

LABEL: PUBLIC



ENVIRONMENT POLICY DEVELOPMENT AND SCRUTINY PANEL

CONSULTATION RESPONSE TO SCOTLAND'S PAVEMENT PARKING PROHIBITIONS

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to inform the Panel of the consultation that is being carried out by the Scottish Government in relation to Scotland's Pavement Parking Prohibitions. The report suggests a Council response to the consultation questions.

B. RECOMMENDATION

It is recommended that the Panel notes the content of the Scotland's Pavement Parking Prohibitions consultation document and recommends the proposed response detailed in Appendix 1 to Council Executive.

C. SUMMARY OF IMPLICATIONS

I Council Values	<ul style="list-style-type: none">• Focusing on our customers' needs; and• Being honest, open and accountable;
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Policy: None. Legal: None
III Implications for Scheme of Delegations to Officers	None
IV Impact on performance and performance Indicators	None
V Relevance to Single Outcome Agreement	None
VI Resources - (Financial, Staffing and Property)	Financial: Scottish Government has provided £54,000 to allow footway assessment to be undertaken. Staffing: None. Property: None.

VII Consideration at PDSP None.

VIII Other consultations None.

D. TERMS OF REPORT

D1 Overview

The Scottish Government has been working to improve parking legislation in Scotland in order to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

A suite of secondary legislation is required for the pavement parking prohibition to work in practice and give local authorities the power to implement and enforce the prohibitions. Prior to the pavement parking provisions coming into force under the Act, local authorities will be required to assess their footways for the purposes of determining which, if any, may be appropriate to be exempt from the pavement parking prohibition.

Local authorities will be required to consider their obligations under the Equality Act 2010 throughout this determination process and prior to an Exemption Order being proposed. Ministerial Directions and Pre-Implementation Guidance will be published to assist local authorities in undertaking this determination process.

D2 Consultation Questions and Responses

Appendix 1 highlights the questions asked by Transport Scotland and the suggested council responses. If these responses to the consultation are approved by the PDSP it would be the intention to present this report to the next meeting of the Council Executive whereby the approved responses will be submitted to the Scottish Government using their Consultation Hub, Citizen Space as specified. The deadline for responses is 11 March 2022.

D3 Next Steps

The council's response to this consultation will be 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 secondary legislation required to bring the parking provisions contained within the Transport (Scotland) Act 2019 into force.

When the secondary legislation has been concluded, additional staffing pressures will be placed upon the council to promote Traffic Regulation Orders for any footway exemptions deemed necessary after assessment. The Scottish Government has recently provided the council with £54,000 to carry out footway assessments to determine any footways that may require exemptions to be applied.

Future financial and staffing pressures will also be placed upon the council to carry out the new Local Authority powers in the Transport (Scotland) Act 2019 to enforce, manage and administer the ban on pavement parking, double parking and parking at dropped kerbs. Police Scotland will have no powers to address issues of this nature, the responsibility will lie solely with the council.

E. CONCLUSION

It is recommended that the responses shown in Appendix 1 are submitted as the council's formal response to the Scotland's Pavement Parking Prohibitions consultation. In doing so the council's views will be considered prior to the final publication of the directions and regulations for Local Authorities.

F. BACKGROUND REFERENCES

Scotland's Pavement Parking Prohibitions – Consultation document, website link:

<https://www.transport.gov.scot/media/50837/consultation-on-pre-implementation-directions-and-regulations-for-local-authorities-pdf-version.pdf>

Appendices/Attachments:

Appendix 1 – Consultation questions with proposed formal responses on behalf of
West Lothian Council.

Contact Person: Gordon Brown, Roads Network Manager tel: 01506 282340, e-mail:
gordon.brown@westlothian.gov.uk

Jim Jack, Head of Operational Services, Whitehill House, Whitestone Place, Bathgate, West
Lothian

Date: 1 February 2022

APPENDIX 1- CONSULTATION QUESTIONS AND PROPOSED COUNCIL RESPONSES

Number	Consultation Question
1	Do you agree or disagree with the proposed road characteristics that would allow local authorities to consider an exemption order from the pavement parking prohibition? Please be as specific as possible in your reasoning.
	Agree with point 'a' and point 'b' in relation to the characteristics for exemptions on the footway and associated carriageway to be considered for an exemption order.
2	Do you agree or disagree that the form of a Pavement Parking Exemption Order should follow a similar format to the TRO example shown above?
	Agree.
3	Are there any additional points you feel should be shown in a Pavement Parking Exemption Order?
	No.
4	Are there any alternative formats you feel would be better suited to this type of Exemption Order?
	No.
5	Do you agree or disagree that local authorities should have to publish details of their proposals on their website for a period of no less than a week before, and during the consultation response period?
	Disagree, the formal traffic regulation order process should be the avenue used for advertisement. This is unnecessary and places additional resource issues on Local Authorities.

6	Do you agree or disagree that local authorities should keep an archive of all previous and existing notices on their website?
	Agree. Keeping a list of footway exemptions on local authority websites would help the public clearly understand which footways in the authority they can legally park on. A proposal of this nature should also reduce the number of people contesting tickets that they may have been issued with and they could be directed to a specific suitable council webpage for further information.
7	Do you agree or disagree that local authorities should display the Notice of Order on appropriate locations such as lampposts in the vicinity of a proposed exemption?
	Agree. This would assist the public in the affected area to understand the areas that the exemption will be promoted on.
8	Do you agree or disagree with the proposal that there should be no requirement to advertise Notices of Pavement Parking Exemption Orders in the printed press?
	Agree. The requirement to advertise notices in the press for all Traffic Regulation Orders should be removed. Local Authority social media channels could be utilised.
9	Do you agree or disagree with the proposal that the same list of consultees for TROs should be applied to the Exemption Orders process, including Police Scotland and the other parties set out above?
	Agree, however as these Exemption Orders are for footways there should be no need to consult with Passenger Transport Authorities.
10	<p>Do you agree or disagree with the proposal that residencies and businesses, and any other stakeholders present within a set distance of a proposed exemption should have a notice placed through their door or posted to them?</p> <p>If so, what would you think that minimum set distance should be?</p> <ul style="list-style-type: none"> • 100 metres? • 50 metres? • 20 metres?

	<ul style="list-style-type: none"> • Something else?
	Something else – direct frontagers adjacent to the footway where the exemption is to be promoted should receive a posted notice only. Local Authority discretion should be applied outwith this area.
11	Do you agree or disagree that local authorities should be able to contact other possible stakeholders they may wish to inform who live out with an established contact vicinity?
	Agree. Local Authorities should have the flexibility to consult with other stakeholders such as local disability groups and Community Councils for example.
12	Are there any other parties who you consider should be formally consulted on a proposed Exemption Order?
	No.
13	Do you agree or disagree that there should be a required period of time to allow for written notices of support and/or objection to be made (a consultation response period)?
	Agree.
14	Do you agree or disagree that this period should be for a minimum of 21 days? If no, would you suggest an alternative length of time?
	Disagree. This period should be for 21 days (no maximum or minimum period).
15	Do you agree or disagree that the consideration of notices of support and objections should be handled in a similar way to the existing TRO process?
	Agree.

16	Do you agree or disagree that if no objections are received to an Order then it should be processed by the local authority's roads department without the need to be approved by a committee?
	Agree.
17	Do you agree or disagree that if there are objections and notices of support then these should be reported to a local authority committee to make a decision, similar to current TRO's?
	Agree.
18	Do you agree or disagree that objectors should be notified as to when the matter will be put in front of committee and given the opportunity to make representations?
	Agree.
19	Do you agree or disagree that if a local authority cannot make a decision via committee then they could have the opportunity to refer a case to the DPEA to arrange a Public Local Inquiry or a Hearing?
	Disagree. Local Authority committees should make the final decision based on information received from the advertising period and officers recommendations.
20	Do you agree or disagree that Scottish Ministers should have the opportunity to "call in" a case should a matter of genuine national interest be at stake?
	Disagree. It is hard to think of a practical scenario where a local pavement parking issue could be considered as of genuine national interest.

21	Do you agree or disagree that local authorities should be able to modify their proposals only where the modified Order covers less pavement than the area of exemption in the original order?
	Agree.
22	Do you agree or disagree that local authorities should not have to consult on such a modification?
	Agree as the modification will be less onerous.
23	Do you agree or disagree that local authorities should not have to advertise the modification except the requirement to place the modified Order on their website?
	Agree, the modification should just involve modifying the original order to suit the change then place on the Local Authorities website once the modification comes into force.
24	Do you agree or disagree with the proposals in relation to notices to be given when making an Order?
	Agree with steps 1-3 for making and order but do not agree with step 4. There should be no need for Local Authorities to post a notice of the final made order to the same list of premises they posted to originally. This is an unnecessary administration burden of no value placed on Local Authorities.
25	Do you agree or disagree with the proposals in relation to notices to be given when amending an Order?
	Agree.
26	Do you agree or disagree with the proposals in relation to notices to be given when revoking an Order?
	Agree.

END