Local Government and Regeneration Committee

Stage 1 report on the Footway Parking and Double Parking (Scotland) Bill
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Local Government and Regeneration Committee

The remit of the Committee is to consider and report on a) the financing and delivery of local government and local services, and b) planning, and c) matters relating to regeneration falling within the responsibility of the Cabinet Secretary for Infrastructure and Capital Investment.
Committee Membership

Convener
Kevin Stewart
Scottish National Party

Deputy Convener
John Wilson
Independent

George Adam
Scottish National Party

Jayne Baxter
Scottish Labour

Cameron Buchanan
Scottish Conservative and Unionist Party

Willie Coffey
Scottish National Party

Cara Hilton
Scottish Labour

Local Government and Regeneration Committee
Stage 1 report on the Footway Parking and Double Parking (Scotland) Bill, 4th Report, 2016 (Session 4)
Introduction

1. The Footway Parking and Double Parking (Scotland) Bill was introduced as a member’s bill by Sandra White MSP on 20 May 2015.¹

2. The Bill was referred to the Local Government and Regeneration Committee as lead committee at Stage 1.

3. The Committee reports to Parliament as follows—

Footway Parking and Double Parking (Scotland) Bill

4. The Bill seeks to restrict the obstruction of footways and dropped kerbs by parked vehicles and the double parking of vehicles on carriageways on all public roads in built up areas in Scotland.¹ A number of exceptions are set out in the Bill and, in addition, local authorities can exempt areas from the Bill’s provisions. The Bill also seeks to prohibit vehicles from waiting whilst obstructing a footway or dropped kerb or when double parked, except in a limited number of circumstances.

Background to the Bill

5. This Bill is the second member’s bill to have been proposed to the Scottish Parliament to regulate footway and dropped kerb parking. Ross Finnie MSP lodged the proposed Regulation of Dropped Kerbs and Pavement Parking (Scotland) Bill on 1 October 2010. The proposed bill fell due to the dissolution of Parliament ahead of the 2011 Scottish Parliamentary elections.

6. On 28 March 2012, Joe FitzPatrick MSP took forward the work done by Ross Finnie and proposed the Responsible Parking (Scotland) Bill. This Bill included double parking, in response to problems encountered by emergency services. The proposal was withdrawn on 26 September 2012 when Joe FitzPatrick became a Minister of the Scottish Government. Sandra White MSP, the member in charge, took over responsibility for proposing the Bill thereafter.

Legislative competence

7. Rule 9.3 of Standing Orders requires all public bills introduced to the Scottish Parliament to be accompanied by written statements by both the member in charge of the bill and the Presiding Officer. These statements must indicate whether, in their view, the provisions of the Bill fall within the legislative competence of the Parliament.

8. In the member’s statement of legislative competence, Sandra White MSP states—

¹ Section 7 defines “public roads in built up areas” as a restricted road as set out in section 82, Road Traffic Regulation Act 1984.
in my view, the provisions of the Footway Parking and Double Parking (Scotland) Bill would be within the legislative competence of the Scottish Parliament.²

9. In the Presiding Officer’s statement on legislative competence, however, the Presiding Officer states “in my view, the Footway Parking and Double Parking (Scotland) Bill would not be within the legislative competence of the Parliament”.³ The Presiding Officer rules that the Bill makes provision for the subject matter of the Road Traffic Act 1988 which is reserved under section E1(d) of Schedule 5 of the Scotland Act 1998.⁴

Committee’s Stage 1 inquiry

10. We considered our approach to scrutiny of the Bill at our meeting on 2 September 2015. At that meeting, we agreed to proceed through Stage 1 as if the Bill did fall within the parliament’s legislative competence.

11. We wanted to explore the value of such legislation and felt that a Committee inquiry, even if the Bill could not proceed, would contribute to the debate on the issue. In taking this decision, we were mindful of the work undertaken by members who supported this Bill in previous forms since 2010 and the cross party support for them.

12. The number of responses to the online questionnaire and comments on Facebook reflect the high level of public interest and concern in the issue of obstructive parking. We issued a call for evidence and received 63 submissions. In addition, we posted an online questionnaire which received 3983 responses. All the written submissions, the SPICe summary of the written evidence and SPICe summary of the questionnaire responses are available on the Committee’s web pages.⁵

13. We also asked for views on the Scottish Parliament’s Facebook page and 497 people commented. Further information is available on the Committee’s web pages.⁶

14. We took formal evidence from a range of stakeholders, including disability groups, transport organisations and local authorities, at our meeting on 25 November 2015.⁷ We then took evidence from the Minister for Transport and Islands and the member in charge at our meeting on 2 December 2015.⁸

15. We thank everyone who has taken the time to respond to our call for evidence or electronic consultations, as well as those who gave oral evidence to us. Their submissions have been of huge benefit to our consideration and in formulating this report.
Issues considered by the Committee

The extent of the problem

16. During the course of our stage 1 inquiry, we considered the extent to which parking on footways, adjacent to dropped kerbs and double parking is a problem.

17. The majority of the written submissions and responses to the online questionnaire argued that footway parking and parking adjacent to dropped kerbs, in particular, cause significant difficulties for some when using footways or crossing roads. Those most affected are pedestrians who rely on walking aids or wheelchairs, those using pushchairs and cyclists. The Scottish Disability Equality Forum highlighted the way the issue affects disabled people’s lives on a daily basis—When they leave their home in the morning, they have to think about how they are going to reach their destination. If there is an area that is well known for double parking or parking over dropped kerbs, that obstructs their onward journey. Likewise, when they get to their destination and then have to go back, they have to think about the issue again. The issue affects their health. Their stress levels will rise if they have to take a diversion in their journey. The issue has a fundamental impact in every way on a disabled person’s life if they have mobility problems.

18. In terms of parking on a footway, concerns focused on the lack of space left on the footway for pedestrians to pass, either forcing them onto the road to avoid the parked car or to retrace their steps and find an alternative route.

19. Many argued that cars parked adjacent to a dropped kerb obstructed pedestrians’ visibility of traffic. It was also said that, where a pedestrian can cross at a dropped kerb crossing, it can often be the case that the corresponding dropped kerb on the other side of the road has been blocked. This can require a pedestrian or wheelchair user to move along the road until they find an alternative gap in the parked cars to reach the footway.

20. Double parking was also highlighted as blocking the visibility of pedestrians when crossing a road and pushing cyclists further out into the road. Many respondents, however, suggested that double parking is less of a problem than it was several years ago.

Existing legislative provisions

Scope of existing legislative provisions

21. As part of our inquiry, we considered whether local authorities and Police Scotland already have sufficient powers to tackle these parking issues.

22. The policy memorandum accompanying the Bill states that, whilst it is currently an offence to drive on a footway [under the Roads (Scotland) Act 1984], “the position is less clear with regards to casual or occasional parking”.

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23. It highlights the Highway Act 1986 which makes it an offence to obstruct the free passage of the highway but that the “police appear reluctant to take enforcement action on cars parked on footways” and that “enforcement action can vary, depending on the individual police officer”. We note this is a criminal offence and consequently not a power available to parking attendants in decriminalised parking enforcement (DPE) areas.

24. The policy memorandum goes on to state the Road Traffic Regulation Act 1984 gives local authorities powers to restrict or prohibit footway parking. Section 2 provides that a “traffic regulation order may make any provision prohibiting, restricting or regulating the use of a road, or of any part of the width of a road, by vehicular traffic”. Adding “it is therefore possible to make an order restricting or prohibiting parking on the pavement without introducing restrictions on parking at the kerbside”. It highlights that only one local authority in Scotland, Aberdeen City, has used these powers to restrict pavement parking.

25. In its written evidence, South Lanarkshire Council (SLC) stated that the Road Traffic Act 1984 contains sufficient powers to allow local authorities to prohibit pavement parking but argued these are not used because congestion is usually dealt with through normal waiting restrictions. During our meeting on 25 November, the representative from SLC highlighted three occasions when the council did use these existing powers to address localised parking issues.

26. In its written submission, Police Scotland notes that the law relating to double parking is covered by the Police Vehicles (Construction and Use Regulations) 1986 and Roads (Scotland) Act 1984. Again, we note that this is a criminal offence and consequently not a power available to parking attendants in decriminalised parking enforcement areas.

Is further legislation necessary?

27. Many respondents to our call for evidence supported the member in charge and argued strongly that legislation is required to clarify the legal position to address these issues.

28. At our meeting on 25 November 2015, we were told by witnesses the existing legislation is unclear and unworkable and the Bill would provide Police Scotland and local authorities with the “legislative teeth” to address the problem. Living Streets Scotland argued “the existing law just is not working” and suggested the fact local authorities haven’t used the powers which are available to them “is proof that the Bill is needed”. Police Scotland argued the existing process is “quite lengthy and cumbersome” and that the Bill provides “much-needed clarity”.

29. Local authority representatives were less persuaded of the need for further legislation in this area. SLC gave the example of the TROs it used to prohibit

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11 Section 147 of the Highways Act 1980 (not 1986 as stated in the Policy Memorandum) makes it a criminal offence to wilfully obstruct the free passage along a highway.
footway parking in three small residential areas and argued these had been successful in addressing the problems.\(^{19}\)

30. During his oral evidence, the Minister stated the Scottish Government agreed with the general principles of the Bill and that it “brings more clarity to what is a complex area”. He went on to indicate the Scottish Government would want, however, to refine some of the language contained in the Bill and do further work with local authorities on some specific aspects.\(^{20}\)

31. We recognise that the obstruction of footways and dropped kerb crossings, as well as double parking, creates great difficulties for some people – especially those who rely on walking aids or use wheelchairs – in going about their daily business. It also places people in potentially dangerous situations as they are forced to walk on the carriageway to try to find a safe place to re-join the footway.

32. We agree that more needs to be done to address these parking obstructions and return public footways to pedestrians as well as ensuring it is safer and easier to cross a road.

33. We note that there is some existing legislative provision to restrict parking on a footway, adjacent to a dropped kerb or double parking. We do consider, however, that the legislative landscape on this issue is complex and confusing. We agree that the consolidation and clarification of legislation is required. We also consider that the law needs to be amended so that both Police Scotland and local authority parking attendants have the same powers to tackle this issue.

34. Whilst we have some concerns with some aspects of this Bill, which we will cover later in this report, we are of the view that a Bill such as this could provide the basis on which to strengthen the law in this area.

**Scope of the Bill and exceptions**

35. The Bill makes provision for a number of exceptions to the parking ban. Whilst most organisations recognised the need for exceptions and exempt areas, a number of written submissions raised concerns in relation to some of these and we pursued them further during oral evidence.

**Types of roads covered by the Bill**

36. A number of written submissions suggested that the Bill would exclude most A and B roads and all private roads due to the definition set out of the Bill for “public roads in built up areas of Scotland”.

37. During oral evidence, the Society of Chief Officers of Transportation in Scotland (SCOTS) explained—
By default, restricted roads are C-class and unclassified roads with street lighting … if somebody is following current Scottish Government advice, A and B roads will not be restricted roads in the meaning of the term in the Road Traffic Regulation Act 1984.

There might be other ways of drafting the legislation—for example, by referring to the speed limit, which might be easier to understand.21

38. When the member in charge gave evidence, she agreed these should be included, stating “perhaps the omission is mine, because I had assumed that A and B roads were not affected by pavement parking”.22

39. We note the Bill, as drafted, would not cover A and B roads and agree with witnesses this is an omission which should be addressed at Stage 2, if the Bill proceeds past Stage 1. We welcome the member in charge’s agreement with this proposed change.

Exception to permit a vehicle being used to make a delivery to park by a dropped kerb (s3(2)(d)) or double park (s4(2)(c))

40. A number of submissions highlighted concerns that this exception to allow deliveries would not sufficiently address the problem. Many felt it would not change drivers’ expectation that they were ‘allowed’ to park next to a dropped kerb or double park rather than seeking a less obstructive parking space a further distance from their delivery address. Learning Disability Alliance Scotland argued “disabled people should have a right to get to their work or the shops without having to wait 20 minutes while someone gets a book from Amazon”.23

41. The Road Haulage Association (RHA), however, argued in its written submission that “drivers have to stop their vehicles in built up areas not for the intention of ‘parking up’ or ‘waiting’ but to ‘load or unload’ and then move away as soon as completed”.24 The RHA argued that the provision set out in section 19 of the Road Traffic Act 1988 should be retained.iii During oral evidence, the RHA also questioned whether the 20 minute allowance was enough, highlighting delivery drivers are now often required to connect up, or assemble, goods they have delivered.25

42. SCOTS argued the Bill might complicate the issue of where delivery vehicles can park because the Road Traffic Act 1988 would still apply but the two pieces of legislation would have different sets of exemptions. It argued that it would “make the situation more complex rather than simpler”.26

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iii [Section 19 of the Road Traffic Act 1988](#) makes it an offence for a driver of a heavy goods vehicle (HGV) to park on a footway unless it is for the purpose of loading or unloading, and that the loading or unloading could not have been satisfactorily performed if it had not been parked on the footway or verge, and that the vehicle was not left unattended at any time while it was so parked.
43. We note the confusion felt by the Road Haulage Association regarding how this Bill would work with the provisions of the Road Traffic Act 1988 in relation to delivery vehicles being permitted to park to make a delivery. We urge the member in charge to give further thought to how this Bill would work alongside the existing legislative provisions relating to delivery vehicles. The Committee would welcome the member in charge’s views on this point in advance of the Bill proceeding past Stage 1.

44. We also note the differing views put forward regarding the allowance of up to 20 minutes, with the Road Haulage Association concerned this would not always be long enough and disability groups concerned this would, in effect, enable current practices to continue.

45. We are of the view, however, that 20 minutes is more than enough time to allow a delivery vehicle to park adjacent to a dropped kerb or double park in order to make a delivery for smaller items. Whilst we recognise that there would be occasions where it would take longer to make a delivery, these should always be apparent in advance and extra time would have to be allowed for the driver to find an appropriate parking space and transfer the goods to the delivery address. We consider that 20 minutes is not an unreasonable length of time for someone who needs to use a dropped kerb to cross a road to wait for a delivery vehicle to move on.

Exception to permit parking by a dropped kerb outside residential premises (section 3(2)(b))

46. A number of submissions questioned the exception that allows parking on a dropped kerb outside residential premises. It was generally presumed in evidence that this refers to the dropped kerb of a driveway, as opposed to a dropped kerb to facilitate crossing a road, although this is not clear from the Bill and accompanying documents. This lack of clarity led to some confusion.

47. SCOTS suggested the definition should be refined to distinguish between a dropped kerb for vehicular access to residential premises and pedestrian or cycle crossing points which happen to be outside a residential property. This was also argued by many other submissions and witnesses.

48. Other submissions, however, disagreed with the principle that residents should be able to give permission for someone to park on the road outside their homes. Inclusion Scotland argued that “it is an established principle that residents do not have a specific right to park in the road adjacent to their property, and it would seem odd to allow a resident to park where the footway is dropped but not where there is no dropped footway”.

49. A number of submissions highlighted the difficulties in enforcing this provision.

50. At our meeting on 25 November 2015, we explored the distinction between a dropped kerb outside residential premises to allow access to a driveway and a
kerb which has been dropped for the purpose of assisting wheelchair access and which happens to be outside residential premises. It was suggested that these could be referred to as “crossovers” or “technical crossing points”\textsuperscript{29, 30}.

51. When asked about this, the Minister agreed more work needed to be done on this aspect of the Bill.\textsuperscript{31}

52. We share the concerns raised with us regarding the exception to allow parking adjacent to a dropped kerb outside residential premises and we recommend that the member in charge gives further consideration to this section.

53. Specifically, we are of the view no owner of residential premises has a ‘right’ to park on the carriageway outside their premises and believe that the Bill could mistakenly create this expectation. We also agree it would be difficult to enforce.

54. We believe the lack of clarity about the exact meaning of the term ‘dropped kerb’ risks creating bad law which is unclear as to its intent and purpose. We urge the member in charge to clarify whether this exception would apply to all dropped kerbs – which we would not support and would seem to us to be against the spirit of the Bill – or just those leading to driveways.

Implementation and enforcement

55. There are two aspects to the implementation and enforcement of the Bill.

Implementation and enforcement of sections 2, 3 and 4

56. Section 5 of the Bill proposes that the parking restrictions set out in sections 2, 3 and 4 would be “enforceable as if imposed by a traffic regulation order made under section 1 of the [Road Traffic Regulation] Act 1984”. The Bill’s provisions would be enforced by Police Scotland, where parking enforcement is criminalised, and local authority traffic wardens in areas with DPE.\textsuperscript{iv}

57. Some local authorities argued strongly that, without additional resources, councils that operate DPE would not be able to enforce the Bill effectively. In its written submission, SLC argued that “to be effective additional resources will be required, at a time of austerity when local authorities are looking to make year on year savings”.\textsuperscript{32}

58. Fife Council highlighted the concerns felt by many local authorities that the Bill would raise expectations that traffic wardens would widen their beats to cover more areas and that, without additional resources, local authorities would be

\textsuperscript{iv} Aberdeen City, Argyll & Bute, City of Edinburgh, Dundee City, East Ayrshire, East Dunbartonshire, East Renfrewshire, Fife, Glasgow City, Inverclyde, North Lanarkshire, Perth & Kinross, South Ayrshire and South Lanarkshire councils (paragraph 22).
Representatives from Fife and Aberdeenshire councils highlighted the particular challenges rural authorities would face. Fife Council argued its 20 parking attendants do not usually cover some areas so beats would have to be changed and it might be several days before parking patrols could look at a specific area. The witness concluded that this would “skew resources away from the busier town centre areas, where some of the bigger issues happen as a result of congestion and parking”.  

Some councils suggested the greatest demand for parking and, therefore, the time most parking infringements would be made, would be outwith the normal working day when parking attendants are not working. It was argued that, apart from in the three or four larger cities, local authority parking attendants work between, usually, 8.00 am and 6.00 pm, in contrast to the “24/7 enforcement” the police can provide.  

When asked whether local authorities would adopt the approach of focusing on areas of problem parking through “sting operations”, Fife Council agreed that this type of approach could produce good results. It went on to argue that “without any doubt, if the Bill achieved royal assent, there would be much better clarity on enforcement […] it would provide teeth to those interventions.”  

Whilst Police Scotland welcomed the Bill, it did state in its submission that the enforcement of parking offences by Police Scotland would be a low priority and either conducted alongside daily business or during bespoke operations to address significant problems. During oral evidence, Police Scotland stated that it did not anticipate police officers issuing a large number of parking tickets as a result of the Bill, but rather the powers would be used to address specific community concerns and during campaigns.  

We note the concerns raised by local authorities about the resource implications associated with implementing and enforcing sections 2, 3 and 4. We agree the Bill, if passed, might raise expectations in a number of areas that obstructive parking would be addressed. We agree that many local authorities would need to adjust budgets in order to meet these raised expectations and note that Police Scotland does not plan to increase its enforcement activities, excepting significant problems in particular communities. We recommend that the enforcement of these sections would need to be accompanied by consultation and dialogue with local communities in order to both manage expectations and agree a strategy which highlights problem areas where enforcement should be prioritised.
Implementation of section 6

65. Section 6 would give local authorities the power to specify exempt areas, through TROs, in order to exempt “a small number of wide footways or narrow streets where footway parking would not be prohibited”. Implementation would involve, in the first instance, a survey of the road network and identification of possible exempt areas, followed by a public consultation. Following the decision to exempt particular areas, local authorities would need to put in place the required road markings and signage. The Traffic Signs Regulations and General Directions 2002 provides what road markings and signage would be required in relation to exempt areas.

66. The member in charge suggests—

The provisions of the Bill need not have an immediate impact on local authorities. However, most local authorities are likely to want to consult on TROs for Exempt Areas, exempting a small number of wide footways or narrow streets where footway parking would not be prohibited.

67. The written responses received from local authorities suggested that councils would want to exempt areas under a single TRO and some voiced their strong concerns the process could be protracted and costly to implement.

68. In its written submission, SLC detailed the process entailed when introducing a TRO. It argued that the necessary assessments in identifying areas would place a “considerable burden” on local authority staff. It went on—

SLC would, most likely, promote one “exempt areas” Traffic Regulation Order, with individual streets listed in the schedules, as it would not be practical or sustainable to promote individual Orders for each street. This approach, however, means that just one maintained objection would delay, and potentially jeopardise, the whole process. Anticipating a significant number of maintained objections the whole process would become exceedingly protracted, cumbersome and maybe even untenable.

Should the proposals go ahead, this council would introduce exemption orders to allow pavement parking over many kilometres of residential streets. As detailed above, the cost of this, both in terms of man hours to produce, and signing, is likely to be excessive.

69. During oral evidence, Fife Council argued that it would want to exempt a “significant number” of areas because “many of our small towns and villages are designed for horse and wagon”. In written evidence, Fife Council had highlighted its many coastal towns and villages “can barely support vehicular access let alone setting a zero tolerance on parking”.44
70. When the Minister gave evidence, he indicated that, if the Bill was to come into force, he would want to give further consideration to this issue and work with COSLA and local authorities.\textsuperscript{45}

71. The Scottish Disability Equality Forum highlighted the 46 access panels throughout Scotland and suggested that local authorities should work closely with these to identify at community level possible exempt areas.\textsuperscript{46}

72. The member in charge of the Bill stated it was imperative that access panels should be statutory bodies, particularly in the context of planning.\textsuperscript{47}

\begin{quote}
73. We note the concerns raised by local authorities that the implementation of section 6 would be more complex, take more time and cost more money than the member in charge suggests. Based on the evidence we have received, we agree implementation of section 6 would be less straightforward, and cost more money, than the Bill anticipates.

74. We note the member in charge suggests only those local authorities with particular problems with footway parking would implement the Bill. Local authorities are not, however, at liberty to pick and choose what legislation to implement and all local authorities would be obliged to implement the Bill if it was passed. The Committee agrees this would place some local authorities under an additional administrative burden.

75. We recommend the member in charge gives further consideration to other ways to achieve the Bill’s objectives which would not disproportionately impact on some local authorities.
\end{quote}

Consistent implementation and enforcement across Scotland

76. One of the main arguments for the Bill has been the need to address the lack of consistency in how parking issues are dealt with across Scotland. We pursued this issue when we took evidence on 25 November.

77. During oral evidence, Living Streets Scotland argued the Bill would create a “universal, consistent approach across Scotland” as the default position would be that parking on a footway, adjacent to a dropped kerb and double parking would be prohibited. The representative went on to tell us that “if we leave it down to individual local authorities, it becomes a bit of a hotchpotch and the situation becomes much more challenging, because individual traffic regulation orders have to be issued”.\textsuperscript{48}

78. Those who would be responsible for enforcing the Bill, however, argued it would not address the lack of consistency. Police Scotland stated “I do not think that consistent enforcement policy could be created”, before explaining “we would create our own internal procedures and processes, but the general guidance to police officers would be to use discretion where possible”.\textsuperscript{49}
79. SLC argued there would be “considerable inconsistency”, between decriminalised and non-decriminalised areas in Scotland. It also argued that local authorities could not match the “24/7 enforcement” Police Scotland could provide.50

80. In response to this issue, the Minister stated—

> We have to address the issue of consistency across the country to provide stability and workability, and I would commission more work around that.

The message would have to be standardised. There would need to be an educational campaign and clarity in guidance, so that the measures could be properly enforced, but across the country enforcement would differ because there would be DPE in some areas and police action in other areas. There is also the question of the priority that a local authority attaches to enforcement.51

81. We believe consistent enforcement of the Bill is vital if it is going to make a meaningful difference to disability groups and other footway users across Scotland.

82. We welcome the Minister’s commitment to commission more work around this issue and we ask for further information about how this will be taken forward.

Potential ‘unintended consequences’ of the Bill

83. In addition to the expected difficulties in enforcing the Bill’s provisions and anticipated higher costs of implementation, many of the councils who submitted written evidence to the Committee highlighted concerns about the unintended consequences of the parking ban and resulting displacement of parked cars. During oral evidence, SLC argued—

> The main problems would arise in areas of dense housing where there is insufficient parking to accommodate all vehicles. Pressure would be put on local authorities to enforce the rules, and then we would be under pressure to provide additional off-street parking in residential areas. However, provision of residential parking is not in the remit of local authorities and we do not have budgets for that. That would be a major issue.52

84. Living Streets Scotland acknowledged this concern but argued that “ultimately, however, the local authorities in some areas will have to choose between the rights of people to park outside their houses and the rights of disabled people to go about their daily lives.”53

85. Another concern is that fewer parking spaces in residential areas might cause neighbourhood disputes. East Renfrewshire Council, for example, stated in its written submission—
implementation and enforcement of these regulations in such areas [with high numbers of cars parked on the footway] will be extremely unpopular. There will also be significant vehicle displacement to the surrounding road network which will exacerbate disputes and tensions between residents about the availability of parking spaces and may lead to unforeseen traffic management issues arising.\textsuperscript{54}

86. In both its written evidence, and during oral evidence, SPT raised its concern the Bill would make it more difficult for buses to navigate their way through narrow roads. It argued rigorous enforcement of car parking on footways in some areas might cause “legal parking” to narrow the road width.\textsuperscript{55}

87. We have heard about the footway parking ban in Greater London which has been operational since 1974. The member in charge told us there is very little research available about the ban but, on the whole, it does not seem to have had a negative impact in terms of displaced parking or neighbourhood disputes. Professor Rye, who gave evidence alongside the member in charge, highlighted the pavement parking ban in London permits exemptions, with parking with two or four wheels permitted to park on a footway within marked areas. He argued—

The way that the legislation is used in London, with exemptions being made in certain areas with very high parking pressures and real problems with street space, shows how the balance is being struck there.\textsuperscript{56}

88. We pursued this issue further with the Minister. He stressed that, whilst obstructive parking should not be allowed, legislation should allow sufficient flexibility to allow a balance to be maintained between the rights of pedestrians and the rights of car owners and motorists. He said—

There is, therefore, a balancing act, and much of that would be covered in guidance. If there were to be prohibitions and exemptions, the guidance would specify the areas in which such parking would or would not be acceptable, to ensure that we struck the balance that Cara Hilton has touched on. […] in some parts of the country, it is impossible to provide alternative parking provision and the resulting displacement might compound other problems.\textsuperscript{57}

89. We recognise the significant challenge facing many local authorities in managing Scotland’s road system to ensure it works effectively for footway users and cyclists as well as motorists and businesses. We believe any parking bill must reflect this fine balance between the needs of these two groups.

90. We note the Bill does nothing to address the fundamental problem that many of our towns and cities cannot cope with the number of cars on the road. Whilst we are sure it will have identified this as an important issue, we will write to the on-going Review of Scottish Planning System to highlight
this issue and recommend the Review gives due consideration to the capacity for parking in residential areas.

91. We have already recommended that the implementation of sections 2, 3 and 4 should be accompanied by consultation and dialogue with local communities. We recommend this consultation is led by a common sense approach.

Financial memorandum

92. The Finance Committee usually considers the financial memoranda (FM) associated with Bills. On this occasion, however, the Finance Committee agreed not to scrutinise the FM as the Bill was not within the legislative competence of the Parliament. We explored the issue of costs with witnesses ourselves.

93. Many local authority submissions argued the expected initial and on-going costs were likely to be significant underestimates. As set out above, many local authorities argued the Bill would necessitate additional resources due to the establishment of TROs, additional signage and a heavier burden of enforcement. Fife Council stated that “at a time when local government is going through significant change in terms of reducing budgets and staff […] the implications of the Bill may be realistically beyond the capacity of some smaller local authorities to deliver.”

94. Aside from the pressures on parking attendants, local authorities were mostly concerned about the costs associated with installing the signage required by the Traffic Signs Regulations and General Directions 2002. There was some discussion about this with witnesses. SLC stated the regulations require a sign at the start and end of each regulated area and every 60m between.

95. SLC estimated the costs associated with the TROs it introduced for three small residential areas, including signage, were about £1,500 each and the estimated costs for introducing TROs in larger areas would be higher.

96. Other local authorities, however, advised us they considered the projected costs to be accurate and they did not expect the costs associated with implementation or enforcement to be excessive.

97. The Minister stated he could not comment on costs in detail. This was because the extent to which the powers would be enforced, and whether more local authorities would have opted for DPE by the time the Bill came into effect are unknown factors and he would want a “fuller understanding” of these before commenting further.

98. We share local authorities’ concerns the costs set out in the Financial Memorandum are too low. We believe, if the Bill does proceed to Stage 2,
further work must be done to ensure a more accurate costing is carried out and the Financial Memorandum is revised accordingly.

**Legislative competence**

99. As stated earlier, we agreed to progress with our Stage 1 inquiry despite the Presiding Officer’s statement about the Bill’s legislative competence.

100. When he gave evidence to us, the Minister stated the Scottish Government’s support for the general principles of the Bill and commitment to resolving the legislative competency issues with the UK Government through the Scotland Bill. He went on to set out the Scottish Government’s view, should the Bill’s general principles be agreed at Stage 1, no further action should be taken until the legislative competency issue has been resolved.

101. The Minister confirmed—

> Following agreement with the United Kingdom Government, we are working to resolve the issues via the Scotland Bill. The intention is to introduce suitable exceptions to the list of reserved matters in schedule 5 to the Scotland Act 1998 in order to remove any doubt about legislative competence in the area. [...] However, it is extremely unlikely that any legislative competence alterations will be in force before the Scottish Parliament is dissolved in March 2016. Therefore, it is my strong preference that, while we work to resolve the legislative competence issues, the focus should now shift to the development of a Scottish Government bill, to be introduced in the next parliamentary session, once the legislative competence issues have been resolved.\(^{52}\)

102. We asked the member in charge about the Scottish Government’s position when she gave evidence to us. She indicated her support for this approach—

> I would certainly be looking for things to move more quickly, if at all possible, and for the bill to make progress. If the Government is not able to move quickly [...] I am happy to support the idea of agreeing the principles at stage 1 and picking the bill up again in the new session.\(^{63}\)

103. We note the Scottish Government supports the general principles of the Bill but, nevertheless, considers the Bill needs amendment to be workable. We also note the Scottish Government’s statement that the UK Government is committed to resolving the legislative competency issue.

104. We note the Scotland Bill timetable means it is very unlikely the legislative competency issue will be resolved before the dissolution of this session of the Scottish Parliament.
Delegated powers

105. There is one delegated power in the Bill under section 6 and this was considered by the Delegated Powers and Law Reform Committee at its meeting on 27 October 2015. The Committee determined it did not need to draw the attention of the Parliament to this provision.64

Conclusion on the general principles of the Bill

106. We report to the Parliament that we are content with the general principles of the Bill and recommend the Bill be agreed to at Stage 1.

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64 Footway Parking and Double Parking (Scotland) Bill. Explanatory notes (and other accompanying documents) (SP Bill 69-EN, Session 4 (2015)), page 15 (1.98MB pdf).
Explanatory notes (and accompanying documents), paragraph 14.


Financial Memorandum, paragraph 14.

South Lanarkshire Council. Written submission.


Fife Council. Written submission.


East Renfrewshire Council. Written submission. (2246KB pdf)

Strathclyde Partnership for Transport. Written submission. (73KB pdf)


Fife Council. Written submission.


Delegated Powers and Law Reform Committee. 62nd Report 2015 (Session 4). Footway Parking and Double Parking (Scotland) Bill at Stage 1 (SP Paper 819).