

SUBMITTING EVIDENCE TO A SCOTTISH PARLIAMENT COMMITTEE

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Topic of submission:	Transport (Scotland Bill) 2018 Evidence Walking Issues

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RURAL ECONOMY AND CONNECTIVITY COMMITTEE**TRANSPORT (SCOTLAND) BILL****SUBMISSION FROM LIVING STREETS SCOTLAND****Introduction**

Living Streets Scotland is part of the UK charity that works to make walking safer and more convenient for people of all ages abilities. We have had this mission since 1929 when we were formed as the Pedestrians Association. We are therefore pleased to provide evidence on Section four of the Transport (Scotland) Bill 2018 related to responsible parking. We believe, if implemented correctly, this legislation could offer significant benefits for people on foot, particularly older people, disabled people and parents with children. This submission sets out the benefits and scope for improving the proposed legislation.

- A) Commentary on the Bill principles
- B) Commentary on the Bill consents
- C) Missing or additional clauses
- D) Comments on the financial memorandum
- E) Other parts of the Bill
- F) Summary and conclusions

A) Commentary on the Principles of the Bill**Footway parking the need for action**

Living Streets Scotland has worked with disability charities, including Guide Dogs Scotland, on this issue since 2009. Aside from traffic speeds, footway parking is the most significant issue for pedestrians, especially the most vulnerable. Obstructed pavements force people onto the road cause inconvenience and danger. This is a barrier to everyday walking and can lead to stress and isolation for people who are frail or disabled.

In theory, local authorities and Police Scotland already have some powers to tackle these problems. In practice, there are few, if any, meaningful examples of where these powers have been used. Police powers over driving on pavements and obstruction are unenforceable due to the time and complexity of detection. Local Authorities can use signs and lines to ban parking on a street by street basis. However, this is a very resource intensive and slow process and therefore Traffic Regulation Orders (TROs) and rarely deployed.

The situation in Scotland contrasts with London where Borough Councils have had specific footway parking powers since 1974. The Transport (Scotland) Bill 2018 belatedly provides local authorities with similar powers to respond to the needs of concerned communities. In London certain streets with wide pavements have been designated as exempt from the ban for practical reasons such as maintaining access for service vehicles. Similar powers to

exempt streets via local consultation will be available in Scotland. Part 4 of the Bill adopts a tried and tested approach which is both practical and proportionate.

The existing lack of action can be put down to several factors:

- A failure to recognise that unfettered access to motor vehicles has negative, as well as positive consequences
- A misguided belief that parking can be self-managed at local level, ignoring the rapid growth in vehicle ownership and subsequent parking demands.
- An ignorance of the harm from footway parking causes to the most vulnerable people in communities
- Motorists not recognising laws that make driving on pavements illegal because this offence is never enforced
- Drivers focusing on avoiding damage to their own vehicle and obstructing traffic but failing to consider other people using the pavement.
- A lack of strategic or proactive management of parking, either at the street design stage or once housing, shops and offices are occupied.

Facing up to these issues will be challenging. However, it's important to recognise:

1. Footway parking diminishes road safety and convenience for everyone on foot, including drivers accessing their cars.
2. Vulnerable street users will experience worry and stress from walking on the road, in some cases leading to isolation if they believe it's unsafe to navigate the streets where they live.
3. Pavements aren't designed for vehicles to drive on, they therefore deteriorate and require early replacement or patch repairs – depleting road budgets.
4. There is frustration in many communities that councils can't respond effectively to a highly visible and well known problem.

For these reasons every consultation and poll since 2009 has shown overwhelming public backing for clearer and more enforceable laws on responsible parking. Only a national ban that establishes new social norms, in terms of responsible parking behaviours, can tackle this problem. In this respect most of the benefits will be delivered from behaviour change, rather than enforcement.

Advice to the committee on principles of Part 4

The Bill is founded on strong principles and will prevent harm to vulnerable pedestrians and damage to pavements. The status quo is not an option. Footways are for people on foot and should be safe places throughout Scotland, the bill will achieve this aim.

B) Commentary On The Bill

Making pavement parking as an offence

The pavement parking and double parking offences are clearly defined in **Section 42** of the bill. It would be helpful if the bill referred to footways not pavements as this is the clearer definition in law, a footway being part of the carriageway. The definition set out in this section includes footpaths (clause 20). This is important and should be retained. This definition could be further extended to dedicated off-road cycleways and shared paths.

Advice to the committee: On pavement parking as an offence

Clarity should be sought that the definition covers all pedestrian and dedicated cycling spaces or any area subject to a redetermination order, which creates these spaces. Examples can be set out in the guidance.

Exempting streets from a national ban

The guidance supporting Section 43 on exempting streets needs to ensure that the overall objectives of the legislation aren't undermined or watered down. To achieve this, it will be important to ensure there is 1.5m minimum width for safe pedestrian movement on the remaining footway area. This is the minimum amount of space a parent can walk with a child, or a wheelchair can pass another pedestrian. It is likely that these orders will only apply to pavements wider than 2 metres and where parking is already established.

In very constrained streets, where it is judged that some parking must be retained and access for vehicles is also needed, creative solutions will be required to ensure vulnerable pedestrians are properly protected. Options such as creating a clear footway on one side of the street only, with protected crossing points on the other, would be a last resort. This would only ever be acceptable where the approach delivers a net improvement for pedestrians. Disability interest groups would also need to be consulted on any arrangement to make sure it's acceptable. Local authorities should be required to set out the reasons for the exemption and what mitigation they will put in place to maintain pedestrian movement. Again, well thought through guidance will be required, which emphasises obligations under equalities law.

The only further exemption should relate to historic streets and lanes where pavements are very narrow and in most cases pedestrians already walk on the road because both traffic levels and speeds are very low. Widening the scope of exemptions beyond these parameters increases the costs and complexity of implementing the bill for local authorities.

Exemptions should never be applied where they are likely to cause damage to surfaces not engineered for vehicle movement. This would include, anywhere with slab paving (which will crack or break up) or shallow ducting and trenches likely to collapse.

Advice to the committee on the scope of exemptions

Maintaining safe and convenient access for pedestrians should be the primary consideration in creating exemptions. The guidance needs to focus on this aspect of implementing the legislation, using clear and agreed standards for widths of wheelchairs, guide dogs and their owners and parents accompanying children. A consistent approach is needed based on equalities objectives.

The procedure for **introducing exemption orders (Section 44)** is acceptable provided the guidance is consistent and clear. Copying the process used by London Boroughs is sensible and avoids the time and expense associated with Traffic Regulation Orders. The process can be light touch, based on consulting, reporting, and committee approval of signs and lines for places where pavement parking is deemed acceptable / non-harmful. We reiterate that it is critical that an assessment of equalities impacts is integrated within the process. Traffic engineering departments will need detailed guidance, training and support to perform this task effectively, as meaningful community engagement can be a challenging process.

Advice to the committee on introducing exemptions:

The process for introducing exemptions is sound and has worked in London Boroughs. It needs to be applied in a consistent way across Scotland, which ensures that those most affected groups (older people, disable people, parents with children) are at the heart of the process.

Section 46 double parking prohibition

This section is welcome and will benefit pedestrians (crossing safely), cyclists and car drivers. The committee should confirm that Police Scotland can enforce this part of the bill, in the course of other duties. Whilst, parking offences should primarily be a local authority enforcement matter, it seems sensible that police officers should also be able to apply civil penalties when required.

Section 47 (1-5) Exceptions for statutory vehicles

Living Streets accepts, the need for some exceptions, but these must be kept to an absolute minimum to avoid undermining the strong message that pavements shouldn't be parked on. In short 'exceptions' should be for 'exceptional circumstances' where other parking options aren't viable for the task at hand. The exceptional nature of this limitation needs to be communicated to statutory undertakers to ensure driver behaviour is responsible and proportionate. For example, parking on pavement during a lunch break should still be subject to enforcement. The difference between parking that is 'necessary'

and options that are simply 'less convenient' needs to be made clear in the guidance. All statutory undertakers should provide guidance to staff.

We are also not clear why the Royal Mail (a privatised company) is given specific exception, above those of other delivery companies covered in section 47 (6). Mail and parcels are now delivered by many companies so this exception is an anomaly.

Advice to the committee on Section 47 Statutory undertakers' exemptions

It should be made clear to statutory undertakers that they do not have a blanket exception from this legislation and their drivers must make reasonable efforts to avoid parking on pavements. Pavement parking should be seen as a last resort, where its clear they can't otherwise perform their duties in the time available. Police Scotland should take a lead in setting an example in limiting pavement parking to operational necessities.

Section 47 (6) Exceptions for Deliveries

This section is problematic in relation to the bill achieving its objectives in terms of preventing obstruction and damage to pavements. It is not acceptable to obstruct vulnerable pedestrians or to put them in danger for 20 minutes. 20 minutes whilst a back stop figure also makes enforcement less practical and inefficient. We believe there is a significant proportion of irresponsible parking within the delivery fleet. Shifting this behaviour will be challenging if delivery drivers feel they have a special dispensation and successful enforcement if unlikely. Therefore, the committee should explore:

- The scope for limiting this exception to commercial vehicles only, e.g. those used for transporting larger loads and goods, not cars.
- Whether it is possible to put the onus on the driver to "demonstrate" that collection and loading cannot be reasonably carried out without being parked on a pavement. This means considering the practicality of guidance related to the type of goods (weight and bulk) and the lack of suitable alternative parking near the premises. Clearly avoiding 2 or 3-minute walk to deliver a small parcel doesn't justify pavement parking but unloading a piano might leave no other option.
- Whether the 20-minute loading time is workable in terms of enforcements, and whether its possible to avoid this being seen as blanket dispensation which is routinely exploited.

If these questions can be answered and the committee deems it necessary to retain this exception, it must be substantially strengthened. To do this Living Streets Scotland believes that three new clauses are vital:

- That the vehicle is not left unattended at any time while it is so parked – as is the case with legislation covering HGVs, and Footway Parking Legislation in London. This is a basic health and safety provision where goods are being moved on the pavement.
- That the vehicle must not obstruct or inconvenience the safe movement of pedestrians. This would be defined in guidance for enforcement purposes e.g. 1.5m clearance remaining
- Parking will not cause damage to the footway surface (in effect there should be an absolute ban on parking on slabbed paved surfaces, unless designed for this purpose (e.g. small mono-block).

Problems on high streets should be addressed by creating enough loading bays, which are kept free from illegal long stay parking. Allowing informal pavement parking isn't a substitute for good parking management. If space is an issue, creation of properly constructed bump up loading bays utilising the pavement can be explored as a possible last resort.

We note HGVs are covered under separate laws. These should be updated in line with section 47 (6), if it is amended. It would be unwise if less strict provisions applied to larger vehicles which are more likely to cause damage or obstruction.

Advice to the committee on Section 47 (6) exceptions for deliveries

The biggest challenge in tackling footway parking is fostering behaviour change, so that obstructing and damaging pavements is no longer seen as normal and acceptable. The exceptions currently, runs counter to the bill aims. On balance we would like to see it removed. If this isn't deemed possible then substantial amendments are needed particularly in relation to attendance, obstruction and damage. All types and classes of delivery vehicle should be treated the same.

Section 48 Imposition of penalty charges

Living Streets Scotland would welcome clarification that powers within the bill will automatically be available to police officers as "authorised enforcement officers". Police enforcement will be appropriate in certain circumstances, especially for some double parking offences, (e.g. where a patrol car is obstructed). Criminal convictions are more cumbersome to enforce and disproportionate for more minor infringements. Further statutory guidance defining obstructions should be used to assist the police and successful prosecutors in pursuing convictions for more serious offences.

Section 50 Power to install approved devices

Living Streets Scotland would welcome clarification that this clause allows for the use of mobile camera enforcement particularly, but not exclusively, around schools. We believe it's unlikely that locally authorities will use fixed installations for either footway parking or double parking. Use of vans should be permitted, as well as use of city centre CCTV footage. As enforcement will be challenging, local authorities would require to be able to exploit these resources.

C) Missing and additional clauses

Part 4 of the Transport Scotland Bill offers a good opportunity to tackle a number of related parking issues, which are problematic both for the public and local authorities.

School Zig Zags

We note that there are concerns that School Zig Zags are unenforceable, unless supported by an accompanying Traffic Regulation Order. The bill presents an opportunity to address this issue and provide statutory protection and a consistent national approach, in line with other aspects of the bill. A local authority school by school approach (albeit applied as a Council wide order) is time consuming, expensive and subject to challenge and delay as a result of objections.

Dropped kerbs

We note efforts are being made to protect drop kerbs via secondary legislation. Whilst this is welcome, our preference is to protect these important facilities for people with mobility difficulties in the primary legislation. A clear definition of this type of facility is needed. Provision of tactile paving offers a good starting point, but many councils have been slow in introducing these vital aids for visually impaired people. A clear definition in law would be beneficial. Again a Traffic Regulation Order based approach is a cumbersome and costly way forward.

Parking Strategies in all local authority areas

We note that few local authorities have an overarching parking strategy that sets the aims, objectives and benefits of proactively managing on street parking. Edinburgh is a notable exception and is therefore much better placed to implement the measures in the legislation. An obligation on every local authority to have an overarching strategy that manages the social, economic and environmental aspects of parking would be helpful. This would put parking policy on a proactive, strategic footing as opposed to a reactive enforcement based approach. It would also help with looking at options for joint working between authorities and Police Scotland. A statutory approach is needed, although the guidance could be light touch and flexible in terms of content and outcome focused.

Work Place Parking Levies

Local authorities should have the opportunity to use this tool as part of plans to promote sustainable travel. Nottingham has shown that work place parking levies are both acceptable to business, practical to implement, and beneficial in funding alternative transport options.

D) Comments on the bill financial memorandum

We have submitted a response on the Financial Memorandum to the Finance Committee. In the submission we argue that the Scottish Government should honour previous commitments to fund implementation of the legislation as befits a national initiative. Without additional support local authorities will be unable to implement the bill successfully or unlock the long-term financial benefits related to reduced pavement repairs, maintenance and liabilities for trips and falls. Pavement parking acts as a barrier to everyday walking and particularly people who are older and disabled. Therefore, any measure that keeps this group active will have health and social care benefits. Safer pavements could result in significant financial benefits to the NHS.

E) Other Part of the Bill Affecting Pedestrians:

Part 1 Low emission zones.

Living Streets is generally supportive of the approach taken, but believe the committee needs to consider how these provisions can complement and build on existing powers available to Local Authorities. Local Authorities have been slow in taking action using these existing powers. Legislation alone may not yield the swift response needed to address this pressing public health issue.

Part 5 Roadworks

In addition to part 4 of the bill, part 5 has significant implications for pedestrians. The changes are largely technical and tidy up and improve the existing regime. We note the overarching issue for pedestrians is the lack of on-the-spot monitoring of work sites. Practices between utilities and roads authorities vary massively in terms of ensuring equalities duties are observed. Hefty fines must be applied to contractors who obstruct pavements or fail to provide ramps or safe crossing facilities. A commitment from The Scottish Government to review codes of practice and local enforcement capacity is needed alongside changes in legislation.

F) Summary and conclusions

The Parking Provisions in Part 4 of the Bill are welcomed by Living Streets Scotland as a progressive measure that will boost everyday walking and protect vulnerable groups. The approach being taken is tried and tested over 40 years in London Boroughs. We believe that Scottish Councils are as capable as those in London of managing the local implementation of this bill. Local authorities need a consistent and costs effective way of tackling this problem, and the legislation provides it. This must be backed up with strong guidance to ensure a consistent approach to equalities issues and maintaining the safe and convenient movement of pedestrians of all abilities.

The clause on exceptions for deliveries is problematic and risks undermining the bill. Ideally, it should be removed, or failing that substantially constrained. How exceptions are communicated is vital in terms of messages about the need for and acceptability of footway parking.

Opportunities should be taken to tackle issues around school zig zags, drop kerbs and creating parking strategies in every Local Authority area.

If implemented correctly at a local level Part 4 of the Bill has the potential to unlock significant financial (pavement repairs and renewal), social (isolation reduction) and environmental (better places to walk) benefits for communities.

Living Streets Scotland looks forward to expanding on these points in its oral evidence to the committee on the 7th of November 2018. If in the meantime any further clarification is needed please get in touch.

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