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Open consultation

# Pavement parking: options for change

Updated 30 October 2020

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## Ministerial foreword

Transport is at the heart of how we live our lives. It helps us get to work, stay in touch with friends and family, contribute to society and access vital services like healthcare and education. Access to transport is central to building a stronger, fairer society.

While many people take for granted the ability to travel easily from A to B, this is not the reality for everyone. For our ageing population, and the 13.3 million people (21% of the population) who identify as having some sort of disability, access to transport can be far from straightforward.

This government is therefore determined to make sure that disabled people have the same access to transport as everyone else, and that they can travel easily, with confidence and without extra cost. That is why the government's Inclusive Transport Strategy: achieving equal access for disabled people (<https://www.gov.uk/government/publications/inclusive-transport-strategy/the-inclusive-transport-strategy-achieving-equal-access-for-disabled-people>), published in July 2018, aims to create a transport system that provides equal access for disabled people by 2030, with assistance if physical infrastructure remains a barrier. Disabled people will be able to travel confidently, easily and without extra cost. Progress continues to be made in delivering our commitments in the strategy, including on pavement parking.

Through the Department for Transport (DfT)'s close contact with a range of stakeholders, I know that pavement parking can cause real problems for pedestrians, but particularly for wheelchair users, people with visual impairments and those with prams or buggies. We are also told that the current legislative framework may not be as clear or effective as it could be. These are important concerns, and I take them seriously.

However, it is also important to recognise that in many narrow streets pavement parking is necessary to maintain free-flowing traffic, including for emergency services. Local authorities are best placed to assess how parking should be managed in their communities.

Pavement parking has been prohibited in London since 1974. While successive governments have recognised there is no perfect solution to this complex problem, I believe it is time to look again at this issue in detail. Following the DfT's detailed review of pavement parking and the government's response to the Transport Committee's 2019 report on pavement parking (<https://publications.parliament.uk/pa/cm201719/cmselect/cmtrans/1982/1982.pdf>) (published 12 March 2020) this consultation seeks your views on some options to help local authorities to tackle this problem.

I am keen to hear your views.

Baroness Vere of Norbiton

Parliamentary Under-Secretary of State, Department for Transport

## Introduction

Although the 'pavement' is defined as the 'footway' in legislation, the more commonly used term 'pavement' is used in this document to mean the part of a highway which shares its border with the carriageway ('road') on which there is a public right of way on foot. This is distinct from a 'footpath', which does not border a road.

Many towns and cities were not designed to accommodate today's high traffic levels; and at some locations, especially in residential areas with narrow roads and no driveways, the pavement is the only place to park without obstructing the carriageway. However, irrespective of whether pavement parking is deemed necessary, there are inherent dangers for all pedestrians; being forced onto the carriageway and into the flow of traffic. This is particularly difficult for people with sight or mobility impairments, and those with prams or buggies. While resulting damage to the pavement and

verges is, uppermost, a trip hazard, maintenance and personal injury claims are also a cost to local authorities.

Since 1974, parking on pavements, with certain exceptions, has been prohibited in Greater London by the Greater London Council (General Powers) Act 1974 (<https://www.legislation.gov.uk/ukla/1974/24/contents>). Exemptions at specific locations can be permitted through an administrative resolution and indicated by traffic signs. A national prohibition was enacted in Scotland in November 2019 but has yet to come into force. The reverse applies elsewhere in England, where parking on pavements and verges is permitted unless specifically prohibited by a local authority (either street-by-street or zonally); the prohibition requiring a formal Traffic Regulation Order (TRO). The DfT is currently running a project looking at how the TRO legislative framework can be improved, to make TROs easier to implement, including for pavement parking.

As part of its wider agenda to improve accessible transport, the DfT's commitment to review the laws on pavement parking was featured in its Inclusive Transport Strategy and Cycling and Walking Investment Strategy safety review (<https://www.gov.uk/government/consultations/cycling-and-walking-investment-strategy-cwis-safety-review>). Last year, the DfT completed an exercise to gather evidence on the problems pavement parking causes, the effectiveness of current legislation, and the case for reform.

To further develop its understanding of the pavement parking problem, the DfT is seeking your views on:

- whether its ongoing work (Option 1), explained in more detail below, to improve the TRO process, under which local authorities can already prohibit pavement parking, is sufficient and proportionate to tackle pavement parking where it is a problem; or if not:
- which of 2 specific options you prefer. These were identified in the department's review of the pavement parking problem, and echoed by the Transport Committee; are aimed at providing better tools for local authorities. These options, explained in more detail in this consultation document, are:
  - legislative change to allow local authorities with civil parking enforcement (CPE) powers to enforce against 'unnecessary obstruction of the pavement' (Option 2), or:
  - legislative change to introduce a London-style pavement parking prohibition throughout England (Option 3).
- any alternative proposals you may have for managing pavement parking

The DfT recognises that there are pros and cons for each of the options, and your responses on each will inform how this issue should be addressed.

## How to respond

The consultation period began on 31 August 2020 and will run until 22 November 2020 so ensure that your response reaches us before the closing date. If you would like alternative formats (Braille, audio CD, and so on), contact [pavement.parking@dft.gov.uk](mailto:pavement.parking@dft.gov.uk).

A downloadable MP3 audio file of the consultation questionnaire (<http://assets.dft.gov.uk/misc/pavement-parking/dft-pavement-parking.mp3>) is available.

You may respond via:

- the online survey (<https://www.smartsurvey.co.uk/s/2X12G/>), our preferred method
- by downloading the response form ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/consultation\\_response\\_form\\_data/file/801/parking-pavements.rtf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/consultation_response_form_data/file/801/parking-pavements.rtf)) and emailing

pavement.parking@dft.gov.uk

- by downloading the large print interactive questionnaire ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/931327/large-print-interactive-questionnaire.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/931327/large-print-interactive-questionnaire.pdf)) and emailing pavement.parking@dft.gov.uk
- emailing pavement.parking@dft.gov.uk directly

Due to remote working for the foreseeable future, we cannot accept hard copies of responses but please let us know if you are unable to respond by using the survey or by email.

When responding, state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, make it clear who the organisation represents and, where applicable, how the views of members were assembled.

## Freedom of information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department for Transport.

The Department for Transport will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## Current laws on parking

The Traffic Management Act 2004 ([TMA](https://www.legislation.gov.uk/ukpga/2004/18/contents)) (<https://www.legislation.gov.uk/ukpga/2004/18/contents>) places a network management duty on local authorities to manage their road network to reduce congestion and disruption. The [TMA](https://www.legislation.gov.uk/ukpga/2004/18/contents) also provides specific powers for parking enforcement to be undertaken by local authorities rather than the police. Local authorities have powers under Part I of the Road Traffic Regulation Act 1984 ([RTRA](https://www.legislation.gov.uk/ukpga/1984/27/contents)) (<https://www.legislation.gov.uk/ukpga/1984/27/contents>) to set restrictions or exemptions relating to parking within specific areas via the use of TROs, or Traffic Management Orders within London. For the purposes of this document, the term '[TRO](https://www.legislation.gov.uk/ukpga/1984/27/contents)' means either legal mechanism.

Local authorities can use a [TRO](https://www.legislation.gov.uk/ukpga/1984/27/contents) to create local road traffic measures; for example, yellow line parking restrictions, 'no entry', 'no left turn' / 'no right turn' on roads for which they are responsible for managing. These measures can be applied to specific locations or larger areas. They can apply at all times or during specific time periods and can exempt certain classes of traffic. Under [RTRA](https://www.legislation.gov.uk/ukpga/1984/27/contents) Sections 4 and 6, the conditions of a [TRO](https://www.legislation.gov.uk/ukpga/1984/27/contents) are indicated to the road user by traffic signs and/or road markings, either prescribed by regulations (currently the Traffic Signs Regulations and General Directions 2016 (<https://www.legislation.gov.uk/uksi/2016/362/contents/made>)) or specially authorised by the Secretary of State.

## Civil parking enforcement

Part 6 of the TMA allows most types of parking contraventions to be enforced by local authorities as a civil matter, instead of as a criminal matter by the police. Local authorities are not forced to do so, but they may choose to take on these CPE powers by applying to the Secretary of State for the power to enforce parking restrictions within geographical local areas. As the parking offences are no longer criminal in such areas:

- enforcement ceases to be the responsibility of the police and becomes the responsibility of the local authority
- Civil Enforcement Officers (CEOs) instead of 'traffic wardens' place Penalty Charge Notices (PCNs) on offending vehicles
- the penalty charges are civil debts, due to the local authority and enforceable through a streamlined version of the normal civil debt recovery processes
- motorists wishing to contest the validity of a PCN may make representations to the local authority. If rejected, they may then appeal to independent adjudicators, whose decision is final (meaning there is no right of further appeal through the courts)
- the local authority retains the proceeds from the penalty charges, which are used to finance the enforcement and adjudication systems. Any surpluses must be used for prescribed purposes only.

Endorsable parking offences, like those involving dangerous parking (where a driver's licence can be endorsed with penalty points), remain criminal and can only be enforced by the police. Stopping offences at pedestrian crossings may be enforced by the police or the local authority, but police action takes precedence.

Currently, 96% of local authorities in England have acquired CPE powers. Elsewhere, all parking offences remain subject to criminal law and enforceable by the police. Furthermore, on trunk roads and motorways, the police are responsible for enforcing traffic regulations, so illegal parking on these roads is a criminal offence.

## **Powers to tackle pavement parking**

A pavement parking prohibition was introduced in London in 1974. Local authorities in England (outside London) can enforce against pavement parking where:

- vehicles are parked in contravention of existing waiting restrictions (for example yellow lines, which also apply to the verge and the pavement)
- a designated prohibition has been implemented through a TRO and prescribed, or authorised, traffic signs and bay markings; or
- the vehicle parked is a 'heavy commercial vehicle' with an operating weight of over 7.5 tonnes

## **Unnecessary obstruction of the highway**

The offence of unnecessary obstruction of the highway, which includes the road as well as the pavement, already exists and has not been decriminalised. There are existing statutes and regulations which allow proceedings to be brought by the police under criminal law for situations where parking on the pavement, in such a way as to cause obstruction, is deemed to be avoidable. These include:

- section 137 of the Highways Act 1980 (<https://www.legislation.gov.uk/ukpga/1980/66/contents>), as amended; for wilfully obstructing the free passage along a highway

- regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986 (<https://www.legislation.gov.uk/uksi/1986/1078/contents/made>) as amended; for causing or permitting a motor vehicle or trailer to stand on a road so as to cause any unnecessary obstruction of the road

Local authorities are currently unable to enforce against obstruction using their civil parking enforcement powers.

## Revenue raised from parking enforcement

Parking schemes should be self-financing and the law does not allow local authorities to use parking enforcement schemes for the purpose of raising revenue. Section 55 of the RTRA (as amended) requires that any surplus made on parking enforcement operations is directed towards the costs, incurred by the local authority, of other schemes to improve local transport and environment, including:

- local public transport schemes
- highway or road improvement projects
- improvement measures to reduce environmental pollution

## Progress to date

### Parking evidence review

Last year the department completed an evidence review looking at the problems caused by pavement parking, the effectiveness of current legislation, and the case for reform. The review was structured around 3 main questions:

1. How severe are the problems caused by pavement parking?
2. How effective is the current legislation?
3. Do any of the potential reform options have merit?

The department met a broad range of stakeholders, including Guide Dogs; Living Streets; the Disabled Persons Transport Advisory Committee; the British Parking Association; the parking adjudicators inside and outside London (London Tribunals and The Traffic Penalty Tribunal respectively); AA and RAC; and Local Government Association, London councils and over 40 local authority parking managers.

A wide range of evidence was gathered from a variety of sources including local authority parking managers, council reports, stakeholder surveys, site visits, road safety data, photographs, tweets, newspaper articles, to understand the problems caused by vehicles parking on pavements, and the effectiveness of the current regime.

The evidence gathered was comprehensive in its breadth but not in its depth, although we believe the review yielded sufficient information to enable reliable conclusions to be drawn.

Of the 68 local authority responses to a survey carried out by the department, 57 reported that pavement parking was a widespread problem in their area.

The findings confirmed that vulnerable pedestrians are most at risk, and in particular: people with visual impairments; people who use mobility aids, including guide dogs, wheelchairs, and mobility scooters; young children and people with prams and pushchairs. A review of surveys carried out by organisations representing disabled people, as well as cycling and walking, and the correspondence submitted by members of the public provided anecdotal evidence of pedestrians

being injured or very nearly injured, because of vehicles parking on pavements. The surveys indicated that 95% of visually impaired people had had a problem with vehicles parked on pavements in the previous year. This figure rose to 98% of wheelchair users. A survey found that 32% of respondents with vision impairments were less willing to go out on their own because of pavement parking. The figure was 48% for wheelchair users.

However, there was little quantitative data on the safety implications of pavement parking. While it is possible to say with some confidence the number of pedestrians injured or killed on pavements, identifying the direct cause of these accidents proved more difficult. Moreover, the number could be further obscured by pedestrians being killed or injured in the road while navigating around vehicles parked on the pavement.

Of the 68 local authority responses to how many pedestrians had been hurt in the previous year; either by being hit by a vehicle while walking in the road to pass a parked vehicle or by a vehicle driving on the pavement to park:

- 3 estimated up to 10 incidents
- 4 estimated more than 10 incidents
- 7 confirmed no incidents
- 54 did not know

National statistics and datasets were found to be neither granular enough nor collected in a manner that enabled the department to identify and quantify individual cases where the injury or fatality was primarily a consequence of a vehicle having parked on a pavement. It is also possible that the number of such occurrences is lower as a result of some people going out less often. While it was not possible to quantify on a national level the safety risk posed by vehicles parking on pavements, the department does not dispute that pavement parking can endanger the safety of pedestrians.

Several disability organisations shared stories submitted by their members and service users, confirming that many people do find pavement parking to be a very substantial obstacle to the journeys they need to make to carry out their daily lives.

Pavement parking may also have a negative financial impact on local authorities, arising from repairs to pavements and liability for personal injury claims resulting from pedestrian trips or falls on cracked or uneven paving surfaces.

In response to our enquiries as to whether they had to repair pavements damaged by parking vehicles in the previous year, 39 out of the 68 local authority responses confirmed they had, most of which in more than 10 instances; while only 2 said that they had not. The remaining 27 did not know, as they either do not record the cause of damaged pavements or said that it would be difficult to ascertain the causes in some cases.

The costs reported varied considerably. One authority estimated that 10 to 20% of the pavement repair budget of £500,000 is spent repairing pavements damaged because of pavement parking each year.

The evidence review identified 2 main options for possible legislative change, should this be considered necessary.

- Option 2 - to enable local authorities to enforce against an offence of 'causing an unnecessary obstruction of the pavement', as deemed by the CEO; or
- Option 3 - to introduce a national prohibition on pavement parking, except at locations where local authorities choose to allow it

These are described in more detail in Chapter 3.



# The Transport Committee inquiry into pavement parking

In April 2019, the Transport Committee launched an inquiry into pavement parking. Their report (<https://www.parliament.uk/business/committees/committees-a-z/commons-select/transport-committee/inquiries/parliament-2017/pavement-parking-17-19/>) was published on 9 September 2019. In line with the department's view, they recommended that the government consult on allowing local authorities to enforce against obstructive pavement parking, with a view to making such an offence subject to civil enforcement under the TMA 2004. They also recommended that, in the long term, the government legislates for a nationwide prohibition on pavement parking across England, outside London, enforceable by local authorities.

The Transport Select Committee published the government's response on 12 March 2020.

## Proposed options to tackle pavement parking

### Option 1: to rely on improvements to the existing TRO system

Existing legislation allows local authorities to introduce TROs to manage traffic; the requirements of which must be conveyed to the motorist via prescribed or authorised traffic signs and road markings. Local authorities make TROs for many reasons, for example, to restrict traffic manoeuvres (one-way or banned turns) or to set speed limits. TROs also allow local authorities the freedom to decide if and how they wish to restrict or prohibit pavement parking in their local area. The combination of a TRO with the necessary traffic signs and road markings creates a pavement parking restriction, which local authorities with CPE powers can enforce against by issuing PCNs. Parking enforcement remains the responsibility of the police where a local authority does not have CPE powers.

However, because it had become clear that the process for making TROs can be time-consuming and burdensome for local authorities, the department announced in August 2019 that it would be reviewing the legislation associated with TROs. The first stage of this review involved the department developing proposals for legislative change in partnership with a broad range of stakeholders.

User research was carried out on behalf of the department into the current legal process for making TROs. This looked at 'pain points' experienced by those who interact with the TRO process (local authorities and applicants) and recommended changes to legislation. This review drew on the findings of the TRO Discovery report that encouraged the department to determine whether the legislation could be simplified. It made other recommendations for reform, including looking at how traditionally paper-based TRO data, which is a rich source of information, could be digitised to support the transport network of the future.

These recommendations will be subject to further consultation in 2020; and the scope of legislative change, and whether change will require primary and/or secondary legislation, will require careful consideration in light of the consultation findings.

### Option 2: to allow local authorities with CPE powers to enforce against 'Unnecessary obstruction of the pavement'

The offence of unnecessary obstruction of the highway, i.e. the road, verges, pavement, bridleways, and so on, already exists; although this is only enforceable by the police as a criminal matter.

Option 2 proposes to allow local authorities with CPE powers to enforce unnecessary obstruction as a civil matter, by issuing PCNs to vehicles found to be causing an 'unnecessary obstruction of the pavement'. This would enable CEOs to address instances of unnecessarily obstructive pavement parking as and when they find it, without the need to prohibit it nationally. The guidelines

contained in the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 (<https://www.legislation.gov.uk/ukxi/2007/3487/contents/made>) provide for the higher PCN charge level of £70 for pavement parking.

We do not, at this stage, propose full decriminalisation (meaning completely removing enforcement from the police) as there may be some circumstances where a particularly dangerous obstruction of the pavement is more appropriately dealt with by the police as a criminal matter. Under this option, unnecessary obstruction of the pavement could therefore be enforced by either the police service (via fixed penalty notices (FPNs)) or by local authorities (via PCNs), although we would expect police intervention to be the exception. In the unlikely event of 2 penalties being simultaneously issued to the same vehicle, a police FPN would take precedence over a PCN issued by a local authority which would be required to cancel the PCN and refund any payment. Unnecessary obstruction of the highway other than the pavement would remain a police matter.

Option 2 would be achieved by splitting the 'pavement' from 'road' in regulation 103 of the Road Vehicles (Construction and Use) Regulations 1986 - which makes unnecessary obstruction of the road an offence - and adding it to the list of contraventions subject to civil enforcement in schedule 7, paragraph 4(2) of the TMA, using the powers under paragraph 5 of that schedule.

This option would also include exceptions, for example, breakdown or emergency service vehicles; highway maintenance vehicles; utility maintenance vehicles; or where it can be proved that a vehicle had been used for loading and unloading goods (for up to 20 minutes, or longer if the authority permits it). A proposed list is at Annex B.

However, while it is considered necessary to include exemptions for emergencies, and to maintain free-flowing traffic and sustainability for delivery firms, we do not propose to exempt Blue Badge holders, or any businesses not concerned with deliveries. The aim of the policy is to keep the pavement free of obstruction as far as possible; and we believe that other exemptions would defeat this objective.

It is acknowledged that the concept of 'unnecessary obstruction' is inherently vague. To help mitigate this, we could recommend in guidance to local authorities that their schemes provide for the use of warning notices on the first occasion an individual vehicle is identified as causing an obstruction.

### **Some advantages**

This option would enable local authorities to issue PCNs to vehicles which are deemed to be causing an unnecessary obstruction of the pavement, without the need to prohibit pavement parking nationally.

This option would require secondary legislation and could be implemented relatively quickly. Pavement parking would not become an offence in all cases, so local authorities would not need to carry out costly and time-consuming audits of their road networks; nor would it be necessary to place traffic signs and bay markings to indicate where pavement parking would need still to be permitted. This is particularly relevant in rural areas where pavement parking is less likely to be a problem, and where placing signs to permit it would be disproportionate.

Enforcement against this offence would be more targeted than a general prohibition of pavement parking. Local authorities would be able to penalise pavement parking where the pavement has clearly been blocked unnecessarily.

### **Some disadvantages**

Parking offences currently subject to local authority civil enforcement are violations of clearly defined restrictions indicated by traffic signs and road markings, for example, yellow lines or white bay markings. By contrast, 'unnecessary obstruction' is more difficult to define, vulnerable to

misinterpretation and would require detailed assessment in each case.

Unlike most other parking offences, there would be no traffic signs or bay markings informing motorists of local regulations: 'obstruction' is a general offence that may occur anywhere so it cannot be indicated by traffic signs or bay markings.

If this option was pursued, secondary legislation and/or guidance would be needed to clarify the definition of an 'unnecessary obstruction of the pavement' in order to prevent inappropriate and inconsistent enforcement.

### **Defining 'Unnecessary obstruction'**

'Unnecessary obstruction' does not lend itself to a simple definition that works in all circumstances. It would be almost impossible to anticipate all the possible real-world circumstances and to prescribe them in regulations. This would almost certainly result in situation overload, with a list that appears exhaustive but with unforeseen situations still being overlooked. Instead, we would propose to define the scenarios where pavement parking would, and would not, be deemed appropriate in updated statutory guidance. The benefit of this approach is that statutory guidance would be more responsive to any necessary changes, avoiding the time-consuming process of updating regulations.

However, it may still not be possible to comprehensively define what we mean by unnecessary obstruction in guidance. It may be relatively easy to define a pavement obstruction but not so easy to define when it is necessary. For example, 'Obstruction' could be determined by whether the pavement width between the vehicle and the backline of the pavement is sufficiently wide so as not to obstruct the passage of a wheelchair user or person with a pram or buggy. Leaving a minimum width of 1.5m between the parked vehicle and the back edge of the pavement could be deemed to be not causing an obstruction of the pavement. This width is derived from Section 3 of the DfT's inclusive mobility guidance (<https://www.gov.uk/government/publications/inclusive-mobility>); it is the absolute minimum required for a wheelchair user and a person on foot to pass one another.

The more difficult question, if the space left by the vehicle was less than 1.5m and so causing an 'obstruction', is how to determine whether this was 'unnecessary'.

One approach could be to establish that a vehicle is parked unnecessarily on the pavement where it could otherwise be parked fully on the carriageway without blocking either one-way or two-way traffic (allowing that two-way traffic may have to give way to vehicles approaching in the opposite direction). However, this wouldn't work in all scenarios. It might be reasonable for traffic to give way on quiet residential roads, but it could cause significant congestion on heavily trafficked roads of the same size, so there may be a case for vehicles being on the pavement.

Furthermore, the following sequence of events could occur which might give the wrong impression of unnecessary pavement parking:

- Event 1 - Vehicle A is already parked fully on the carriageway
- Event 2 - Vehicle B arrives and parks directly opposite on the pavement so as not to block traffic
- Event 3 - Vehicle A drives off
- Event 4 - Vehicle B is left appearing to a CEO to be unnecessarily pavement parked

Another way might be to say that two-way traffic must be able to freely pass without giving way. However, this would result in pavement parking on many roads as it would mean allowing pavement parking on all roads where the carriageway is less than (say) the width of at least 4.5 vehicle widths (to allow for vehicles to park on both sides of the carriageway and two-way traffic to pass freely between them).

Thus, we begin to see that a precise definition of ‘unnecessary obstruction’ may be difficult to achieve. We may only be able to issue scenario-based guidance to local authorities, which still might not cover all situations that could arise.

### **Option 3: a national pavement parking prohibition**

Option 3 would in effect extend the existing London-wide pavement parking prohibition. This option would require changes to primary legislation to prohibit pavement parking by default, except at locations where local authorities decide to allow it. This could be done as a general default prohibition across England, or defined in certain circumstances (for example urban areas), as informed by this consultation.

The existing London pavement parking prohibition allows for London councils to introduce exemptions by passing administrative resolutions (for example for narrow streets where pavement parking is essential to ensure traffic flows and to prevent vehicle displacement where there is nowhere else to park). New legislation prohibiting pavement parking in Scotland requires that the exemption of particular streets must be by the making of an order by the local authority in much the same way that English authorities currently make TROs. We would propose basing the regime on the London model, as recommended by the Transport Committee.

Local authorities would be expected to decide where pavement parking remained necessary and to introduce the necessary exemptions and to place traffic signs and bay markings to indicate where pavement parking is permitted. The bay could be placed completely on the pavement where there is sufficient width, or [‘part on / part off’ as shown in Figure 1].

The legislation for both London and Scotland also includes exceptions to the prohibition for certain vehicles including, for example, breakdown or emergency service vehicles; highway maintenance vehicles; utility maintenance vehicles; or where it can be proved that a vehicle had been used for loading and unloading goods (for up to 20 minutes, or longer if the authority permits it). Our proposal for exceptions is at Annex B.

However, while it is considered necessary to include exemptions for emergencies, and to maintain free-flowing traffic and sustainability for delivery firms, we do not propose to exempt Blue Badge holders, or any businesses not concerned with deliveries. The aim of the policy is to keep the pavement free of obstruction as far as possible, and we believe that other exemptions would defeat this objective.

**Figure 1.** A residential London street with an exemption from the London-wide pavement parking prohibition. Upright traffic signs show the start and end of permitted pavement parking, and white bay markings show how much of the pavement drivers may occupy.



Image capture: May 2019 © 2020 Google United Kingdom Terms

## Some advantages

This option would establish a general rule against pavement parking except where there is specific permission for it. We propose this would mirror the London pavement prohibition; with exemptions in place at many locations.

Motorists would benefit from a consistent rule: 'you must not park on a pavement except where signs permit'. Traffic signs and bay markings would show drivers where pavement parking was still allowed.

Local authorities could introduce exemptions to permit pavement parking by the simpler means of administrative resolution<sup>1</sup> instead of promoting TROs to prohibit pavement parking. This is because the default position is an enforceable pavement parking prohibition whereas the exemption is a simple 'permission' that requires signing but no enforcement.

This approach would foster active management of pavement space. It would require local authorities to decide where vehicles should have priority over pedestrians and vice versa.

## Some disadvantages

A national pavement parking prohibition would be the most significant change to English parking law in several decades, and local authorities would need to undertake a substantial amount of work to prepare for it.

In many areas pavement parking is essential, so it is important that it should continue to be allowed where this is the case. Each local authority would need to survey their road network, identify areas where pavement parking is routine, determine where it remains necessary, pass resolutions to permit it, and place traffic signs and bay markings to inform drivers where pavement parking is still permitted.

It is likely that the introduction of a national prohibition would need a significant implementation

period. This process of identifying and implementing exemptions could be time consuming and expensive. Local authorities have indicated that the scale of this task should not be underestimated. It is not known how many streets would need to be exempted from a national prohibition, nor how many streets may need to be exempted in any single town or city. One authority has estimated the cost at around £670,000. Some authorities we talked to stated that they depend on pavement parking to preserve traffic flow in terraced areas, and believe they would need to exempt large residential areas from the prohibition.

Currently, pavement parking is partly self-regulating and fluctuates in response to spikes of parking demand, such as community events, local festivals, etc. By restricting pavement parking only to those areas indicated by traffic signs and bay markings, this option would fix the provision of pavement parking at a relatively static level. The local authority may authorise enough pavement parking bays for residents, but not enough to accommodate an unknown level of visitors.

A national prohibition might be inappropriate in rural areas, such as country roads where pavement parking may be safer. It would be difficult to comprehensively assess all rural settings and may be disproportionate to direct resources to place traffic signs on quiet country roads. There is also a greater dependence on private transport in rural areas. Suburban areas may also face specific challenges.

The implementation of a national prohibition would also be particularly difficult in environmentally sensitive areas, such as historic towns and villages, where there is likely to be strong resistance to placing of traffic signs and bay markings to indicate where parking is permitted. Moreover, reducing traffic sign clutter was a key aim of the DfT's traffic signs policy review, and a major update to the regulations<sup>2</sup> governing the appearance and use of traffic signs included a number of changes to facilitate this.

London is more conducive to a pavement parking prohibition, with much lower levels of car ownership per household and higher mode shares for public transport. Elsewhere car ownership per household tends to be higher and consequently, the demand for parking is greater.

## **What will happen next?**

A summary of responses will be published within 3 months of the consultation closing. Paper copies are available on request.

If you have questions about this consultation contact [Pavement.parking@dft.gov.uk](mailto:Pavement.parking@dft.gov.uk).

## **Annex A: impact assessment**

The impact assessment is listed separately ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/912033/annex-a-impact-assessment-pavement-parking-restrictions.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/912033/annex-a-impact-assessment-pavement-parking-restrictions.pdf)).

## **Annex B: exceptions for certain vehicles in specific circumstances**

B.1 The table below sets out those vehicles which we propose should not be subject to the prohibition proposed in Option 2 or Option 3.

Vehicle when being used for:

- fire brigade purposes
- police purposes
- parking in accordance with a direction given by a constable

- ambulance purposes
- the provision of, or in connection with, urgent or emergency health care, by a registered medical practitioner, registered nurse or registered midwife
- the purpose of saving life or responding to another similar emergency
- the purpose of providing assistance at an accident or breakdown
- postal services (within the meaning of section 125(1) of the Postal Services Act 2000)
- delivery, collection, loading or unloading of goods to, or from any premises, in the course of business; where this cannot reasonably be carried out without the vehicle being parked on a pavement; and the vehicle is so parked for no longer than is necessary for these purposes, and in any event for no more than a continuous period of 20 minutes
- collection of refuse by, or on behalf of, the local authority
- street cleansing purposes by, or on behalf of, the local authority
- gritting or salting or the clearance of snow by, or on behalf of, the local authority
- road works by, or on behalf of, the local authority
- road maintenance (including street furniture) by, or on behalf of, the local authority
- street works by, or on behalf of, the local authority or statutory undertakers, including utility companies
- to comply with the duty in section 170 of the Road Traffic Act 1988 to stop after an accident

Other situations - in respect of Option 3 only:

- any vehicle authorised by the council to be parked in a specified place at a specified time

## **Annex C: full list of consultation questions**

This section lists the questions however to respond to the consultation you should use one of the response choices listed under the 'ways to respond' section (<https://www.gov.uk/government/consultations/managing-pavement-parking/pavement-parking-options-for-change#how-to-respond>).

### **Introductory Questions**

#### Question 1

For contact purposes only:

- Your name
- Your email

#### Question 2

Are you responding as:

- an individual?
- on behalf of an organisation?

### **Questions for individuals**

#### Question 3

Do you think vehicles being parked on the pavement is a problem in your area?

- Yes
- No
- Don't know

#### Question 4

Pavement parking causes you problems because:

- you have a sight impairment
- you have a mobility impairment
- you use a buggy or pram to transport children
- another issue

#### Question 5

Would you leave home more often if there was no pavement parking?

- Yes
- No

### Questions for all respondents

#### Question 6

Do you think vehicles parked on the pavement is a problem in your area?

- Yes
- No
- Don't know

#### Question 7

Do you prefer:

- option 1?
- option 2?
- option 3?
- an alternative option? (please describe it)

### **Option 2 - to allow local authorities with CPE powers to enforce against 'Unnecessary obstruction of the pavement'**

#### Question 8

How would you define an 'unnecessary obstruction of the pavement'?

#### Question 9

Do you think a warning notice should be given for first-time offences of causing an unnecessary obstruction by parking on the pavement?

- Yes
- No



- Don't know

#### Question 10

What do you think are the advantages and disadvantages associated with Option 2?

#### **Option 3 - England-wide pavement parking prohibition**

#### Question 11

Do you think a national prohibition should apply:

- on no roads (since you are against the proposal)?
- on all public roads within the country?
- only on roads with speed limits up to 40mph (this includes roads in villages, towns and cities);  
or
- in an alternative way of your description? (please describe)

#### Question 12

Should a national prohibition apply to:

- pavements only?
- pavements and verges?

#### Question 13

What are your views on the impact this would have on the built and historic environment?

#### Question 14

What do you think are the advantages and disadvantages of Option 3:

- for rural areas including villages?
- for suburban areas?
- for town and city centres?
- overall?

#### Question 15

Do you believe Option 2 or Option 3 would have an impact on the environment?

#### Option 2

- Yes
- No
- Don't know

#### Option 3

- Yes
- No
- Don't know

If answering “Yes” to an option, please explain the impact you think will occur and whether it is positive or negative.

#### Question 16

For both options 2 and 3, we propose exceptions for those vehicles listed in Annex B. (The final listed exception applies to option 3 only.)

- What, if any, other additional vehicles or services would you like to exempt and why?

### **Questions on the equality duty**

#### Question 17

In respect of people who share any of the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion/belief
- sex
- sexual orientation

Please describe any negative impacts that the options in this document might have on these objectives:

- eliminating discrimination
- advancing equality of opportunity
- fostering good relations

Please clearly identify the specific consultation option, the protected characteristic affected, which objective is affected and the nature of any negative impact.

### **Final comments for all respondents**

#### Question 18

Do you have any other comments?

### **Questions for organisations (other than local authorities)**

#### Question 19

Your organisation’s name is?

#### Question 20

Is your organisation a commercial business?

- Yes
- No

### Question 21

Does your organisation routinely make deliveries as part of its business?

- Yes
- No

### Question 22

Do you agree that 20 minutes of pavement parking would be adequate for a delivery?

- Yes
- No

If you answered "No", why not?

### Question 23

If you answered "No", of all the daily deliveries that you may make, what percentage do you think will take longer than 20 minutes each to be completed?

### Question 24

In your opinion, what types of delivery that you make would require greater than 20 minutes?

## Questions for local authorities

### Question 25

Are you representing a council?

- Yes
- No

### Question 26

Has your authority introduced a TRO, or TROs, to implement pavement parking restrictions?

- Yes
- Don't know
- No

If you answered 'No', why not?

If you answered 'Yes': \* How many has your authority introduced in each of the last 10 years? \* Typically, how long does a TRO take for you to put into place (in weeks)? \* What was the average monetary cost (to the nearest £) of introducing a single TRO? (please breakdown costs eg administration, legal, advertising, traffic sign purchase / installation & road marking creation).

### Question 27

Could you please provide where possible, for each of the 5 years 2015-2019, figures or estimates (please specify which) for your local authority:

- the number of injury claims made to your local authority
- the number of injury claims made due to pavement parking

- the number of injury claims for which compensation was paid
- the number of injury claims made due to pavement parking for which compensation was paid
- the total compensation paid for injury claims
- the total compensation paid due to pavement parking

#### Question 28

What was the:

- total spend on pavement repairs for each of the 5 years 2015 to 2019?
- the percentage of this total spend due to pavement parking: for each of the 5 years 2015 to 2019?

#### Option 2

#### Question 29

If your council has civil enforcement powers and was permitted to enforce the offence of 'unnecessary obstruction', would your council elect to do this?

- Yes
- No
- Don't know

#### Question 30

If you answered "Yes" or "Don't know", what number of staff, in your authority, would need to learn the new enforcement guidance?

#### Question 31

Can you foresee any additional, unfunded costs outside of the normal issuing and processing of PCNs?

- Yes
- No
- Don't know

#### Question 32

What are these costs (list the individual costs and the total average expenditure based on a per annum basis)?

#### Option 3

#### Question 33

In your authority area, estimate based on your total road network, on how much road is pavement parking necessary to ensure free-flowing traffic is maintained? Give the amount:

- in kilometres
- as a percentage of the total road length

#### Question 34

What do you expect an assessment of your road network, to identify exemptions, to cost overall and how do the costs break down individually (£)?

#### Question 35

Would your authority need to provide more parking provision to implement option 3?

- Yes
- No
- Don't know

Please provide any relevant evidence to support this view.

#### Question 36

Please provide an estimate of the cost of implementing exemptions in your area, including:

- staff costs
- traffic signing costs
- bay marking costs
- removal of traffic signing for previously implemented TROs restricting pavement parking in your area

#### Question 37

Can you foresee any additional, unfunded costs beyond the normal costs of issuing and processing PCNs?

- Yes
- No
- Don't know

#### Question 38

Give an explanation and breakdown of the number of additional:

- staff for your local authority?
- salary costs for your local authority?
- hiring costs for your local authority?
- training costs for your local authority?

#### Question 39

What additional staff roles do you envisage?

#### Question 40

Do you expect any other, non-staff, costs to arise from a national pavement parking prohibition?

- Yes
- No
- Don't know

#### Question 41

What are these costs (list the individual costs and the total average expenditure based on a per annum basis)?

#### Question 42

What potential benefits, if any, do you think there will be for your authority from a national pavement parking prohibition (such as existing costs being reduced)? Provide any monetary benefit where possible.

#### Question 43

The government is looking to local authorities to introduce more cycle facilities to encourage active travel. Do you think this will cause issues for a national pavement parking prohibition?

- Yes
- No
- Don't know?

If you answered "Yes", please describe the issues.

### Final comments

#### Question 44

Do you have any other comments?

### Footnotes

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1. An official decision that is made after a group or organisation has voted.
2. [The Traffic Signs Regulations and General Directions 2016 (<http://www.legislation.gov.uk/uksi/2016/362/contents/made>)

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