



Clerk to the Local Government and Regeneration Committee,  
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Edinburgh,  
EH99 1SP

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### **Footway and Double Parking (Scotland) Bill**

Living Streets Scotland is pleased to provide written evidence on the Footway and Double Parking (Scotland) Bill to assist the committee with its stage one enquiry. Our team in Edinburgh has for many years led calls for pedestrians, especially the most vulnerable, to be protected from inconsiderate, irresponsible and at times dangerous parking. We do not believe that the issue can be dealt with, in a meaningful way, under existing arrangements. Progress on an appropriate legislative solution for Scotland is to be welcomed and is long overdue. As part of our efforts to move matters forward we helped Sandra White MSP develop the Bill and its supporting documents. These documents set out in detail how the Bill will function in practice and include a body of evidence supporting the case for change. To avoid duplication this submission is focused on the committee's key questions regarding how the Bill might operate if passed into law. In this regard we have focused on:

1. Our experiences of parking on the footway, across dropped kerbs and double parking, based on our contact with the public';
2. Exceptions where parking on a footpath, kerb or double parking would be permissible and are appropriate;
3. What exceptions should be allowed, if any, to allow a vehicle to wait whilst parked on a footpath, next to a dropped kerb or double parked;
4. Criteria for local authorities to designate areas as being exempt from these restrictions
5. Enforcement issues;
6. Equality issues that arise as a consequence of the proposals.

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## Living Streets Scotland:

### Footway & Double Parking (Scotland) Bill Stage 1 Evidence

#### Living Streets Scotland

We are the Scottish part of the UK charity for everyday walking, and have been so since 1929 when we were first founded as the Pedestrians' Association. We want to see a Scotland where all generations benefit from streets fit for walking. Our priorities are: tackling the decline in walking; making walking the natural choice for short journeys and helping everyone enjoy and benefit from walking more often. The schools' walking project we deliver on behalf of the Scottish Government instils good habits that can last a lifetime. Our community street audits identify changes, both big and small, that can remove barriers to walking. Our expertise helps to put walking at the heart of public policy at a local and national and local level, including work with Paths for All to support the delivery of the Scottish Government's National Walking Strategy. We strongly believe footways that are free from obstructions are vital to promoting higher levels of walking, especially amongst the least able in our society. For this reason, we have been pleased to support the efforts of Ross Finnie MSP, Joe Fitzpatrick MSP and latterly Sandra White MSP in developing a legislative solution.

#### Footway parking: what is the problem?

Quite simply footways are designed for feet – offering safe space for walking. Such space is often limited and at a premium in Scotland's town and city centres. The safe refuge that this space provides is especially valued by less able walkers who may have visual impairments or use mobility aids. Parents with young children, particularly those using prams and buggies also value the safety that footways were built to provide. Vehicles parked on the footway mean dedicated and safe space isn't available forcing pedestrians, including vulnerable groups, into potential danger from moving traffic. This causes, inconvenience, distress and discourages walking. Furthermore, footways are designed for foot traffic not vehicles; vehicle movement damages kerbs and paving leading to uneven surfaces and trip hazards. Damaged surfaces present serious problems for vulnerable users, whilst unplanned repairs have negative impacts

on council resources. If Scotland is serious about its ambitions to be an active and socially inclusive nation, it needs to remove this very real and unnecessary barrier to everyday walking.

## Why is a law change needed?

At present it is an offence to obstruct a footway. In practice, the law makes this very difficult to enforce and most police officers will be reluctant to take action. Securing the evidence and co-operation of witnesses is also problematic, so prosecutions are very rarely, if ever pursued. It is also illegal to drive on the footway, but this is not enforced unless a police officer witnesses a particularly blatant incident. A simpler, more efficient and effective remedy is needed. This was recognized as long ago as 1974 in London where the ability to take action on pavement parking sits within the suite of traffic powers available to Borough Councils.

Secondly, unlike in England, Scottish Local Authorities can't take action to protect dropped kerbs from being parked on. This means people with mobility impairments are deprived of safe and convenient crossing points.

Whilst councils can take action at a local level, this is seldom done (with only one example in Aberdeen) due to the time and costs of Traffic Regulation Orders and signage. Furthermore, such an approach will result in a hotchpotch of local restrictions rather than a strategic and consistent national approach, which is clearly understood by both pedestrians and drivers alike. Quite simply under current laws pedestrians, especially the most vulnerable, are largely unprotected. A clearer and more consistent approach is needed to provide Police Scotland and Local Authorities with the tools to take appropriate action.

### 1. Our experiences of footway parking and related issues

As the leading organisation standing up for the rights of pedestrians in the urban environment in Scotland and other parts of the UK, we receive enquiries from across the country on a range of issues. Aside from cycling on the pavement (which is already illegal), pavement parking is by far the most common complaint. In the majority of cases these enquiries are from older people, people with mobility or visual impairments or parents with young children. Not surprisingly most enquiries are from urban rather than rural Scotland - mainly focused around town centres and

housing estates. As a result of the high volume of enquiries Living Streets commissioned YouGov to explore the experiences of UK adults aged over 65 in December 2014. The Scottish sample was broadly in line with the UK as a whole. Of the views expressed:

- 65% of people were worried about obstructions on the pavement (e.g. cars parked on the pavement, engineering works etc.)
- 63% of people were angry about obstructions on the pavement (e.g. cars parked on the pavement, engineering works etc.)
- 48% of people would be more likely to walk outside if pavements were clear of vehicles parked on them
- 45% of people were discouraged from walking outside by people parking on the pavement

Although the Scottish sample was small the views were was broadly inline with other parts of the UK, demonstrating that pavement parking is of high concern, and does discourage walking amongst older people.

When potential problems concerning the Scottish Parliament's ability to act on of pavement parking emerged, over 300 of our supporters took the time to email the Secretary of State for Scotland during summer 2015. This confirmed the high level of support for action amongst people interested in having safer walking environments in their communities.

### **Recommendation 1**

**The committee should note the high levels of concern regarding impacts of footway parking and related behaviours and concerns amongst the public, especially older and more vulnerable pedestrians.**

## **2. Whether exceptions, whereby parking on a footpath, next to a dropped kerb or double parking would be permissible, are appropriate**

We note that the Bill as drafted contains a number of exemptions. Broadly speaking we believe these are adequate and appropriate. Whilst some flexibility is needed exceptions should be kept to a minimum to avoid diluting the core message that cars should not be driven or parked on pavements. The Scottish Government should clearly set out in guidance to Police Scotland and Local Authorities how exceptions should be managed.

### **Recommendation 2**

**A new clause is needed requiring the Scottish Government to produce guidance on the management of exceptions, so they are clearly and consistently applied across Scotland.**

### **Recommendation 3**

**The Bill, as drafted, does not allow parking on footways to make deliveries. This is acceptable because provision for deliveries on certain streets can be dealt with via local authority section 6 exemption powers. A significant minority of delivery drivers would undoubtedly abuse any blanket exception. Instead, exemptions to the ban on pavement parking would be managed in the same way as other traffic restrictions, on a case by case, street by street basis.**

### **Recommendation 4**

The exceptions on dropped kerb parking are too broad and require more specific definitions to avoid the Bill being undermined. In particular:

The dropped kerb exception (2) (a) should be deleted as Local Authorities should not designate parking places beside a dropped kerb. Where some flexibility is needed section 6 exemption powers can be used;

1. The dropped kerb exception (2) (b) is too broad and confuses drop kerbs for residential access (access to driveways via vehicle crossovers.) and dropped kerbs as defined in Section 3 (1) of the Bill, provided to aid vulnerable pedestrians to cross safely. Some refinement is needed

2. The dropped kerb exception on delivery vehicles must be supported by guidance defining when “unloading cannot reasonably be carried out in relation to those premises” without being park on a dropped kerb. This will help with compliance and enforcement.
3. **What exceptions should be allowed, if any, to allow a vehicle to wait whilst parked on a footpath, next to a dropped kerb or double parked?**

The waiting restrictions on footways and drop kerbs are only appropriate in relation to emergencies and maintaining safety. This is consistent with laws to prevent vehicles driving on footways as set out in the Highway Code. For this reason stopping on footways should only ever be allowed for boarding or alighting where it ‘cannot be reasonably carried out safely elsewhere’. For example, an acceptable exception could be; allowing an older or disabled person, only able to walk short distances, to safely exit a vehicle. In the case of dropped kerbs it should be clear to drivers that pedestrians and cyclists have priority and waiting should not occur where this causes danger or inconvenience.

### **Recommendation 5**

**To establish a strong and consistent framework that stopping on footways should not be allowed where this can not reasonably be done elsewhere. Section (3) (3) (c) should be amended accordingly. This should be further clarified and explained in guidance.**

### **Recommendation 6**

**The dropped kerb waiting 3 (3) exemptions should be further defined and clarified to only allow boarding and alighting where it does not prevent pedestrians from crossing. It should be clear to drivers that waiting should not occur where pedestrians are approaching a crossing point with a dropped kerb.**

## Recommendation 7

**Exceptions should not be absolute, and Police Officers, or designated local authority staff, should have discretion to ask drivers to move their vehicle where they deem waiting is potentially unsafe or would cause unnecessary inconvenience to pedestrian movement.**

### 4. Criteria for local authorities to designate areas as being exempt from restrictions.

If the objectives of the Bill are to be achieved, in terms of the safe movement of pedestrians, exemptions should be minimised and based on clear local need. Overall costs increase with the need to sign and line exempt areas, so care should be taken to ensure that they are absolutely necessary. For example, parking could be permitted on especially wide pavements where pedestrian movement would not be adversely affected and it can be demonstrated that negative impacts on vulnerable pedestrians would be unlikely.

On certain narrow shopping streets, where deliveries would not be possible without parking on pavements, some limited exemptions might be necessary (similar to fixed period relaxation of other parking controls). However, if pedestrian safety is to be prioritised, stopping on the carriageway, where this is possible, should be encouraged as opposed to blocking pavements.

Exemptions should not be allowed where parking would result in damage to kerbs or the surface of footways.

## Recommendation 10

**Exemptions should be limited and clearly set out in national guidance by the Scottish Government to promote a consistent approach which avoids too many inappropriate designations.**

### 5. Enforcement issues

In Scotland's main urban areas enforcement should be carried out via existing arrangements for

decriminalised offences. As set out in the Bills explanatory notes this should not result in additional costs, beyond initial training of enforcement staff or police officers. Additional revenue from penalty notices will offset some of the set-up costs.

London has demonstrated that footway parking controls can be integrated into wider parking management arrangements, and this should be no different in Scotland's major cities and towns. With the support of clear national guidance the enforcement of footway, dropped kerb and double parking offences should not be problematic for existing staff and contractors.

Parking enforcement has become increasingly problematic in smaller towns across rural Scotland, with the withdrawal of wardens by Police Scotland. Resolving these local management issues is a wider issue and should not preclude a consistent national approach focused on urban areas. In any case pavement and dropped parking is probably less of an issue in these smaller towns compared to big urban centres, where parking pressures are greater. At least with additional powers Police Scotland would have the option of tackling footway or double parking if a community identified this as a local policing priority.

Ultimately, communities will determine what priority footway parking is given. Higher priority will occur where there is a combination of parking pressures and high numbers of older people, disabled people or parents with young children. These pressures exist already and will only be reduced if the law is clear and drivers adopt more positive behaviours as a result of education. For example, only a minority of drivers flaunt parking restrictions, such as double yellow lines. Over time, education and the threat of enforcement action should establish similar norms for pavements, dropped kerbs and double parking. If anything pavement parking offences will be simpler to detect and enforce than a range of existing offences. Critical to success will be the Scottish Government running a national publicity and education campaign.

## **Recommendation 11**

**Before introducing the new powers over pavement, dropped kerb or double parking the Scottish Government should agree to deliver a national education and publicity campaign. This will reduce the need for enforcement.**



## 6. Equality issues that arise as a consequence of the proposals

Living Streets Scotland, strongly endorses the summary of equalities impacts in the policy memorandum. We believe the Bill will lead to positive outcomes for a number of groups, particularly people with reduced mobility, people with sight problems, older people and children. We foresee no negative impacts and welcome the safeguard permitting local authorities to designate disabled parking spaces that may utilise part of the pavement, where this is necessary.

In some urban areas on a small number of narrow streets it may be difficult or even dangerous to park on the carriageway. Whilst these streets do exist, they should not dictate overall national policy. In some cases it might be possible to permit pavement parking where this won't result in the pavement being blocked to such a degree that passage is not possible by people with mobility problems. For instance a minimum gap of around 1m is needed to allow safe passage of pedestrians – especially people with wheelchairs and buggies. However, in many cases, it may not be possible to organise the street to allow the safe passage of pedestrians, whilst also maintaining existing levels of parking provision. Car users tend to have primacy when these conflicts occur. This approach is contrary to a modern approach to equalities, where the needs of protected groups with disabilities must be considered. In extreme cases it can prevent access to local services. The Committee should therefore focus on the needs of vulnerable pedestrians which shouldn't come second to car drivers who can consider alternate, albeit slightly less convenient, parking arrangements. In comparison people, with mobility or sight problems may have to choose between putting themselves in danger, or simply not making a trip they felt was going to be too unsafe. This loss of freedom is a significant negative outcome, especially for less confident older people.

For this reason, the Bill has been backed by over twenty charities including leading disabilities organisations. Quite simply, existing arrangements put the needs of the vulnerable and disabled second to those of able-bodied motorists and this approach fundamentally fails any serious equalities test.

The Footway and Double Parking (Scotland) Bill brings how we manage our streets in to the

21<sup>st</sup> century applying modern equality standards: By protecting the rights and freedoms of disabled people everyone who walks benefits.

## Conclusion

We urge the committee to focus on the ultimate problem the Bill seeks to address – the safe and convenient movement of pedestrians. In this regard the Bill offers a clearer, more consistent and balanced legal framework for protecting vulnerable people.

## Further information

Living Streets Scotland is happy to provide further information or clarification regarding our views on the Bill and how the issue of Pavement Parking is being addressed across the UK.

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