Welsh Pavement Parking

Task Force Group Report

October 2020

Draft 3.1 28/05/20

This report has been produced by a special Wales Pavement Parking Task Force Group, set up on the direction of the Deputy Minister for Economy and Transport, Lee Waters, to find a solution to the issues around Pavement Parking. The response by Welsh Government to the report's recommendations is to follow.

Notes

See Glossary of Terms for definition of *words* in italic and underlined.
Recommendations are shown italic and bold.

Contents

1. Executive Summary	4
2. Introduction	5
3. The Case for Change	6
4. Changes to Legislation and Government Guidance	10
5. Communications and Promotion Strategy	14
6. Enforcement	16
7. Outcomes, Monitoring and Evaluation	17
8. Implementation	18
9. Summary of Main Findings and Recommendations	19
Glossary of Terms	20
Appendices	21

Mae'r ddogfen yma hefyd ar gael yn Gymraeg. This document is also available in Welsh.

OGL © Crown copyright 2020 WG40842 Digital ISBN: 978-1-80082-281-8

1. Executive Summary

Pavement parking is where one or more wheels of a stationary motor vehicle are on the pavement (also known as the footway). Pavement parking obstructs pedestrians and is a serious and widespread problem across Wales. It puts people in danger when they are forced to walk in the carriageway where they may come into conflict with moving traffic. It is a particular problem for disabled people as well as anyone with a child or a pushchair. A survey of over 1000 people in Wales carried out in 2019 found that 83% view it as a common, large or very large problem.

Policy and legislation in Wales places a high priority on enabling and encouraging more people to make everyday journeys on foot. Pavement parking runs counter to these aims and it is important that it is dealt with as soon as possible. This should be achieved by changing driver behaviour through raising awareness that pavements are for pedestrians and not for vehicles, backed-up by the deterrent of effective enforcement.

Although there is no specific offence of parking on pavements in Wales (as in most of England), causing unnecessary obstruction of any part of the highway is an existing criminal offence, albeit one that is seldom enforced by the Police.

Consideration was given to creating a new offence of pavement parking through primary legislation, as has been done in Scotland, but this is a lengthy and time consuming process. A more efficient and quicker approach is to enable local authorities to use civil enforcement to enforce the existing offence of obstruction. Welsh Government should pass a simple piece of subordinate legislation to provide local authorities with these powers.[1]

There will be places, for example narrow residential streets with no off-street parking, where some parking on pavements will need to be tolerated. Although it is not essential to indicate these locations prior to the commencement of civil enforcement it is desirable that local authorities do so as soon as possible. The process of making the associated *Traffic Regulation Orders* can be costly and time consuming and Welsh Government should undertake a review of the relevant legislation to identify how it can be simplified.

Clear, workable and detailed guidance will need to be produced by Welsh Government, in partnership with local government and other stakeholders, to guide local authorities in the execution of their new powers. This should be achieved by amending the existing statutory and operational guidance on civil parking enforcement.

Changes will be needed to the Highway Code to make it clear to drivers that they will be subject to penalties issued by local authorities if they park on pavements in Wales. Welsh Government should work with the Department for Transport on this matter.

A concerted effort will be needed both nationally and locally to inform the public that enforcement is being stepped up and Welsh Government will need to design and conduct an effective communications and promotion strategy, in conjunction with local authorities.

Local authorities will need to extend their existing enforcement operations to discharge their new powers and some additional resources may be required, but this will depend largely on the extent to which enforcement is proactive, rather than by complaint, which will be a matter for local policies.

It will be important to monitor and evaluate outcomes and operation of the new enforcement regime to assess its success and identify any changes that may be needed. *PATROL*, the (Parking and Traffic Regulations outside London) Joint Committee, is well placed to carry out the operational assessment.

The aim should be to commence civil enforcement of pavement parking by July 2022. This will require timely decision-making and commitment by all stakeholders, and the establishment of a dedicated team by Welsh Government.

[1] The recommended legislative changes are based on the views of experts on and contributing to the work of the Task Force Group and are subject to detailed review and legal scrutiny by Welsh Government.

2. Introduction

Structure and Workings of the Task Force Group

The Wales Pavement Parking Task Force Group was formed on the direction of Lee Waters, the Deputy Minister for Economy and Transport, and announced in his address to the Active Travel Wales Conference in Cardiff on 4 July 2019.

The Group was chaired by an independent transport planner and engineer, Phil Jones, and governed by a Project Board with representatives from Welsh Government and the Wales Local Government Association. A wide range of public, private and third-sector organisations with an interest in the issue, were represented (See Appendix A).

A smaller sub-group was formed to provide advice on the detailed changes to legislation and statutory guidance that would be required. This comprised representatives from the British Parking Association, local authorities, PATROL[2], the Traffic Penalty Tribunal for England and Wales, Welsh Government and the Welsh Local Government Association.

The emerging findings were made available online to all Welsh local authorities and members of the British Parking Association. Some detailed comments were received which have been taken into account in preparing the final recommendations of the Task Force Group.

The Pavement Parking Task Force Group has been working alongside another Task Force Group set up to advise Welsh Government on how best to implement a national default 20mph speed limit in residential areas.

[2] (Parking and Traffic Regulations outside London) Joint Committee

3. The Case for Change

Structure and Workings of the Task Force Group

During his speech to the Wales Active Travel Conference in July 2019 the Deputy Minister said:

"Our goal is for people of all ages and abilities to be confident that they can make everyday journeys by walking and cycling, and do so safely. But there are barriers in our villages, towns and cities to allow this to easily happen and this is something we must look at ways of addressing – not least as part of our wider response to the climate emergency, the air quality crisis and the obesity epidemic.

It's for this reason that I have asked for an expert group to consider how we tackle one of the obvious barriers – pavement parking and illegal parking, which we know is a particular issue around schools in Wales. This, alongside the task group shortly being set up to provide concrete advice on changing the default speed limit from 30 to 20mph are tangible things we as a Government must lead on if we are serious about facilitating safe walking and cycling.

This is not about penalising car users, but redressing the balance of power in our urban environment. The numerous benefits of active travel are well documented, and we are in a position here in Wales to really do something positive in making it the obvious choice for all ages. That is exactly what I intend to do.[3]"

The parking of motor vehicles on *pavements*[4] is a serious and widespread problem across Wales. This may be motivated by a misplaced desire to be courteous to other drivers by leaving plenty of room to pass, but the impact on people using the pavement can be severe.

Pavement parking puts people in danger when they are forced to walk in the carriageway, where they may come into conflict with moving traffic. Pavement parking can also block dropped kerbs which are the only place that some people can use to cross the road (although this offence is already enforceable by local authorities in Wales). It is a major problem for people with visual, mobility or neurodiverse impairments, including guide dog, wheelchair and mobility scooter users, as well as anyone with a child, a pushchair or some other encumbrance.

The Highway Code[5] in Rule 244 notes these problems, stating that

"You MUST NOT park partially or wholly on the pavement in London, and should not do so elsewhere unless signs permit it. Parking on the pavement can obstruct and seriously inconvenience pedestrians, people in wheelchairs or with visual impairments and people with prams or pushchairs.[6]"

Living Streets Cymru prepared a report on the problem of pavement parking in Wales in 2019[7], which included a survey of public attitudes. Over 1000 responses were received of which 83% said that pavement parking is a common, large or very large problem.

Quotes from respondents to the survey included:

"My active and mobile 93-year-old mum fell and broke her hip in two places when someone parked their car on the drop kerb at the corner of the road…She was forced to navigate her way uphill around the back of the car in order to cross the road and her walker toppled over the raised kerb section sending her crashing into the street. Emergency surgery, extended hospital stay, one and a half years of rehab and physiotherapy, and totally unnecessary pain, suffering and a lack of confidence has rendered her virtually housebound ever since. I don't care how precious drivers think their vehicles are: pavements are for pedestrians." – Ruth

[3] gov.wales/welsh-government-take-action-against-pavement-parking

[4] See Appendix A for Glossary of Terms. The legal term for a pavement next to a carriageway is *'footway'*. Pavement is the more common term and is used in this report except in the section which deals with legal matters. Parking on *shared use routes* can already be enforced against by local authorities.

[5] www.gov.uk/guidance/the-highway-code

[6] The Highway Code will need to be amended following the introduction of civil enforcement of the offence of obstruction in Wales, see Section 4.

[7] Living Streets Cymru is part of Living Streets, the UK-wide charity that promotes everyday walking. www.livingstreets.org.uk/media/4662/pavement-parking-in-wales-report.pdf

Previous UK-wide surveys conducted by Living Streets have confirmed the scale of the problem. A YouGov poll of people over 65 and over in 2014 found that pavement parking was a problem for 73% of older people in their local area and 50% of respondents said they would be more likely to walk outside if the pavements were clear of parked vehicles.

Steve Gooding, director of the RAC Foundation, said in March 2020 in his response to the UK Department for Transport's proposed launch of a consultation on dealing with pavement parking:

> ***"When it comes to the issue of pavement parking it pays to remember that none of us are motorists 24/7 – as drivers we might want the carriageway to be clear, but once we're out of our cars we need the pavement to be passable too. The Foundation supports the conclusions of the Transport Select Committee on pavement parking – first that it is high time the process for the making of traffic regulation orders by local highway authorities was streamlined and brought fully into the digital age; second that there's much to be said for having a national ban on pavement parking along with sensibly targeted exemptions, so that motorists can be clear where they stand, as is the case in London.[8]"***

The Covid-19 pandemic has added further justification for dealing with the issue of pavement parking as a matter of urgency. It is difficult for people to practice social distancing even when the pavement is unobstructed. Pavement parking can make it impossible to do so unless people walk in the carriageway.

A further problem is the damage to pavements caused by the parking of motor vehicles. While pavement parking of heavier vehicles can already be enforced against by local authorities, the lack of an effective means of preventing the parking of cars and light goods vehicles causes defects in surfacing. Repairing cracked and broken pavements is expensive and the resulting trips cause injuries, leading to claims for compensation.

Policy and Legislation in Wales

Increasing walking is an important policy of the Welsh Government. Walking is good for people's mental and physical health and when it replaces a car trip will help to reduce carbon emissions and improve air quality. More walking produces more cohesive and safe communities for people to live, work and socialise in.

Streets that enable and encourage walking are key to delivering the aspirations of the Well-being of Future Generations (Wales) Act[9], which aims to ensure improvement to the lives of both current and future generations; and the Active Travel (Wales) Act[10], which aims to make walking and cycling the most natural and normal ways of getting around. Planning Policy Wales[11] places walking and cycling at the top of its transport hierarchy and states that people-oriented streets are fundamental to creating sustainable places.

In Wales (as in most of England) most parking offences are now subject to civil enforcement, with local authorities having powers to implement, manage and enforce parking restrictions. The current relevant statute is the Traffic Management Act 2004[12] and all Welsh local authorities have now taken up these powers. Civil Enforcement Officers (CEOs) are able to issue *Penalty Charge Notices (PCNs)* when a contravention has occurred. Those in receipt of a PCN can appeal to the Traffic Penalty Tribunal, which covers Wales and England outside London.

Currently, however, local authorities have no powers to enforce against parking on pavements, except where there are local parking restrictions or the vehicle is an HGV over 7.5t. Local authorities may make Traffic Regulation Orders (TROs) banning pavement parking in defined areas, as well as indicating through the use of road markings and signs if there are places in those streets where vehicles *can* be parked partly or wholly on the pavement. Physical measures such as railings or planters can be used to prevent vehicles from being driven onto pavements but these add to street clutter, reduce the effective width of the pavement and endanger visually impaired people. Tacking pavement parking in these piecemeal ways takes significant resources and is not a cost-effective way to deal with the problem.

The police have powers to enforce against vehicles obstructing the highway, which includes the pavement, under a number of statutes and regulations.[13]. However, these powers are little used, mainly due to a lack of resources, but also because of the burden of proof necessary to achieve a criminal conviction for obstruction. As a result, little enforcement against pavement parking currently takes place in Wales.

[8] www.racfoundation.org/media-centre/pavement-parking-ban-a-step-closer

[9] futuregenerations.wales/about-us/future-generations-act/

[10] www.legislation.gov.uk/anaw/2013/7/contents

[11] gov.wales/planning-policy-wales

[12] www.legislation.gov.uk/ukpga/2004/18/contents

[13] For more details see commonslibrary.parliament.uk/research-briefings/sn01170/

Legislative Framework in Other Parts of the UK

England

The law on parking and pavement parking is similar to Wales in most of England. The problem was investigated by the House of Commons Transport Select Committee and reported on in September 2019[14]. The committee recommended that a new civil offence of obstructive pavement parking be created, with enforcement passing to local authorities.

A similar approach is recommended for Wales in this report, as set out in Section 4 below.

The select committee also recommended reform of the process for making TROs to control pavement parking, which would make it cheaper and easier to do, including by removing the requirement to advertise in a local newspaper. Again, this change is supported by this report.

It was further recommended that, in the long term, the Government legislate for a nationwide ban on pavement parking across England outside London based on the London model (and also now as enacted in Scotland). This would also be an option for Wales in the longer term.

In its response to the select committee[15] in March 2020 the UK Department for Transport recognised that pavement parking can cause real problems for people walking, particularly those with mobility or sight impairments, or those with pushchairs or prams. It intends to consult on the proposal to bring forward civil enforcement of obstruction 'in the near future'.

The Department for Transport accepted that a London-style nationwide ban may be appropriate as a longer-term option. However, it noted that this will require a considerable implementation period for local authorities to audit their road networks to determine where exemptions from the ban are required and to install the required traffic signs and markings.

London

There has been a general ban on pavement parking in London since 1974, through a local Act of Parliament.[16] The ban is enforced by local authorities in London using civil powers.

Although exemptions to the ban can be made by local authorities through a more informal process than a TRO, designing and implementing exemptions takes considerable time and resources, including detailed surveys.

Scotland

Scotland is in the process of implementing a London-style general ban on pavement parking. The Scottish Parliament has passed primary legislation[17] which created a new offence of parking a motor vehicle on a pavement[18] – the 'pavement parking prohibition'.

The process of bringing about this primary legislation has taken some time. Legislation on pavement parking was first put forward in October 2010, but this and three subsequent private members' bills fell. The bill which led to the current Act was introduced in June 2018 and was given Royal Assent in November 2019.

The Act states that a motor vehicle is parked on a pavement if it is stationary and one or more wheels (or any part of them) is on any part of the pavement. There are a number of exceptions, including for loading and unloading (for up to 20 minutes) or for police and emergency service vehicles, but in those circumstances a minimum pavement width of 1.5m must be kept clear.

Exemptions to the general ban may be made by a local authority, marked out by signs and lines, which (unlike a TRO) must apply at all times and to all motor vehicles. These exemptions will need to be in place before the local authority can commence the enforcement of the ban, and this will require considerable survey and design work to be carried out, as well as public consultation.

Regulations are still to be made by Scottish Ministers setting out the form and procedure for making Exemption Orders and for the signing and marking of the areas of permitted pavement parking. The Scottish Government is also in the process of developing statutory guidance and standards for local authorities.

Progress on completing the work has been impacted by the Covid-19 pandemic but it is currently expected that the pavement parking ban will come into force in Scotland in 2022, although it may take longer in those authorities that have not yet established a civil parking enforcement regime.

[14] publications.parliament.uk/pa/cm201719/cmselect/cmtrans/1982/1982.pdf

[15] publications.parliament.uk/pa/cm5801/cmselect/cmtrans/158/158.pdf

[16] Greater London Council (General Powers) Act 1974, section 15.

[17] Part 6 of the Transport (Scotland) Act 2019

[18] The offences of double parking and parking on dropped kerbs were also introduced in Scotland, but these can already be enforced against by local authorities in Wales

4. Changes to Legislation and Government Guidance

Introduction

Parking on pavements[19] should be tackled by changing driver behaviour through raising awareness that pavements are for pedestrians and not for vehicles, backed-up by the deterrent of enforcement. The objective is to promote civil responsibility, with civil enforcement powers in place to demonstrate the determination of the authorities to achieve the community's objectives.

National and local campaigns will need to run alongside legislation and enforcement to inform people of the adverse consequences of parking on pavements and the fact that in future they may receive a penalty notice. It should be emphasised that while obstruction will in future be enforceable by local authorities, it is not a new offence.

Further details of the recommended communications and promotion strategy are given in Section 6.

Alternative Legislative Approaches

The Task Force Group considered two alternative approaches to enabling enforcement to deter parking on pavements:

- *Primary legislation* to create a new offence of pavement parking
- *Subordinate Legislation* to add the offence of unnecessary obstruction to the pavement to the list of parking contraventions that can be enforced against by local authorities under the Traffic Management Act 2004 (TMA).

The primary legislation route would be similar to that taken in Scotland, where a London-style general ban on pavement parking has been enacted. The subordinate legislation route was proposed for England outside London by the Transport Select Committee in its report of September 2019, and the Department for Transport has said this option will be taken forward.

It is proposed that subordinate legislation is used to introduce civil parking enforcement in Wales.

This is for the following reasons:

- Controlling pavement parking through primary legislation would take considerable time, possibly in the order of 5 years based on experience in Scotland, before all the steps necessary to enable enforcement to begin are completed.
- These steps include the drafting and making of the Act and its associated regulations, the preparation of statutory guidance and the design and marking of exemptions.
- As in London and Scotland, there are many locations in Wales where some pavement parking would be necessary. A complete ban would mean exemptions were needed to define these places prior to enforcement commencing. These would need to be designed and consulted on, on a street-by-street basis, which would be a time-consuming task for local authorities.
- Making the change to the TMA by means of subordinate legislation, using the *negative procedure*, would be more straightforward and quicker.
- Although it will be desirable for the local authority to make TROs to enable pavement parking spaces to be marked and to add on-street parking capacity where possible, it would not be essential to do this in all areas before enforcement began. The offence of obstruction could be identified (subject to appeal) by Civil Enforcement Officers on a case by case basis, applying statutory guidance. It should be noted that the existing contraventions of parking alongside dropped kerbs and double parking are not enforced by signs.

In summary, using subordinate legislation will introduce an effective enforcement regime against the existing offence of pavement parking in the shortest practical time. Through the application of statutory guidance it will enable a consistent approach to be taken by local authorities across Wales, which can be adapted to suit local conditions as well as changes in circumstances over time, including improvements in driver behaviour.

However, (as in England) this does not preclude primary legislation being introduced by the Senedd at a later date, should this be necessary in the light of experience.

[19] The legal term *'footway'* is also used in this section.

Legislative Principles

The footway is part of the highway, but as its name clearly indicates, it is the part of the highway for the sole use of pedestrians. Under current legislation vehicles must use the carriageway and not the footway. Therefore, a vehicle left stationary on the footway can be presumed to be obstructing a pedestrian from using that part of the footway where the vehicle is parked.

The existing case law on vehicle obstruction deals with historic cases of obstruction of the carriageway. The cases mainly stem from the time when there were few parking restrictions or designated on-street parking. None deal with parking on the footway.

The criminal offence derives from criminal procedure where the prosecution has to prove their case beyond reasonable doubt. Since obstruction is a criminal offence, the police are obliged to prosecute. Therefore, evidence that someone was actually obstructed was, in some cases, thought to be necessary to achieve criminal prosecution. The ethos of civil enforcement is quite different - it should be proportionate and targeted to achieve the policy objectives.

Civil enforcement involves the civil standard of proof, namely a balance of probabilities. The premise that a vehicle stationary on the footway is obviously preventing a pedestrian from using that part of the footway is the fundamental starting point.

Therefore, the vehicles in Figure 1 below are causing an obstruction, notwithstanding that there is space for pedestrians to pass them by – the dimensions of any area of the footway not obstructed by the vehicle are irrelevant. Footways are not for vehicles[20] and there is no need for a pedestrian to be actually obstructed for the offence to be committed.

It should be borne in mind that the concept behind permitted parking on the carriageway, provided through TROs, is predicated on the principle that leaving a vehicle stationary on the carriageway is in itself prima facie obstruction. The general principle is that a vehicle stationary on a footway is creating an obstruction, unless the traffic authority has designated the footway, or part of the footway, for permitted parking (see Figure 2).

Figure 1: Vehicles causing obstruction even on a wide footway

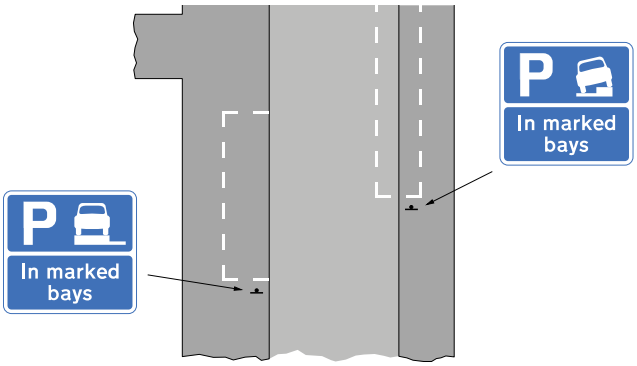

Figure 2: Signs and Markings Denoting Parking Wholly or Partially on Footway (Taken from Traffic Signs Manual Chapter 3)[21]

[20] Including blue badge holders' vehicles

[21] assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/782724/traffic-signs-manual-chapter-03.pdf (Note – Signs in Wales would be bilingual)

Legislative Changes

Obstruction of the Footway

The legislative changes recommended below are based on the views of experts on and contributing to the work of the Task Force Group and are subject to detailed review and legal scrutiny by Welsh Government.

The Senedd has the power to make subordinate legislation using the *negative procedure* to amend Paragraph 4 of Schedule 7 of the Traffic Management Act 2004, which contains a list of offences that are Parking Contraventions (outside Greater London) in relation to a vehicle if it is stationary in circumstances in which any of the applicable offences listed is committed. All such contraventions can be enforced by local authorities.

The offence of obstruction set out in Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986[22] forms a suitable basis for creating a new parking contravention. This Regulation states:

Obstruction
103. No person in charge of a motor vehicle or trailer shall cause or permit the vehicle to stand on a road[23] so as to cause any unnecessary obstruction of the road.

Recommendation 1: The Senedd should pass subordinate legislation to add the existing offence under Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986, in so far as it applies to footways, to the list of enforceable contraventions to enable local authorities to carry out civil enforcement of pavement parking.

The subordinate legislation would add wording similar to that given below to Paragraph 4(2) of Schedule 7 of the Traffic Management Act 2004 (after the last lettered offence currently listed):

(j) An offence committed in Wales under Section 103 of The Road Vehicles (Construction and Use) Regulations 1986 (Obstruction) in so far as the obstruction is of the footway.

Marking areas where pavement parking is permitted

Although it would not be necessary to mark areas of the footway where pavement parking is permitted before the new enforcement regime began, it would clearly be desirable to do so. The making of the required TROs does not need to wait until the new legislation is passed.

Recommendation 2: Local authorities should indicate those locations where pavement parking is permitted through Traffic Regulation Orders.

The process[24] of making TROs can be somewhat costly and time-consuming and in 2018 the Department for Transport commissioned GeoPlace[25] to advise how they could be made quicker and more cost-effective[26].

GeoPlace concluded that the current legislation on TROs should be reviewed and this recommendation was echoed in the report of the Transport Select Committee in its review of Pavement Parking in England (see above). In its response DfT stated that work had begun on this review and that there would be further consultation in due course but it could not commit to a specific date for bringing forward the necessary legislation.

Recommendation 3: Welsh Government should undertake a review of the relevant legislation to identify how the Traffic Regulation Order process in Wales can be simplified.

[22] www.legislation.gov.uk/uksi/1986/1078/contents/made

[23] Road' includes the footway (and also the verge).

[24] TROs are made under the Road Traffic Regulation Act 1984 and follow the procedure set out in the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996

[25] GeoPlace is a Limited Liability Partnership jointly owned by the Local Government Association (LGA) and Ordnance Survey

[26] It should be borne in mind that local authorities already have the power introduce TROs quickly using the Emergency TRO process.

Statutory Guidance

Introduction

While it is a relatively simple matter in law to introduce civil enforcement of the offence of obstructing the pavement, clear, workable and detailed guidance will need to be produced by Welsh Government to guide local authorities in the execution of these powers.

Section 87 of the Traffic Management Act 2004 provides that the appropriate national authority, in this case the Welsh Government, may publish guidance to local authorities on any matter relating to the civil enforcement of traffic contraventions and that local authorities must have regard to that guidance.

Details of the proposed format of that guidance are given in Appendix B. A small addendum to the existing statutory guidance should signpost to a more detailed addendum to the existing operational guidance.

It is recommended that the guidance should avoid over-specifying the contravention of obstruction – for example by defining precise minimum widths of footway to be kept clear – as this will create more disputes, leading to hair-splitting, and thus undermining the overall purpose of promoting civil responsibility on the part of drivers.

Instead, the approach should be to set the principles for the issuing of penalty notices, which will over time be tested and clarified through the appeals process. This may mean that the guidance would need to be amended in the light of experience, as discussed in Section 7.

It is also important to avoid inadvertently establishing the idea that parking on footways is generally permissible (in the absence of any marked parking bays, see Figure 2) so long as a minimum clear space for pedestrians is maintained. This would mean that parking with two wheels on the footway would become even more widespread, limiting capacity for pedestrians as well as causing damage to paved surfaces. It would also mean there would be little point in authorities providing more generous footway widths where footfall is higher.

Recommendation 4: Welsh Government should amend its existing Statutory and Operational guidance on Civil Parking Enforcement to advise local authorities how to operate their new powers of enforcement.

Highway Code

As noted in Section 3, Rule 244 states that drivers 'MUST NOT' park on the pavement in London, but that they should not do so elsewhere unless signs permit it. The use of the capitalised words 'MUST NOT' in the Highway Code indicates that a person breaking a rule would be committing a criminal offence.

Rule 242 is also relevant: it deals with obstruction and states that drivers 'MUST NOT' leave their vehicle (or trailer) where it causes any unnecessary obstruction of the road, and refers to Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986. As noted above, it is recommended that this offence, as it relates to footways, is added to the contraventions that are subject to civil enforcement in Wales.

Although bringing in civil enforcement to prevent pavement parking will not introduce a new law against obstructing the footway, it will need to be made clear that drivers who do so will be subject to penalties issued by local authorities in Wales. This will mean the Highway Code to be amended, possibly in the form of a Wales addendum.

Similarly, amendments will be necessary to deal with the reduction in the default speed limit for restricted roads to 20mph, which is also being proposed by Welsh Government.

The format, content and timing of these changes will need to be agreed with the Department for Transport, which is responsible for publishing the Highway Code.

Recommendation 5: Welsh Government should work with the Department for Transport to amend the Highway Code to inform road users that parking on the pavement in Wales is subject to civil enforcement.

5. Communications and Promotion Strategy

Introduction

The overall aim of Welsh Government should be to change driver behaviour by raising awareness that pavements are for pedestrians and not for vehicles. This will require a concerted effort both nationally and locally.

Recommendation 6: Welsh Government should design and conduct an effective communications and promotion strategy, in conjunction with local authorities, to inform the public that the enforcement of pavement parking is changing and to promote driver compliance.

A launch announcement should be followed by a short campaign to inform the public of the stepping up of enforcement. This will be based on information on the scale and nature of the problems caused by pavement parking, forming a call to action. The national campaign will need to signpost to local authority channels of communication.

As local authorities will be implementing enforcement within their own areas based on their particular circumstances, it is important that they have localised engagement and information/call to action campaigns, with specific targeted messaging. This will enable the public and stakeholder groups to understand how the introduction of civil enforcement of pavement parking will affect their local area.

Process and Details

Qualitative Baseline Data

At the next opportunity questions should be included in the Wales Omnibus Survey to capture data on public attitudes and other qualitative information on the issue of pavement parking. This will capture data before a campaign commences giving a baseline data set and will be used to inform the planning, delivery and evaluation of campaign activity.

Understanding attitudes and opinions will assist with briefing agencies for the short national information campaign and the creation of the Welsh Government tool-kit. It can also be used for evaluating campaign activity against this data set.

It is proposed that this Omnibus research is also undertaken at the end of the national campaign to evaluate its effectiveness in changing attitudes, and at intervals thereafter to assess any changes once the enforcement regime is in operation. Questions should be related to the desired outcomes and Key Performance Indicators for the project, as discussed in Section 7.

It is recommended that focus group research is commissioned during the development of the creative executions and messages for the campaign and tool-kit.

Further details of the recommended phases in the strategy are given in Appendix C.

6. Enforcement

Introduction

As all local authorities in Wales have taken up their civil parking enforcement powers under the Traffic Management Act 2004 the recommended legal framework will not change the basic operations of the enforcement teams, whether they are carried out in-house or have been outsourced to a contractor.

Local authorities would be required to publish their policies on enforcing against pavement parking. The Welsh Government's operational guidance already recommends that authorities prepare clear parking policies and make them available to the public. One possibility is that authorities will be advised to prepare map-based policies showing locations where enforcement will be proactive and where it will be by complaint.

In determining locations where proactive enforcement is appropriate, authorities should be advised to consider factors such as the volume of pedestrians and the available width of the footway, the likely presence of vulnerable pedestrians (eg around schools) and whether footway parking is a persistent problem. Locations where enforcement is by complaint could be where the impacts of footway parking are less severe.

It is suggested that, at least for an initial period, local authorities issue a warning notice the first time a vehicle is observed parked on the footway. CEOs should be able to check on their handheld computer whether an obstructing vehicle has been identified or issued with a PCN for obstruction in the past. If it is a first-time contravention, then it is recommended that a warning notice is placed on the vehicle using wording such as:

> *"This is a warning notice that this vehicle is parked so as to cause an obstruction of the footway. Penalty charge notices can now be issued by the council for obstructing the footway. A penalty charge notice has not been issued on this occasion, but the vehicle registration number has been recorded. If the vehicle is parked on a footway in the future a penalty charge notice is likely to be issued."*

London Councils produces a list of Contravention Codes that are programmed into handheld devices which are used to generate PCNs. It will be necessary to add a further Contravention Code (or repurpose an existing unused one) for use in Wales to cover the offence of unnecessary obstruction of the footway.

Enforcement Costs

At present Civil Enforcement Officers (CEOs) do not enforce against pavement parking and so their set beats may need to be extended to include areas where there are no traffic regulation orders. Some additional staff resources may therefore be required, but this will depend largely on the extent to which enforcement is proactive, rather than by complaint.

As with civil parking enforcement generally, most additional costs would be mitigated through the payment of such penalty charges the authority may see fit to issue to achieve compliance, but some additional funding may be required.

Traffic Regulation Orders

As noted in Section 4 there will be some locations where the authority accepts that footway parking should be permitted, such as narrow streets lined on both sides with residential properties without any off-street parking. Authorities should be advised in the guidance to consider whether they can alleviate the situation by creating more on-carriageway spaces, for example by introducing one-way systems so that the running carriageway can be made narrower, or by reducing the extent of existing parking restrictions. More on-carriageway parking may also be needed to cope with the parking displaced from pavements.

Lower traffic speeds following the introduction of the default 20mph limit may enable car parking to be allowed in places on the carriageway where it is currently banned – for example because clear sight lines at junctions can be made shorter.

Where it is necessary to permit pavement parking to take place local authorities should indicate this so that drivers are clearly informed where parking on the pavement is allowed (see Figure 2 above). TROs will be required to define these bays, as well as to increase on-carriageway car parking capacity. They would also be needed if parking on verges needed to be banned locally.

However, it may take some time to design and process the TROs that may ultimately be needed across the whole of a local authority area. Although it is important to do this as quickly as possible, markings defining pavement parking bays are not necessary to allow the existing offence of obstruction to begin to be enforced by CEOs.

It is difficult to assess the cost to local authorities of making any TROs associated with the introduction of civil enforcement of pavement parking as this will vary from place to place, as well as the rate at which they need to be introduced. Any costs will be mitigated by the proposed simplification of the TRO process (see Recommendation 3).

7. Outcomes, Monitoring and Evaluation

Introduction

Introducing civil enforcement of pavement parking is a significant undertaking and it is important that it is closely monitored during the initial period of implementation.

Recommendation 7: Welsh Government should establish a monitoring and evaluation framework so that an assessment can be made of the impact and effectiveness of the new enforcement regime.

This would determine the degree to which the introduction of the new powers has been effective and what, if any, further steps need to be taken.

The monitoring and evaluation framework should be developed by Welsh Government once the decision has been taken to proceed with the change in legislation

Outcomes and Key Performance Indicators

The following desired outcomes for the change in enforcement regime were developed by the Task Force Group, which will need to be further refined as the project is taken forward:

- A reduction in the prevalence of pavement parking
- A reduction in the number and severity of casualties attributed to pavement parking
- A reduction in pedestrians' perception of the scale of the problem and the risks it causes
- An increased recognition by drivers that it is not acceptable to park on the pavement

A final set of outcomes and the Key Performance Indicators (KPIs) associated with them will need to be developed as part of the monitoring and evaluation framework. As noted in Appendix C, KPIs for evaluating the effectiveness of the national and local campaigns should be set once there is baseline data.

Information gained from the baseline, post-campaign and further Omnibus surveys will provide data on how the attitudes and opinions of pedestrians (particularly those with disabilities) and drivers have changed over time to address the principal outcomes.

These surveys should also assess different groups' levels of awareness of the national and local campaigns and messages and provide feedback on which channels of communication have been most successful.

Operations

Data should be gathered to evaluate the performance of the overall enforcement system to identify whether changes are needed, including in statutory guidance and possibly legislation. It is considered that PATROL is the organisation best placed to carry out this task.

Recommendation 8: PATROL should gather data following the initial 12 months of the commencement of local authority enforcement to assess whether the any changes to legislation, guidance or operations are required.

Data collated and analysed by PATROL on the operation and performance of the enforcement system should include the information given in Appendix D.

8. Implementation

Overall Programme

Civil enforcement of pavement parking should be introduced as quickly as possible. The following timetable is considered realistic but will require timely decision-making and commitment by all stakeholders, and the establishment of a dedicated team by Welsh Government.

Recommendation 9: Welsh Government should achieve the following key milestones to enable the commencement of civil enforcement of pavement parking by July 2022:

- **Publication of Task Force Report – October 2020**
- **Ministerial Statement giving the intention to proceed – July 2020**
- **Plenary Vote to proceed with legislation – October 2020**
- **Pass Statutory Instrument – October 2021**
- **Commencement of Statutory Instrument – July 2022**

Recommendation 10: Welsh Government should establish a dedicated project team to lead and coordinate all the necessary tasks required to introduce the civil enforcement of pavement parking.

Next Steps

The Project Team should be established once the Plenary Vote is taken in the Senedd to proceed with the necessary subordinate legislation. Securing the commitment of the Parliament through this vote in advance of the May 2021 elections will be important.

The WG team will then be responsible for producing the statutory and operational guidance for local authorities and a period of 10 months has been allowed for this work, including a 3 month consultation period, with a programmed completion date of October 2021. The guidance will need to be prepared in close collaboration with local authorities, the British Parking Association and PATROL.

During this period Welsh Government should plan and design the national campaign and the production of the tool-kit of resources for local authorities' to use, as well as working with stakeholders to develop and roll out training for local authority staff.

The making of the necessary statutory instrument by the Senedd has been assumed to coincide with the publication of the statutory guidance, although these two events do not have to align.

A period of 9 months from October 2021 to July 2022 has been allowed for local authorities to prepare for the commencement of enforcement operations, including public engagement on local policies, the making of any essential TROs to indicate areas of permitted parking or to increase on-carriageway supply, and the establishment of any additional resources that will be needed.

9. Summary of Main Findings and Recommendations

Main Findings

The Pavement Parking Task Force has concluded that pavement parking is a serious problem across Wales and that the Government should take steps to deal with it as a matter of some urgency, particularly in the light of the Covid-19 pandemic.

Pavement parking causes real harm to people walking as well as adding to the cost burden of local authorities. It undermines important elements of national policy and legislation.

Other parts of the UK are making or planning changes to the enforcement regime to tackle the issue and Wales needs to begin this process too.

Parking on pavements should be tackled by changing driver behaviour through raising awareness that pavements are for pedestrians and not for vehicles, backed-up by the deterrent of effective enforcement.

The Task Force has agreed the following recommendations to achieve this aim:

Recommendations

1: The Senedd should pass subordinate legislation to add the existing offence under Regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986, in so far as it applies to footways, to the list of enforceable contraventions to enable local authorities to carry out civil enforcement of pavement parking.

2: Local authorities should indicate those locations where pavement parking is permitted through Traffic Regulation Orders.

3: Welsh Government should undertake a review of the relevant legislation to identify how the Traffic Regulation Order process in Wales can be simplified.

4: Welsh Government should amend its existing Statutory and Operational guidance on Civil Parking Enforcement to advise local authorities how to operate their new powers of enforcement.

5: Welsh Government should work with the Department for Transport to amend the Highway Code to inform road users that parking on the pavement in Wales is subject to civil enforcement.

6: Welsh Government should design and conduct an effective communications and promotion strategy, in conjunction with local authorities, to inform the public that the enforcement of pavement parking is changing and to promote driver compliance.

7: Welsh Government should establish a monitoring and evaluation framework so that an assessment can be made of the impact and effectiveness of the new enforcement regime.

8: PATROL should gather data following the initial 12 months of the commencement of local authority enforcement to assess whether the any changes to legislation, guidance or operations are required.

9: Welsh Government should achieve the following key milestones to enable the commencement of civil enforcement of pavement parking by July 2022:

- **Publication of Task Force Report – October 2020**
- **Ministerial Statement giving the intention to proceed – July 2020**
- **Plenary Vote to proceed with legislation – October 2020**
- **Pass Statutory Instrument – October 2021**
- **Commencement of Statutory Instrument – July 2022**

10: Welsh Government should establish a dedicated project team to lead and coordinate all the necessary tasks required to introduce the civil enforcement of pavement parking.

Glossary of Terms

Term	Definition
Pavement	A route solely for the use of pedestrians next to a carriageway.
Footway	The legal term for a pavement
Shared use route	A route which may be used by both pedestrians and cyclists but not by motor vehicles.
Primary legislation	The general term used to describe the main laws passed by the legislative bodies of the UK, including Acts made by the Senedd.
Subordinate legislation	Subordinate legislation can only be made if primary legislation confers a power to do so. In Wales, the Welsh Ministers make subordinate legislation using powers given to them in enabling acts such as Senedd Acts. Subordinate legislation is also referred to as secondary legislation.
Negative procedure	The negative procedure provides that, after the Welsh Ministers have exercised their power to make subordinate legislation, they must lay it before the Senedd. The Senedd then has a period of 40 days to object to the subordinate legislation. The Senedd does not have to formally approve the subordinate legislation.
Traffic Regulation Order (TRO)	A legal document that introduces a parking restriction or traffic movement restriction on roads, in line with The Road Traffic Regulation Act 1984
PATROL	The (Parking and Traffic Regulations Outside London) Joint Committee, which comprises over 300 local authorities in England and Wales. PATROL has a statutory duty to make provision for the independent adjudication of parking and traffic penalties issued under the Traffic Management Act 2004
Penalty Charge Notice (PCN)	A Penalty Charge Notice is issued by a parking attendant (also known as a CEO - Civil Enforcement Officer, who deals solely with parking issues). Non-payment of a PCN can be pursued through civil action.

Appendix A – Organisations Represented on the Task Force

British Parking Association

Confederation of Passenger Transport UK

Disability Wales

Federation of Small Businesses

Freight Transport Association

Fire and Rescue Service

Guide Dogs

Living Streets

Local Authority Regional Representatives

PATROL (Parking and Traffic Regulations outside London) Joint Committee

Police

Public Health Wales

Road Haulage Association

SUSTRANS

Traffic Penalty Tribunal for England and Wales

Welsh Government

Welsh Local Government Association

Appendix B – Format of Civil Enforcement Guidance

The most recent edition of the Statutory Guidance for Wales on Civil Enforcement of Parking (CPE) was published by Welsh Ministers in July 2014 under Section 87 of the TMA. This sets out the regulatory framework for how CPE should operate, including its initial establishment, setting penalty charges, training of officers, policy and administrative functions and appeals.

The current Statutory Guidance states that it should be read in conjunction with more detailed Operational Guidance, published by Welsh Government in December 2014, which provides a greater depth of information.

Although the current editions of these documents were published fairly recently, both require significant revision to bring them up to date, and to preferably bring all of the material together in one document. Much of the current content relates to the process of local authorities applying for CPE powers, but this is now redundant. All 22 local authorities in Wales now operate CPE, with the last authorities (Torfaen and Newport City) taking up the powers on 1 July 2019. England absorbed its Operational Guidance into the revised Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions in 2016.

However, on the basis that only the offence of obstructing on the footway is to be added to the enforceable contraventions, it is considered that an addendum to each of the documents would suffice until a more comprehensive revision is made. The addendum to the Statutory Guidance, which is relied on by tribunals to make their judgements, would only need to be a short reference to a more comprehensive addendum in the Operational Guidance.

The guidance should be drafted by Welsh Government following a decision of the Welsh Assembly to proceed with the subordinate legislation and would be subject to consultation.

Appendix C – Communications and Promotion Strategy

OASIS model

The Government Communications Service model should be used to plan, deliver and evaluate the short national campaign. Local authorities should also be asked to follow this model in delivering their local campaign activity.

The five-stage model covers Objectives; Audience/Insight; Strategy/Ideas; Implementation; Scoring/Evaluation; and is widely recognised as best practice. This should be followed in developing the communications and promotion strategy.

Phase 1 – Ministerial Announcements

Ministers should make announcements at key stages in the process to raise awareness that legislation is being introduced to tackle the problem of pavement parking. The first statement should be made responding to the publication of this report.

Further statements should follow during the passage of the subordinate legislation through the Senedd with a final Ministerial event to announce the passing of the subordinate legislation and the timeframe for the beginning of civil enforcement.

Phase 2 - Short National information campaign burst

An agency/agencies should be procured by Welsh Government to develop and deliver a short national information campaign. It is envisaged that this campaign burst will last around 3 months.

This should include developing a campaign creative and appropriate messages for advertising, social media and PR. Subject to agency proposals it is envisaged that this could include local radio, advertisements in newspapers, on buses and on-line and editorial content.

The agency should also develop a comprehensive tool-kit for local authorities for their local implementation campaign.

Phase 3 - Local implementation campaign activity using the tool-kit.

It is recommended that the agency commissioned to develop the national campaign also produces the tool-kit for local authorities.

The key benefit of using promotional materials with the same look and feel across Wales is that it will help the public identify with the changes to pavement parking wherever they may be using the roads or pavements across the country.

The benefit for local authorities is that they will not need to procure agencies to design the materials, saving time and cost. They will be able to adapt messages to promote local changes and pay only for the media package that is relevant within their local area. It is proposed that WG provides core funding towards any local media and engagement event costs (see table below).

The tool-kit can contain marketing collateral; posters, web content, suite of messages; PR ideas; social media content and more depending on identified needs.

KPIs

Specific KPIs for evaluating the campaign should be set once there is base line data. These need to set realistic communications and marketing targets such as awareness of the campaign; sight and understanding of messages etc. These should be evaluated after each phase of the campaign to ascertain if target outcomes have been met.

Appendix D – Operational Data to be Gathered

Data gathered should be collated and analysed by PATROL on the operation and performance of the enforcement system, which should include the following information:

Complaints - This will be dependent on existing methods used by local authorities for recording complaints but measures could be put in place in the period prior to the introduction of the new power to provide a comparison.

- No of complaints about pavement parking problems and how responded to (where possible in contrast to the previous year)
- No and nature of complaints about the enforcement of pavement parking from residents and businesses

Enforcement – All of the following measures should be available through local authority notice processing systems:

- Number of warning notices issued
- Number of penalty charge notices issued
- Number of penalty charge notices paid at discount rate
- Number of penalty charge notices paid at the full rate
- Number of penalties cancelled at challenge stage
- Number of penalty cancelled at the Notice to Owner Stage
- Number of notice of rejections issued

Enforcement notice processing systems have the facility to record reasons for representations which would provide contextual information for motorists challenging the penalty charge notice.

Operational - This should be undertaken through Welsh Government surveys of local authorities to gather their views after the initial 12 months operation.

- Consultation on the usefulness of the statutory/operational guidance in the light of experience.
- Examples of local policies on pavement parking
- Examples of local publicity and public information on pavement parking
- Experiences from the frontline – on-street experiences from civil enforcement officers
- Impact of enforcing against pavement parking on other areas of enforcement.
- Examples of displacement of parking.
- Other measures undertaken during the period e.g. introduction of traffic regulation orders to address pavement parking
- What is the overall perception of local authority on the introduction of the new power in addressing the issue of pavement parking?

Information from the Traffic Penalty Tribunal should also be collated:

- The volume of appeals to the Traffic Penalty Tribunal by local authority area
- The outcomes of appeals, allowed, dismissed, withdrawn or not contested by local authority area.

Traffic Penalty Adjudicators should be asked to:

- Identify key cases which inform future enforcement
- Produce a 12-month report to the Welsh Government of adjudicator findings and recommendations, including on any necessary changes to guidance, as discussed in Section 4.