

South Ayrshire Council

**Report by Head of Roads, Ayrshire Roads Alliance
to Cabinet
of 16 January 2024**

Subject: Pavement Parking Enforcement

1. Purpose

- 1.1 The purpose of this report is to provide an update on the introduction of new parking prohibitions contained within the Transport (Scotland) Act 2019 and the measures required for the implementation of enforcement procedures.

2. Recommendation

2.1 It is recommended that the Cabinet:

- 2.1.1 approves the Head of Roads' proposal to commence work towards implementing pavement parking enforcement;**
- 2.1.2 notes the Head of Roads' intention to present to Cabinet future papers relating to the results of street assessments and future Exemption Orders; and**
- 2.1.3 notes the content of the report including the various tasks and other associated undertakings required to implement enforcement procedures.**

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 (footways) and roads (carriageways) are safer and more accessible to all.
- 3.2 Pavement parking is defined as any wheel or part thereof parked on a pavement, double parking is defined as any vehicle parked more than 500mm from the edge of the carriageway and dropped kerbs are defined as any crossing point designed for the purpose of assisting pedestrians or cyclists to cross the carriageway (driveways do not fall within the definition).
- 3.3 Although the Transport (Scotland) Act 2019 has been enacted, secondary legislation, The Parking Prohibitions (Enforcement and Accounts) (Scotland) Regulations 2023, which enables local authorities to take up enforcement powers were only laid in the Scottish Parliament on 11 December 2023. Further enforcement guidance is scheduled to be published in January 2024.

- 3.4 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 Pending Cabinet approval, resources shall now be allocated to progressing towards the implementation of pavement parking enforcement in 2024 during which time officers will continue to liaise with other local authorities, Transport Scotland and other working parties to share experiences and absorb relevant information.

4. Proposals

Exemptions

- 4.1 Exemptions which allow pavement parking apply to emergency services and medical practitioners responding to emergencies, accidents or in the normal course of their duties. Further exemptions apply to postal service providers in the course of the collection or delivery of goods which cannot be achieved without the vehicle being parked on a pavement. There are also exemptions for vehicles used in connection with roadworks and the removal of obstructions.
- 4.2 The Act further allows for the promotion of Exemption Orders to specific locations applying strict criteria. Consideration can be given to exempt a street or parts of a street if:
- 4.3 The pavement is of sufficient width to allow 1.5m to remain unobstructed when any part of a vehicle is parked on it
- 4.4 The width of the carriageway associated with the pavement is such that any vehicle parked on it would obstruct an emergency vehicle
- 4.5 To establish whether Exemption Orders should be considered, a desk top study will be carried out on all of the streets in each town, village or hamlet that have footways, using street view imaging to assess any problem streets where vehicles habitually park on footways or block access for pedestrians. Local knowledge from ARA staff will also be used to collate a list of streets that need further investigation and site walkovers to allow for a more detailed assessment to determine whether or not the full pavement parking prohibition should be introduced, or an exemption could be applied. ARA staff will seek the input of local elected members as the road assessments continue.
- 4.6 A three-tiered assessment has been encouraged by the Parking Standards Working Group as follows:
- GREEN - Low impact of pavement parking prohibition being introduced. A change in driver behaviour would be required where they would have to park at locations other than on the footway. This is the default position assumed when assessing the streets.
 - AMBER - Medium impact of pavement parking prohibition being introduced – A change in driver behaviour would be required as above but other potential mitigation measures would be required. This may be where vehicles are habitually parked on the footway and there is no suitable alternative within walking distance, but to re-locate them to the adjacent

carriageway would create unacceptable congestion or road safety issues. The construction of a lay-by at the same location as where the drivers were parking for example could be a satisfactory mitigating measure providing a suitable footway could be provided as well.

- RED - High impact of pavement parking prohibition being introduced– Exemptions to the pavement parking prohibition would be required plus other potential mitigation measures where there is no alternative to pavement parking practice. This may be formalising pavement parking on one side of a street where the carriageway and footways are narrow but the other side of the street would be protected from parking on by a No Waiting restriction to allow one clear footway along the street.

4.7 The appraisals will be used in the street assessments to establish the need for physical mitigation measures for 'Amber' streets and formal Exemption Orders for 'Red' streets.

4.8 It is proposed that a report be brought to a future Cabinet on the resulting road assessments seeking approval where physical mitigation measures and/or exemptions to pavement parking prohibitions and double parking prohibitions are to be considered. Such exemptions would require a formal Exemption Order to be processed and made in due course, and the provision of appropriate signing and lining. There may also be a need for other Traffic Regulation Orders for other physical mitigation measures.

Enforcement

4.9 Since the introduction of Decriminalised Parking Enforcement (DPE) in 2012, the Council's own Parking Attendants have been 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.

4.10 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.

4.11 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 later in 2024 before most local authorities can commence formal enforcement duties.

4.12 Transport Scotland are aware and accept that not all local authorities will be in a position to commence enforcement from 11 December 2023. A national awareness campaign has commenced which focuses on the effects of pavement parking and highlights that there may be the possibility of a penalty from 11 December 2023. Pending the commencement of formal enforcement we will continue to raise awareness using materials issued by Pavement Parking - Road Safety Scotland on behalf of Transport Scotland via the ARA website and social media communications.

Implementation Plan

- 4.13 There are numerous other tasks which need to be progressed along with the street assessments to enable the commencement of enforcement duties. The existing parking database which is used to process Penalty Charge Notices (PCNs) and any associated appeals is currently configured in accordance with the Road Traffic Act 1991 for PCNs issued under the existing DPE regime. New PCNs issued under the Transport (Scotland) Act 2019 will require separate arrangements.
- 4.14 There will also be significant human resource implications in terms of incorporating the new tasks and associated workload through service review and training. Any Exemption Orders shall also require the manufacture and installation of associated road traffic signs and road markings.
- 4.15 Having considered all the various tasks, which are further detailed within the table in [Appendix 1](#), and provided there is no public hearing or other unforeseen circumstances, ARA staff are currently working towards a target implementation date of 28 October 2024.

5. Legal and Procurement Implications

- 5.1 The recommendations in this report are consistent with legal requirements.
- 5.2 There are no procurement implications arising from this report.

6. Financial Implications

- 6.1 Scottish Government has distributed funding to each Local Authority to support the assessment/implementation process and South Ayrshire Council are in receipt of £34,600. Any additional costs may be subject to further funding requests and discussions are ongoing with the Scottish Government through COSLA and SCOTS.
- 6.2 Any additional income generated from the new powers will contribute towards the operational costs of the service or reinvested in roads related projects.

7. Human Resources Implications

- 7.1 At present there are seven Full Time Equivalent Parking Attendants who undertake parking enforcement across the Council area. 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. The Parking Attendants currently operate on a rota system of working five days over six. 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.

8. Risk

Risk Implications of Adopting the Recommendations

Insert one of the following statements:

- 8.1.1 There are no risks associated with adopting the recommendations.

8.2 **Risk Implications of Rejecting the Recommendations**

Insert one of the following statements:

8.2.1 Rejecting the recommendations may impact on the reputation of the Council.

9. **Equalities**

9.1 The proposals in this report allow scrutiny of performance. The report does not involve proposals for policies, strategies, procedures, processes, financial decisions and activities (including service delivery), both new and at review, that affect the Council's communities and employees, therefore an equality impact assessment is not required.

10. **Sustainable Development Implications**

10.1 **Considering Strategic Environmental Assessment (SEA)** - This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

11. **Options Appraisal**

11.1 An options appraisal has not been carried out in relation to the subject matter of this report.

12. **Link to Council Plan**

12.1 The matters referred to in this report contribute to Priority 1 of the Council Plan: Spaces and Places/ Moving around and the environment (Outcome 1).

13. **Results of Consultation**

13.1 There has been no public consultation on the contents of this report.

13.2 Consultation has taken place with Councillor Bob Pollock, Portfolio Holder for Economic Development, and the contents of this report reflect any feedback provided.

14. **Next Steps for Decision Tracking**

14.1 If the recommendations above are approved by Members, the Head of Roads, Ayrshire Roads Alliance, will ensure that all necessary steps are taken to ensure full implementation of the decision within the following timescales, with the completion status reported to the Leadership Panel in the 'Council and Leadership Panel Decision Log' at each of its meetings until such time as the decision is fully implemented:

Implementation	Due date	Managed by
Pavement parking enforcement	27 October 2024	Head of Roads, Ayrshire Roads Alliance

Background Papers **None**

Person to Contact **Kevin Braidwood, Head of Roads, Ayrshire Roads Alliance**
County Building, Wellington Square, Ayr, KA7 1DR
Phone: 01563 503164
E-mail: kevin.braidwood@ayrshireroadsalliance.org

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Appendix 1 - Task List and Timeline

No	Item	Description	Start Date	Estimated Duration
Street assessments				
1	Desk top exercise	Assess streets using Red Amber Green methodology	14/01/24	12 weeks
2	Site inspections	Physically assess street characteristics during day time and evenings	17/03/24	6 weeks
3	Cabinet report	Refer proposed exemptions to Cabinet for authority to proceed	17/03/24	1 week (May 24 Cabinet)
Exemption Orders				
4	Draft Order preparation	Prepare draft Orders and associated plans	05/05/24	4 weeks
5	Publish Notice of Proposals and Statement of Reasons	Publish proposals on Authority website and make copies available at local offices	02/06/24	4 weeks
6	Display street notices	Notices to be attached to street furniture within affected streets for easy inspection.	02/06/24	4 weeks
7	Consult statutory bodies	Police, fire ambulance etc.	02/06/24	4 weeks
8	Consider any subsequent Representations	Representations from members of the public or organisations	07/07/24	2 weeks
9	Cabinet report	To update Cabinet on progress and consider any maintained representations	21/07/24	1 week (Aug 24 Cabinet)
10	Public Hearing	To consider any maintained objections should Cabinet agree to proceed	TBC	
11	Application of new parking exemptions	Arrange manufacture and installation of associated lines and signs	01/09/24	4 weeks
12	Making of Order	Order and associated maps signed off and made legal	22/09/24	1 week
Software/Hardware				
13	Parking database reconfiguration	Database to be reconfigured to accommodate PCNs issued under the Transport (Scotland) Act 2019	03/03/24	16 weeks
14	Handheld device reconfiguration	Parking Attendant handheld device software also requires to be reconfigured	03/03/24	16 weeks

No	Item	Description	Start Date	Estimated Duration
15	Correspondence	Enforcement Notices and Charge Certificates to be prepared	03/03/24	2 weeks
16	PCN templates	New PCN templates required for PCNs issued under the Transport (Scotland) Act 2019	03/03/24	2 weeks
Human Resource				
17	Service review	Review existing staff rotas and patrol beats	03/12/23	20 weeks
18	Enforcement procedures	Prepare procedures for Parking Attendants and Support Staff	01/04/24	4 weeks
19	Training	Provide relevant theoretical and practical training	02/09/24	4 weeks
20	Risk Assessment	Review existing risk assessment for Parking Attendant duties	02/09/24	2 weeks
Implementation Plan				
21	Website and social media	Continuously raise awareness through website and social media platforms to effect behaviour change	N/A	N/A
22	Soft launch	Undertake a soft launch issuing warning notices	29/09/24	4 weeks
23	Full implementation	Commence formal enforcement procedures	28/10/24	N/A