
Report To:	Environment & Regeneration Committee	Date:	2 November 2023
Report By:	Head of Physical Assets	Report No:	ENV061/23/SJ/EM
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Subject:	Transport (Scotland) Act 2019 Part 6 - Parking Prohibitions - Implications		

1.0 PURPOSE AND SUMMARY

1.1 For Decision For Information/Noting

1.2 The purpose of this report is to highlight to Committee the implications of the Transport (Scotland) Act 2019 in relation to parking prohibitions for pavement parking and double parking and the resource and financial implications associated with implementation and management.

2.0 RECOMMENDATIONS

- 2.1 That Committee notes the implications of the parking prohibitions introduced by the Transport (Scotland) Act 2019 and that the Pavement Parking Act will be enforceable from 11 December 2023, however enforcement will not be possible in Inverclyde without the necessary funding and resources for implementation and management including the promotion of exemption orders.
- 2.2 That Committee notes the substantial work involved in assessing all the roads across Inverclyde and that an initial desktop study is almost complete, and the results show that over 300 roads across Inverclyde may require exemption orders.
- 2.3 That Committee notes the additional funding required to conclude the initial phase 1 studies and that this will be contained within the Directorate budgets.
- 2.4 That the Committee notes the additional work required to implement and manage the Act and the range of options detailed in sections 4.5 and 4.6.
- 2.5 That the Committee notes the current position and the anticipated pressure on existing Roads staff who will require to answer requests and complaints about pavement parking and or double parking in relation to the expectation that Inverclyde will implement the Act from December 2023 with Transport Scotland running a media campaign to raise awareness of the Act.

Eddie Montgomery
Head of Physical Assets

3.0 BACKGROUND AND CONTEXT

- 3.1 Following numerous complaints regarding pavement and double parking a Members' Bill was introduced to the Scottish Parliament in 2015 to make provisions to address pavement parking, parking at dropped kerbs and double parking. The Bill gained royal assent in October 2019. Engagement has taken place with Scottish Government via the SCOTS group and whilst funding concerns have been highlighted, to date no reasonable commitment has been given.
- 3.2 Under the Act, Local Authorities have a duty to carry out assessments to identify any areas of pavement where an exemption from the pavement parking prohibitions is deemed appropriate. It should be noted that this is a national pavement parking prohibition and exemptions can only be made in certain circumstances, defined in legislation, where the roads authority identifies a need. As part of the assessments, local authorities should pay particular attention towards the role of walking and wheeling as an alternative for short journeys and as a component in journeys with public transport and must undertake an Equality Impact Assessment to ensure that their proposals do not inadvertently discriminate any protected groups.
- 3.3 Part 6 of the Act details the prohibition of pavement and double parking as well as the exemptions thereto. It details the ability of Local Authorities to introduce Exemption Orders and how to mark them with signs and road markings. The detail of these have been circulated.
- 3.4 Whilst the parking prohibitions will address an important issue which is currently out-with the Local Authorities powers it will bring additional costs for assessing whether any Exemption Orders are required, the promotion of such Orders and the marking thereof. Once the scheme is in place there will be resource implications in relation to staff to enforce the prohibitions.
- 3.5 The Transport (Scotland) Act 2019 sets out when it is an offence to park on a pavement or double park. These are set out in Clauses 50 and 54 of the Act. A vehicle is considered to be parked on a pavement if it is stationary and one or more wheels (or any part of them) on any part of a pavement. A vehicle is considered to be double parked if no part of the vehicle is within 50cm of the edge of a carriageway. For both of these prohibitions it is considered to be in contravention of the Act whether or not the engine is running and whether or not the driver is present.
- 3.6 As with many pieces of legislation there are exemptions to these prohibitions. These are set out in Clause 55 of the Act. A summary of these exemptions is detailed below:

Does not apply to vehicles being used;

- i. by emergency services and the military when engaged in work;
- ii. for works in the road, removing obstruction to traffic, collecting waste and postal services;
- iii. by a registered medical practitioner, registered nurse or registered midwife for or in connection with the provision of urgent or emergency health care;
- iv. for undertaking deliveries or collections for no more than 20 minutes; and
- v. when the driver is assisting in an emergency, at an accident or breakdown.

In these situations, the exemptions are only acceptable if it is not possible to park elsewhere and if there is at least 1.5m clear pavement;

- 3.7 It is recognised by Transport Scotland and many organisations that there will be a requirement to allow some pavement parking. This may be in areas where roads have historically not built to accommodate cars, where there is dense housing stock, etc.. In such circumstances the Act allows Local Authorities to promote Exemption Orders and how to mark such exemptions. Details of these are set out in Clauses 51-53 of the Act.

- 3.8 In order to support the Act the Scottish Government has prepared regulations and guidelines. These detail how the Act should be used in practice and provide details of when Local Authorities may provide exemptions. The aim of these is to ensure that the Act is consistently enforced throughout the country, there is also a checklist to assist with data collection.

A summary of the additional duties imposed on local authorities are listed below:

Desktop Road Assessment

- Undertaking a desktop review using satellite mapping such as Google Street view, Bing Maps etc. to help identify roads across Inverclyde that may need to be reviewed further by carrying out a site visit to see if it may be suitable to be exempted from the parking prohibitions. While carrying out a desktop review, take into account each road's characteristics e.g. type of road, speed limit in force, proximity to schools, waiting restrictions etc.;
- Also consider roads that are known and have been reported to have pavement parking issues.

Detailed Road Assessment

- Undertake a site visit during the daytime to record main parameters (e.g. pavement width, carriageway width, housing density), parking demand and behaviour;
- Undertake a site visit during the evening to record parking demand and behaviour;
- Collate all information to allow ease of data assessment and to take an evidence-based approach;
- In addition the following impacts of the introducing a pavement parking ban should be considered:
 - Impact on traffic flows;
 - Accessibility considerations for both road users and pedestrians;
 - Road safety considerations;
 - Functionality of the road;
 - Availability of parking facilities in the area and prioritisation (e.g. residential areas); and Displacement issues (characteristics of surrounding streets).

Detailed Analysis

- The information from the desktop surveys and site visits, will enable a detailed analysis and assessments to understand where it will be required to promote exemptions and what type of mitigating options will be applied for each exemption.

Possible Mitigation Measures

- **TROs and restrictions to manage traffic flow and provide clear footways**
While the Act prohibits pavement parking, and current legislation (Roads (Scotland) Act 1984) prohibits an obstruction of the road, the use of TROs may be of merit where on street parking requires a degree of control to maintain through traffic flow while prohibiting pavement parking e.g. linear sections of parking with informal give way opportunities.

- **Exemptions with signing and lining (on the footway) to maintain a 1.5m footway width**
Pavement parking permitted up to the delineation provided to maintain an appropriate width for pedestrians. Signing and lining should be implemented in line with The Traffic Signs Regulations and General Directions 2016 (TSRGD). Further detail on this can be found in chapter 6.
- **Exemptions for severely restricted roads where minimum footway widths could not be maintained**
This could apply to one or both footways where the carriageway width necessitates pavement parking on at least one side to permit through movements for all traffic. Signing and lining should be implemented in line with The Traffic Signs Regulations and General Directions 2016 (TSRGD). The next chapter details the Exemption Order form and process which local authorities are required to follow once they have a list of footways they are considering making exempt, if any, identified by their road assessments.

3.9 A study was undertaken by the Transport Scotland on problem areas highlighted from different Local Authority areas. The report highlights the extent and burden on Local Authorities. Some of the additional duties and measures that the report highlighted and may be implemented:

- Change footway to provide parking and signing and lining;
- Review area and surround streets, to accommodate residents parking;
- Install parking restrictions, reduce footway width;
- Mark parking bays;
- Make exemptions and allow cars to park on pavements, however Local Authorities should assess the impact on the surround area;
- Mitigation measures to prevent parking on pavements;
- Change road to a shared space;
- Change roads to one-way.

Most of the measures listed above will have financial implications and will require extensive consultations and studies prior to implementation.

- 3.10 There may also be a requirement for Traffic Regulation Orders if it is deemed appropriate to make roads one-way where an Exemption Order to allow pavement parking is not possible.
- 3.11 Progress in developing this issue has been sporadic, officers have reached out to fellow roads, finance and legal colleagues and there is not a common approach across Scotland, despite the legislation being implemented.

4.0 PROPOSALS

- 4.1 Whilst it is recognised that this Act is unfortunately required due to increasingly inconsiderate parking behaviour. This is a large exercise which has associated resource and financial implications for various services within the Authority. Some work has been and will be required to be outsourced to an external consultants to complete.
- 4.2 The cost implications of reviewing all roads within Inverclyde to determine whether Exemption Orders and Traffic Regulation Orders are required and then implemented are estimated below:

Phase 1

Initial desktop study followed by a detailed study to determine areas that require exemption orders.

Item	Cost
Consultant costs	£75,000
Project Support	£15,000
Total	£90,000

The existing funding from the Scottish Government of £34,000 has covered an initial desktop study and it should be noted that this has highlighted that over 300 roads across Inverclyde will potentially require exemption orders. This work is on-going and Officers will report back with the final number of roads following a review of the identified locations. To complete the detailed study it is estimated that a further £56,000 will be required.

Phase 2

Indicative implementation costs are shown in the table below, it should be noted that these estimated costs only include signs and lines and do not include any changes to road layouts or creation of parking areas. If these are identified as required, then this will require to be brought to the Committee for approval and identification of funding.

Item	Cost
Project Support	£15,000
Legal Exemption Orders	£15,000
Legal One-way Orders	£10,000
Lines & Signs	£175,000
Total	£215,000

There is potential for objections to the proposed Exemption Orders and Traffic Regulation Orders. If this is the case, it is likely that legal costs will increase as it may be necessary to appoint an Independent Reporter to hear these. Should funding be identified it is anticipated that it could take 2 to 3 years to promote all necessary exemption orders.

- 4.3 As noted above, there is no allowance for additional parking areas to be created and any requirement for this would be one-off costs. On completion of the phase 1 studies, if the estimated costs of the mitigation measures have significantly increased this will require to be brought back to the Committee and additional funding identified prior to considering implementation.
- 4.4 Once the prohibitions and Exemption Orders are in effect it will be necessary for Parking Attendants to enforce these restrictions. This is potentially a substantial increase in the area they will be required to cover and the hours of enforcement will extend to cover evenings when pavement parking in residential areas will increase due to residents being home from work. It is anticipated that this may require additional posts to be created.
- 4.5 Although the Exemption Orders will be a one-off cost, the signs and road markings will require periodic maintenance. Enforcement of the restrictions is anticipated to require an ongoing annual expenditure and resource implications to answer requests and deal with complaint handling. The estimated annual cost of enforcement is shown below. The table below illustrates a number of scenarios and the potential resource and financial implications:

Item	Rate	Option 1		Option 2		Option 3		Option 4	
		Nr	£(000)	Nr	£(000)	Nr	£(000)	Nr	£(000)
Enforcement Staff	£45,000	-	0	-	0	1	45	2	90
Additional complaint Support	£45,000	1	45	1	45	1	45	1	45
Processing of PCNs	£4.50	-	0	300	1.35	1,665	7.5	3,330	15
Maintenance of signs and lines	£5,000	-	0	1	5	1	5	1	5
Total			45		51.35		102.5		155

1. No enforcement, additional Office staff to answer complaints.
2. No additional Enforcement staff, existing staff will generate 300 PCNs per year, however the complaints and requests will rise and therefore additional support staff may be required.
3. An additional Enforcement Officer is employed generating 1665 PCNs per year, with a reduced number of complaints assumed accordingly.
4. An additional two Enforcement Officers are employed generating 3330 PCNs a year.

4.6 As no authority has undertaken this type of enforcement before it is not possible to predict the revenue generation from PCNs. The table below illustrates a range of scenarios based on different staffing levels in the table above against proposed income. For an additional 2 parking enforcement officers and 1 backroom staff would require 3,300 tickets, equating to 7 tickets a day required for a cost neutral scheme.

Item	Option 2		Option 3		Option 4	
	PCNs	Revenue £000	PCNs	Revenue £000	PCNs	Revenue £000
PCNs paid @ £40	190	7.6	1,060	42.4	2,110	84.4
PCNs paid @ £80	80	6.4	420	33.6	840	67.2
Not paid	30	0	170	0	350	0
Total	300	14	1,650	76	3,300	151.6

4.7 The Committee is requested to note that at this time there has been no funding provided for the implementation and management of the new parking prohibitions other than an initial allocation of £34,000 to assist in desktop studies. It is not possible to take forward any of the options presented in this report until such time as the phase 1 studies as outlined in 4.2 above have been completed. It should also be noted that it is anticipated that the inability to implement the Act will result in additional complaints and requests being received by the Roads Service which will impact other areas of service delivery at current staffing levels.

5.0 IMPLICATIONS

5.1 The table below shows whether risks and implications apply if the recommendation(s) is(are) agreed:

SUBJECT	YES	NO
Financial	x	
Legal/Risk	x	
Human Resources	x	

Strategic (Partnership Plan/Council Plan)	x	
Equalities, Fairer Scotland Duty & Children/Young People's Rights & Wellbeing	x	
Environmental & Sustainability		x
Data Protection		x

5.2 FINANCE

The costs highlighted in section 4 are estimated costs to implement pavement parking, this report does not propose to implement pavement parking at this time and consequently the tables below only show the costs required to conclude phase 1.

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
Phase Studies 1	Roads Assets	2023/24	34		Desktop studies
	Roads Assets	2023/25	41		Detailed studies
	Roads Assets	2023/25	15		Project support
	SG Grant	2023/24	<u>(34)</u>		Existing EMR
			56		Funding required and to be contained within existing Directorate budgets

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (If Applicable)	Other Comments
N/A					

5.3 Legal/Risk

Exemption Orders will be required to allow vehicles to park on all or part of the pavement where it is deemed necessary to do so. It may also be necessary to promote Traffic Regulation Orders to make roads one-way where the roads and pavements are not wide enough to accommodate parking and two-way traffic.

This will require orders to be promoted prior to the Local Authority enforcing pavement parking. If there are objections to these there could be delays and increased cost implications of the scheme.

Capacity to fulfil these requests could be problematic.

5.4 Human Resources

5.5 Strategic

This project accords with the Corporate Management Plan, by improving access for all.

5.6 Equalities, Fairer Scotland Duty & Children/Young People

(a) Equalities

This report has been considered under the Corporate Equalities Impact Assessment (EqIA) process with the following outcome:

X	YES – Assessed as relevant and an EqIA is required, a copy of which will be made available on the Council's website: https://www.inverclyde.gov.uk/council-and-government/equality-impact-assessments
	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, assessed as not relevant and no EqIA is required.

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

The removal of cars parking on pavements will, reduce discrimination and allow access for all

X	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
	NO – Assessed as not relevant under the Fairer Scotland Duty for the following reasons:

(c) Children and Young People

Has a Children's Rights and Wellbeing Impact Assessment been carried out?

	YES – Assessed as relevant and a CRWIA is required.
X	NO – Assessed as not relevant as this report does not involve a new policy, function or strategy or recommends a substantive change to an existing policy, function or strategy which will have an impact on children's rights.

5.7 Environmental/Sustainability

Has a Strategic Environmental Assessment been carried out?

	YES – assessed as relevant and a Strategic Environmental Assessment is required.
X	NO – This report does not propose or seek approval for a plan, policy, programme, strategy or document which is like to have significant environmental effects, if implemented.

5.8 Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO – Assessed as not relevant as this report does not involve data processing which may result in a high risk to the rights and freedoms of individuals.

6.0 CONSULTATION

5.1 The report has been prepared in consultation with the Corporate Management Team.

7.0 BACKGROUND PAPERS

7.1 Transport (Scotland) Act 2019

7.2 Parking Provision Study Jacobs.

7.3 Pavement, Double & Dropped Kerb Parking Standards Guidance Pre-Enforcement Chapters

7.4 Parking Standards Road Assessments checklist.