

# Report

Report to:	<b>Community and Enterprise Resources Committee</b>
Date of	<b>7 November 2023</b>
Meeting: Report	<b>Executive Director (Community and Enterprise Resources)</b>

Subject	<b>Pavement Parking</b>
---------	-------------------------

## 1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ provide an update on the progression of the national ban on pavement parking, double parking and parking at dropped kerbs Regulations

## 2. Recommendation(s)

2.1. The Committee is asked to approve the following recommendation(s):-

- (1) that the contents of the report be noted, specifically the enforcement powers expected to be granted to councils this year; and
- (2) that it be noted that a 'soft' approach to any resulting enforcement, as detailed at paragraph 6.5, will be undertaken and a further update provided to the Committee at an appropriate point during 2024.

## 3. Background

3.1. Part 6 of the Transport (Scotland) Act 2019 introduced the statutory framework for a national ban on pavement parking, double parking and parking at dropped kerbs to make it easier for local authorities to ensure pavements and roads are safer and more accessible to all.

3.2. Key provisions include:-

- ◆ providing local authorities with powers to enforce the national ban
- ◆ the ability for local authorities to promote exemptions from the national ban, subject to meeting strict criteria
- ◆ provides exceptions to certain vehicles if they are involved in emergencies or delivering goods
- ◆ providing local authorities with powers to share services with other councils to enforce the new restrictions
- ◆ requiring local authorities to keep accounts in relation to the money they receive from the enforcement of the new restrictions

3.3. Although the Transport (Scotland) Act 2019 has been enacted, local authorities have yet to receive the additional enforcement powers or full guidance which will enable them to effectively enforce pavement parking, double parking and parking at dropped kerbs.

- 3.4. A statutory duty means that the Council must comply with the requirements of the relevant legislation. A statutory power, as is the case with this legislation, means that the Council has discretion whether to exercise the power. Services across the Council have many powers to manage and deliver services all of which are done so in full consideration of the available resources and commensurate with other priorities.
- 3.5. Draft Regulations were laid in the Scottish Parliament on 2 October 2023 and published on legislation.gov (The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023 (legislation.gov.uk)). They are expected to come into force on 11 December 2023, but this may change.

#### **4. Enforcement/Implementation**

- 4.1. The Council, under the terms of the Roads (Scotland) Act 1984, has a statutory duty to manage and maintain the road network. Effective parking enforcement is a critical element in ensuring that the road network operates safely and efficiently. It also has an important role in reducing congestion, emissions and encouraging greater use of more sustainable modes.
- 4.2. The Road Traffic Act 1991 introduced provisions enabling the decriminalisation of most non-endorsable parking offences in London and permitted similar arrangements to be introduced elsewhere in the UK by secondary legislation.
- 4.3. Decriminalised Parking Enforcement (DPE) is a regime that enables a local authority to enforce its own parking policies, including the issuing of Penalty Charge Notices (PCNs) to motorists breaching parking controls in specified areas. There are 21 local authorities in Scotland that have acquired DPE powers, with South Lanarkshire Council acquiring these in 2005.
- 4.4. Transport Scotland has been progressing the secondary legislation and updated parking standards guidance that will underpin the enforcement of these parking prohibitions. It is anticipated that this will be issued on 11 December 2023. Thereafter, it will be up to individual local authorities to determine their timeframes for implementation.
- 4.5. The Council's own Parking Attendants are currently responsible for enforcing on-street parking restrictions in our town centres and controlled residential parking zones. They also undertake periodic enforcement of disabled bays that are misused in outlying areas, commensurate with other priorities.
- 4.6. It would be desirable for all local authorities to commence enforcement of the new pavement parking, double parking and parking at dropped kerbs legislation at the same time. This would help to ensure that there was a consistent approach to enforcement across neighbouring councils and reduce the potential for confusion.
- 4.7. However, councils across Scotland have differing DPE regimes in place, including some with none, and many are at different stages in terms of assessing their network and fully understanding the logistics and operational aspects of this new legislation. It is, therefore, likely to be spring/summer 2024 before local authorities can effectively and robustly undertake any enforcement.
- 4.8. Transport Scotland are aware and accept that not all local authorities will have the capabilities or plans to undertake enforcement from day one. We understand that a national awareness campaign will focus on the effects of pavement parking and will highlight that there may be the possibility of a penalty from 11 December 2023.

## **5. Consultation**

- 5.1. The Council has been actively engaged over the last few years during the progression of this legislation and has assisted Transport Scotland and taken part in workshops to develop the guidance, raising any technical or operational concerns as they arise.
- 5.2. Since the Bill for the Transport (Scotland) Act 2019 was passed by Parliament on 10 October 2019 and received Royal Assent on 15 November 2019, Transport Scotland have undertaken various consultations in respect of the implementation Directions and Regulation.
- 5.3. The first of these consultations sought comments on the type of streets that could be considered for exemption from the pavement parking ban which would form guidance given to local authorities to assess streets within their area. Further consultation exercises focused on the exemption order process and the process to allow local councils to undertake enforcement action. The feedback received from these exercises allowed the draft Regulations to be laid in Parliament on 2 October 2023 and these are anticipated to come into force on 11 December 2023.
- 5.4. While progress has been made, a complete guidance document is not yet available, and chapters are issued by Transport Scotland as and when they become available. This has made it difficult to fully assess the implications of the legislation/regulations and to understand the operational, technical and management considerations. Guidance is still awaited in relation to the process of issuing and enforcing PCN notices and this is not expected until 11 December 2023.

## **6. Next Steps**

- 6.1. Available guidance is under review and a more comprehensive assessment of locations to be considered for exemption is being undertaken over the remainder of the calendar year.
- 6.2. While in theory the Council could potentially commence enforcement of the national ban on pavement parking, double parking, and parking at dropped kerbs following ministerial approval in December 2023 it is not presently proposed to do so. It is understood that many councils are in the same position given the matters discussed above.
- 6.3. The key provisions of this section of the Act noted at para 3.2 are well intended and could not be challenged or disputed in terms of seeking to improve road safety and accessibility. However, the implementation and enforcement must be done in a balanced, proportionate, and pragmatic way.
- 6.4. Many locations across our network have a level of car ownership that is higher than the level of parking available in residential areas. At times, the only way to ensure safe access and egress may be to allow a modest element of footway parking. Locations like this will require to be considered for exemption with certain geometric parameters and street characteristics forming part of this assessment.
- 6.5. As a result, it is intended to adopt a low key, 'soft' approach to ensure that any enforcement action taken, if any, is commensurate with the resources available and fully considers the impacts and/or displacement that would be experienced across our town, villages or within residential areas. The full Parking Standards Guidance will be considered, evidence will be gathered from the assessment noted at para 6.1 and intelligence gathered on the ground. Any response will also consider the use of advisory warning notices, as necessary.

- 6.6. The draft Regulations note that the Penalty Charge Notice will be issued at £100, which is discounted to £50 for payments made within 14 days and increased to £150 if a Charge Certificate is issued. This is in line with all other Penalty Charge Notices issued for other parking offences within South Lanarkshire.

## **7. Employee Implications**

- 7.1. At present there are 14 Full Time Equivalent Parking Attendants who undertake parking enforcement across South Lanarkshire. There are currently 4 vacancies, and a recruitment exercise is progressing. A review is underway to ensure the Council can deliver a proportionate level of enforcement to implement the requirements of Part 6 of the Transport (Scotland) Act 2019 discussed in this paper.
- 7.2. The Parking Attendants currently operate on a rota system of working 5 days over 7. It is anticipated that the enforcement needed as part of the new legislation will be required during times out with the current Parking Attendant working times outlined above.

## **8. Financial Implications**

- 8.1. It is expected that any income generated from the new powers will contribute to the running costs of the service and is unlikely to generate any over recovery, noting that the operations of the Parking Unit is currently running at a predicted shortfall in 2023/2024 of circa £0.760 million.
- 8.2. The implementation of any exemptions will also incur costs, and these will be a key consideration when locations are considered for such exemptions.
- 8.3. The Council has received funding totalling circa £0.144 million from the Scottish Government to allow the exemption assessments to be undertaken. A consultant has been commissioned to complete this work and this is expected at the turn of the calendar year.

## **9. Climate Change, Sustainability and Environmental Implications**

- 9.1. While there are no defined environmental implications or implications for sustainability in terms of the information contained within this report, failure to have effective demand management measures in place across our towns could see the use of the private car begin to increase at the expense of more active/sustainable modes.

## **10. Other Implications**

- 10.1. There are no other implications or risks in relation to the information contained within this report.

## **11. Equality Impact Arrangements and Consultation Arrangements**

- 11.1. This report does not currently introduce a new policy, function or strategy or recommend a change to an existing policy, function, or strategy and, therefore, no impact assessment is required. This will be considered further once implementation dates are known.

**David Booth**  
**Executive Director (Community and Enterprise Resources)**

10 October 2023

## **Link(s) to Council Values/Priorities/Outcomes**

### Values

- ◆ Focused on people and their needs
- ◆ Accountable, effective, efficient and transparent
- ◆ Ambitious, self-aware and improving
- ◆ Fair, open and sustainable

### Priorities

- ◆ We will work to put people first and reduce inequality
- ◆ We will work towards a sustainable future in sustainable places
- ◆ We will work to recover, progress and improve

### Outcomes

- ◆ Good quality, suitable and sustainable places to live
- ◆ Thriving business, fair jobs and vibrant town centres
- ◆ Caring, connected, sustainable communities
- ◆ People live the healthiest lives possible

## **Previous References**

- ◆ None

## **List of Background Papers**

- ◆ None

## **Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

Colin Park, Head of Roads, Transportation and Fleet Services

Tel:- 07795 090 494

E-mail:- [colin.park@southlanarkshire.gov.uk](mailto:colin.park@southlanarkshire.gov.uk)