements apply across the 'protected characteristics' of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion and belief; and
- sex and sexual orientation.

75. At this early stage in our planning for managing parking in Scotland it is difficult to determine whether significant effects are likely to arise and the aim of the Scottish Government is to use this consultation process as a means to fully explore the likely equality effects, including the impact on children and young people.

76. Once completed the Scottish Government intends to determine, using the consultation process, any actions needed to meet its statutory obligations. Your comments received will be used to complete a full Equality Impact Assessment to determine if any further work in this area is needed.

Question

Q 20. Are there any likely impacts the proposals contained within this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above? Please be as specific as possible.
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Question

Q 21. Apart from safety, are there any other aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?
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Business and Regulation

77. In our work to improve the management of parking a Business and Regulatory Impact Assessment will analyse whether the policy is likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations.

Question

Q 22. Do you think the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector? Please be as specific as possible.
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Privacy

78. A full Privacy Impact Assessment will be conducted to ascertain whether our proposals on delivering a consistent approach to managing parking in Scotland may have an impact on the privacy of individuals.

79. At this early stage in our planning for managing parking it is difficult to determine whether significant privacy effects are likely to arise and the aim of the Scottish Government is to use this consultation process as a means to fully explore the likely privacy effects.

Question

Q 23. Are there any likely impacts the proposals contained in this consultation may have upon the privacy of individuals? Please be as specific as possible.

Environmental

80. In relation to our plans for delivering a consistent approach to managing parking in Scotland the Environmental Assessment (Scotland) Act 2005 ensures those public plans that are likely to have a significant impact on the environment are assessed and measures to prevent or reduce adverse effects are sought, where possible, prior to implementation.

81. At this early stage in our planning for managing parking it is difficult to determine whether significant environmental effects are likely to arise and the aim of the Scottish Government is to use this consultation process as a means to fully explore the likely environmental effects. Once completed the Scottish Government intends to determine, using this consultation process, any actions needed to meet its statutory obligations.

Question

Q 24. Are there any likely impacts the proposals contained in this consultation may have upon the environment? Please be as specific as possible.

CONCLUSION

82. The Scottish Government recognises the detrimental impact that obstructive and irresponsible parking can have on vulnerable groups, as well as Emergency vehicles and other road users in general.

83. For these reasons, this consultation provides an opportunity to consider views on our planned approach to promote, support and advance the rights of pedestrians to ensure that our pavements are accessible for all. We are seeking to positively influence parking behaviours across the country by making sure that the law is consistent and easily understood by all users. Throughout this consultation, we have included questions which will help inform the development of subsequent laws aimed at improving accessibility and, safety, as well as reducing emissions in towns and cities.

84. To assist in the development of this consultation, we created a stakeholder working group on responsible parking, which includes representatives from a range of organisations, including disability organisations, motoring services and active travel groups. The feedback from the group and responses to this consultation will also ensure that subsequent legislation and guidance is fit for purpose and will command public confidence and support.

85. As highlighted in this consultation, clear, consistent and effective enforcement will be essential in ensuring that motorists comply with the provisions of any legislation. At present, half of local authorities in Scotland have decriminalised parking enforcement powers, but we are keen that all local authorities move to operating a decriminalised parking enforcement regime in their own right. However, we appreciate that the work to get a parking enforcement regime in place can take time and are exploring as part of this consultation what opportunities there may be to undertake partnership working, including the sharing of services with neighbouring authorities through service level agreements to ensure that sufficient enforcement is in place.

86. The questions throughout this consultation are repeated in the questionnaire found at **Annex A**. However, in responding to this consultation, please do not feel constrained by the questions set. We appreciate some people will have a particular interest in certain areas. We encourage you to respond to any or all of those areas where you feel you have a contribution to make.

87. We value your opinions and welcome your views on our proposals identified in this document.

Question

Q 25. Do you have any other comments that you would like to make, relevant to the subject of this consultation that you have not covered in your answers to the previous questions?
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