

# PATROL Adjudication Joint Committee Executive Sub Committee

## Agenda

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**Date:** Tuesday 26th January 2021

**Time:** 11.00 am

**Venue:** Virtual Meeting

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1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Minutes of the Meeting held 13 October 2020** (Pages 1 - 10)

To approve the minutes of the PATROL Adjudication Joint Committee Executive Sub Committee held 13 October 2020.

4. **Chair's Update**

To introduce the new PATROL Director, Laura Padden, and provide an update on developments since the meeting in October 2020.

5. **Wales Update** (Pages 11 - 12)

To receive a report on civil traffic enforcement in Wales.

6. **Budget Monitoring 2020/21** (Pages 13 - 22)

To note income, expenditure, cash flow, forecast outturn and reserves at 30 November 2020

7. **Revenue Budget 2021/22** (Pages 23 - 32)

To establish the Joint Committee's Revenue Budget for 2021/22.

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8. **Reserves Policy Statement** (Pages 33 - 38)

To approve the Reserves Policy Statement for 2021/22.

9. **Defraying the Expenses of the Joint Committee 2021/22** (Pages 39 - 44)

To approve the basis for defraying the expenses of the Joint Committee 2021/22.

**ITEMS COMMON to PATROL and Bus Lane Adjudication Service Joint Committee**

10. **PATROL AND BLASJC Resources Working Group and Sub Committee**  
(Pages 45 - 48)

To report on the PATROL and BLASJC Resources Working Group meeting held on 17 December 2020.

11. **Risk Management Framework** (Pages 49 - 56)

To note the latest review of the Risk Register.

12. **Annual Investment Strategy** (Pages 57 - 58)

To approve the annual investment strategy 2021/22.

13. **Traffic Penalty Tribunal General Progress Report** (Pages 59 - 78)

To provide information in respect of the Traffic Penalty Tribunal's activities and initiatives.

14. **Public Affairs Overview** (Pages 79 - 168)

To note the update in relation to a range of public affairs matters.

15. **Date of Next Meeting:**

13 July 2021 - Church House, Westminster followed by the PARC (Parking Annual Reports by Councils) Awards at the House of Commons.

The meeting will be followed by a Member workshop after lunch commencing at 1.15pm and concluding at 2.15pm.

Minutes of a virtual meeting of the

## **PATROL Adjudication Joint Committee**

held on Tuesday, 13th October, 2020

### **PRESENT**

Councillor Stuart Hughes (Devon County Council, in the Chair)

### **Councillors**

Councillor Neil Butters BATHNES Council  
Councillor Mark Smith Blackpool Council  
Councillor Hilary Fairclough Bolton MBC  
Councillor Chris Turrell Bracknell Forest District Council  
Councillor Gary Wilkinson Brighton & Hove City Council  
Councillor Colin Hutchinson Calderdale MBC  
Councillor Laura Crane Cheshire East Council  
Councillor Eileen Lintill Chichester District Council  
Councillor Terry Douris - PATROL Assistant Chair, Dacorum Borough Council  
Councillor Marilyn Peters Dartford Borough Council  
Councillor Jeannette Stephenson Durham County Council  
Councillor Graham McAndrew East Herts District Council  
Councillor Marje Paling Gedling Borough Council  
Councillor Graham Burgess - Vice Chair BLASJC, Hampshire County Council  
Councillor Phil Bibby Hertfordshire County Council  
Councillor Vanessa Churchman Isle of Wight Council  
Councillor Sharon Connor Liverpool City Council  
Councillor Roger Jeavons Newport City Council  
Councillor Adele Williams Nottingham County Council  
Councillor Peter Davies Oldham MBC  
Councillor Tony Page - Chair BLASJC, Reading Borough Council  
Councillor Margot McArthur Sevenoaks District Council  
Councillor John Woodman Somerset County Council  
Councillor Dan Brown South Hams District Council  
Councillor Lee Wanger Stoke on Trent City Council  
Councillor Ian Shenton Stratford District Council  
Councillor Geoff Driscoll Uttlesford District Council  
Councillor Kevin Anderson Wigan MBC  
Councillor Martin King - Vice Chair PATROL, Wychavon District Council  
Councillor Simon Cronin Worcester City Council

### **Officers in attendance**

Marc Samways, Chair PATROL Advisory Board, Hampshire County Council  
Graham Addicott OBE, Vice Chair PATROL Advisory Board  
Paul Nicholls, PATROL Advisory Board, Brighton & Hove City Council

Matt Jones	Lincolnshire County Council
Richard Waters	Carmarthenshire County Council
Caroline Sheppard OBE	Chief Adjudicator, Traffic Penalty Tribunal
Louise Hutchinson	PATROL
Erica Maslen	PATROL
Iain Worrall	Traffic Penalty Tribunal
Sarah Baxter	Cheshire East Council
Andy Diamond	PATROL

## **1 APOLOGIES FOR ABSENCE**

Apologies for absence were received from:-

Brighton & Hove Council, Carmarthenshire County Council, Coventry City Council, Hambleton District Council, Havant Borough Council, Nottingham City Council, Sunderland City Council, Surry County Council, Swansea (City & County) Council, Tameside Metropolitan Borough Council and York City Council.

In addition apologies were received from Stephen Knapp, Deputy Chief Adjudicator – Traffic Penalty Tribunal and Emma Slater, Leeds City Council.

## **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

## **3 MINUTES OF THE PREVIOUS MEETING**

**Agendas and papers** – Following a survey of Members, papers were now being issued electronically with hard copies only being posted on request. Steps were being taken to explore the use of Modern Gov for future agendas.

**The Electric Vehicle Workshop** referred to in the minutes was now taking place virtually on 10 November and Councillors were all welcome to attend. Joining details would be circulated following the meeting.

### **RESOLVED**

That the minutes of the previous meeting held on 28 January 2020 be approved as a correct record.

## **4 MINUTES OF THE RESOURCES SUB COMMITTEE HELD ON 28 JULY 2020**

### **RESOLVED**

That the minutes of the virtual meeting of the Resources Sub Committee held on 28 July 2020 be approved as a correct record.

## 5 CHAIR'S UPDATE

The Chairman stated that the world was a different place than when PATROL last met at the end of January. The national lockdown had seen a significant reduction of civil enforcement with Civil Enforcement Officers being redeployed in many areas to support welfare services responding to the needs of the pandemic. Recovery had varied across England and Wales and it looked likely that there would be a degree of uncertainty for some time to come.

What had been clear was that parking and traffic management remained vital to support local areas in terms of private cars, delivery vehicles, public transport, pedestrians, bicycles or new forms of personal transport. The meeting would be considering some of the developments and government consultations in the Public Affairs report today.

It was fortunate that the Traffic Penalty Tribunal had been an exemplar for online appeals. The tribunal's adjudicators had always worked from home and the tribunal's staff team moved seamlessly to do this in March. The Chair stated that the Chief Adjudicator and Director of PATROL would be reporting on what the pandemic had meant for the tribunal.

The Resources Working Group and Sub Committee had been receiving regular reports on the Joint Committees' finances and PATROL had been fortunate in being able to use surpluses from previous years to meet this year's ongoing costs in the face of reduced income.

Whilst it was regrettable that the July Annual Meeting and PARC Awards reception in July had to be cancelled, PATROL liaised with auditors to be able to approve the draft accounts for 2019/20 so that the final accounts could be presented here today.

The Joint Committee was indebted to the members of the independent review team chaired by Paul Nicholls of Brighton & Hove City Council who ensured that the PARC (Parking Annual Reports by Councils) Awards could proceed this year. PATROL'S thanks also went to Huw Merriman MP for Bexhill and Battle and Chair of the Transport Committee for sending a video message of support to winning and shortlisted authorities. The Chairman also congratulated the overall winners Lincolnshire County Council and all the shortlisted councils and the Director would be reporting on the awards during the meeting. All being well, next year's PARC Awards were scheduled to take place at the Houses of Parliament on 13<sup>th</sup> July.

Since the last meeting a number of authorities had commenced civil parking enforcement: Gosport Borough Council in Hampshire, the districts in the county of Suffolk, Telford and Wrekin Council and Kettering Borough Council whilst Rother District Council in Huw Merriman's constituency had introduced on-street enforcement.

Looking to the future, last Thursday saw the announcement that Bath and North East Somerset would be the first Clean Air Zone in the country commencing on

15<sup>th</sup> March 2021, followed in June by Birmingham City Council. The Chief Adjudicator would explain how the tribunal was preparing for these new appeals streams both in terms of adjudicators and the online appeal system.

Finally, following the Director of PATROL's decision to retire approaching fifteen years after joining what was the National Parking Adjudication Service Joint Committee, the recruitment process was underway to appoint the new PATROL Director. The Joint Committee was grateful to Graham Addicott OBE who was Vice Chair of the Five Year Review Group and independent member of the Advisory Board for contributing his experience and expertise to this recruitment exercise. It was hoped that the new appointee would be present at the next meeting in January and Louise Hutchinson would be staying on for a time to support them into the role.

## **RESOLVED**

That the update be noted.

## **6 WALES UPDATE**

Consideration was given to a written update from Wales in addition, the Director reported verbally in respect of the general situation in Wales. Richard Waters reported that Carmarthenshire County Council had reintroduced CPE patrols and the introduction of car parking charges was due to take place in September.

In terms of the Pavement Parking Taskforce Group they had made 10 recommendations which were accepted in full by the Deputy Welsh Minister. A new civil contravention of unnecessary obstructions is under consideration. Further to this a review the TRO process was to be undertaken and guidance was also to be updated. Councils would be working closely with the Department for Transport (DfT) to amend the Highway Code to make sure it reflected appropriately what was required of the public in terms of pavement parking. This was very much a communications exercise to change public behaviours so the Welsh Government was intending to introduce an effective communication strategy and they had asked PATROL to undertake an evaluation exercise of after 12 months of this being in operation (anticipated to be Summer 2023) and to report back to the Welsh Government.

It was reported that Newport City Council were the first Council in Wales to have electronic refuse vehicles in operation from March 2020. In addition camera cars had been in use for last month and both had been very successful.

Discussions had been held with the DfT, the Director of PATROL and the Chief Adjudicator in order to observe how Wales dealt with moving traffic. Discussions were ongoing with the Welsh and English Civil Servants.

There was a request for a specific list of moving traffic offences. It was confirmed Carmarthenshire County Council had powers to enforce weight restrictions. There had to be two types an absolute limit or an environmental restriction. The majority would be environmental and the practicality of enforcing them would be

the challenge.

It was queried if encroachment on pedestrian zones was included as a provision under the TMA and was it being given the same attention as things like no right turns. It was confirmed that pedestrian zones were included.

## **RESOLVED**

That the update be noted.

## **7 CHIEF ADJUDICATOR UPDATE**

The Chief Adjudicator reported that since the Executive Sub Committee had last met, the Coronavirus pandemic had well and truly set in. The tribunal was the only tribunal/court in a position to keep going because of its online provision, however what could not be anticipated was that council officers who had to work from home who were unable to access all of the necessary systems to upload the evidence. Messages from appellants began to arrive explaining their changes in circumstances and how the pandemic was impacting on their lives. The Councils were not in a position to respond so reluctantly the decision was taken to join other tribunals and courts and partially stop the clock. Deadlines were extended for the submission of evidence. The system continued to run and appellants could continue to submit appeals and contact officers. Those officers that could access their systems did, therefore it was not a complete stopping of the clock. Adjudicators commenced work on projects which in time would be presented to the Executive Sub Committee.

A circular was distributed to all Councils asking them to what extent restrictions had been waived and policies adjusted in the light of the pandemic. The response was very clear that most Councils were being sensitive to the reasons put forward by appellants, for example financial hardship.

One problem had arisen in so far as to the fact waiting restrictions hadn't been enforced and it was difficult for Councils to communicate to the public when decisions to reinstate the restrictions had taken place. As a result appeals had increased as the public had a legitimate expectation no offence had been committed due to the fact they were not aware restrictions had been put back in place.

Bus lane enforcement continued in nearly all Councils and there had not been too many issues. In the light of the response to the local authority survey the tribunal recommenced the appeals process. The administration team put messages on every case to say adjudicators were making decisions again and parties were invited to upload any evidence they wanted or outline circumstances which may have changed since appeals had been submitted.

In starting the appeals the decision was made to assign two adjudicators per Council to those Councils with a high number of outstanding appeals. This course of action was undertaken in order to avoid Councils repeating the same information over and over to different adjudicators. This process had worked very

well.

Since the pandemic the number of appeals had dropped considerably however the tribunal was now up to about 60% compared to the previous year.

There had been cases in respect of the new restrictions- emergency provisions for cycle lanes and pedestrian arrangements introduced in response to the pandemic.

The Chief Adjudicator was sad to report the death of Adjudicator Joanne Richards who had passed away on the 2<sup>nd</sup> October 2020. Joanne had been an adjudicator since 2000 and will be very much missed. The Chief Adjudicator passed on her thanks to Joanne's family for her service over the years.

Clean Air Zones and the anticipated introduction of the remaining powers of Part 6 of the Traffic Management Act 2004 meant the appointment of new Adjudicators was under consideration. Clean air zones were anticipated in 2021 and the tribunal was liaising with local authorities and DEFRA in this respect

In May it was reported that the renewal of adjudicators' appointments had taken place for a five year period or until an adjudicators 70<sup>th</sup> birthday, whichever was soonest.

The Director of PATROL reported that the Memorandum of Understanding between the Adjudicators and the Joint Committee stated that two of the adjudicators be designated to be Chief Adjudicator and Deputy Chief Adjudicator. She recommended the Executive Sub Committee appoint Caroline Sheppard, OBE as Chief Adjudicator and Stephen Knapp as Deputy Chief Adjudicator.

## **RESOLVED**

- 1 That the update from the Chief Adjudicator including the reappointment of the existing adjudicators for a period of five years to May 2025 be noted;
- 2 That Caroline Sheppard OBE and Stephen Knapp be designated as Chief and Deputy Chief Adjudicator during this period in accordance with the Memorandum of Understanding between the Adjudicators and the Joint Committee.

## **8 AUDIT COMMISSION SMALL BODIES ANNUAL RETURN FOR THE YEAR ENDED 31 MARCH 2020**

Consideration was given to a report on the findings of the external and internal auditors for 2019/20.

**RESOLVED**

- 1 That the findings of the external audit for 2019/20 in the enclosed annual return (Appendix 1 and 2) be noted.
- 2 That the findings of the internal audit for 2019/20 as reported to the PATROL and Bus Lane Adjudication Service Joint Committees' Resources Sub Committee at their virtual meeting on 28<sup>th</sup> July 2020 (Appendix 3) of the report be noted.

**9 BUDGET MONITORING, REVIEWING RESERVES AND THE BASIS FOR DEFRAYING EXPENSES 2020/21**

Consideration was given to a report to establish the basis for defraying expenses during 2020/21, in order to comply with Financial Regulations.

Questions were asked in respect of whether or not any monies released from the property reserve could be transferred back into the general reserve and that despite some of the reserves being used the deficit wouldn't be quite as significant as first thought.

In response the Director of PATROL confirmed that the suggestion to transfer finances from the property reserve to the general reserve could be put to the Resources Sub Committee at their meeting in January. The Director confirmed that some of the property reserve may be required to cover the move to smaller premises but the possibility of reinstating monies from one reserve to the other could be investigated.

Councillor King requested that it be placed on record his thanks and appreciation to the Director of PATROL and Central Services Manager, Erica Maslen, for keeping the Resources Working Group informed during the pandemic. It was very much appreciated and welcomed.

**RESOLVED**

- 1 That the income and expenditure position at 31<sup>st</sup> July 2020 be noted.
- 2 That the information on the current and forecast reserves position be noted. 3 That for 2020/21, the Joint Committee maintained the rate of 30 pence per PCN for member authorities. This would be reviewed at the meeting in January 2021.

**10 ITEMS COMMON TO PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES**

**(a) PATROL AND BLASJC Resources Working Group and Sub Committee**

Consideration was given to a report on the PATROL and BLASJC Resources Working Group meetings held since the Executive Sub Committee Meeting was

held in January 2020.

**RESOLVED**

- 1 That the matters discussed at the meetings since the Executive Sub Committee in January 2020 be noted.
- 2 That approval be given to the Resources Working Group and Sub Committee to oversee matters highlighted in the report and to report back to the next meeting of the Joint Committee' Executive Sub Committee in January 2021.

**(b) Public Affairs Update**

Consideration was given to a detailed overview of the public activity in 2020 and the work planned for the coming year.

The Director of PATROL gave an in-depth update on pavement parking including information on the Department for Transport's consultation on Managing Pavement Parking. Any response submitted by PATROL would be circulated to Members of the Executive Sub Committee.

The Chief Adjudicator explained it had always been an offence to park on a footway the problem was the Police had ceased to enforce it. It was clearly right that Council's should give out a strong message to the UK to say pavements were for pedestrians not for vehicles.

The Chief Adjudicator gave a detailed update on the Parking (Code of Practice) Act 2019 and the tribunal's response.

In respect of the Parc Review Group the Director of PATROL thanked Paul Nicholls of Brighton & Hove City Council for chairing the Review Group in challenging circumstances and for his insights this year.

Matt Jones from Lincolnshire County Council was due to say a few words on behalf of Lincolnshire County Council who were overall winners of the PARC awards. Unfortunately he was unable to attend due to unforeseen circumstances so in his absence the Director read out the following statement on his behalf:-

'First and foremost I would just like to say to everybody I hope you are all keeping safe and well in these challenging times that we are all currently faced with.

It was a real honour and privilege for Lincolnshire County Council just to be short listed for the PARC awards, let alone be recognised as the Overall winner, so I would like to say a genuine and huge thank you to all members of the review panel and anybody who saw sight of our report and has shared positive and complimentary feedback to us.

I have always shown an interest in the PARC awards and how various LA's

structure their reports, what content is included and how it is presented and I am blessed that although I have a very small Parking Services team, that being myself and two members of staff, the hard work we have all put in to create a report that we hope a lot of people found the report informative and interesting to read. One thing which we have never shied away from is being open and transparent with what work we undertake and we try to highlight that by producing and displaying various interactive mapping datasets which are accessible to the public and have then obviously been spoken about within our annual report.

We are all in rather challenging and difficult times at present, getting used to new ways of working and an altered home life, so to be notified that we were chosen as the overall winner for the 18/19 PARC awards truly was a breath of fresh air and certainly made my team very proud and happy, so again I would like to say a big thank you to all'.

Paul Nicholls was in attendance and thanked everyone for their support as Chair of the Review Group. He reported that the standard of reports was incredibly high and it had been inspirational to read about so many innovative approaches in tackling important local issues.

The Director of PATROL confirmed Matt Jones would chair the next Review Group.

**RESOLVED**

That the report be noted and that the Resources Working Group and Sub-Committee monitor the activity and report to meetings of the Executive Sub-Committee.

**(c) Appointments to the Advisory Board**

Consideration was given to a report setting out the terms of reference for the Advisory Board and recommendations for appointments for 2020/21.

**RESOLVED**

- 1 That the terms of reference and composition of the Advisory Board set out in Appendix One to the report be adopted by the Joint Committees.
- 2 That the appointment of Richard Waters of Carmarthenshire County Council and the re-appointment of Paul Nicholls of Brighton & Hove City Council to the Advisory Board for a period of four years until the Joint Committees' annual meetings in July 2024 be approved.

**(d) Risk Register**

Consideration was given to a report on the risk register.

**RESOLVED**

That the current assessment of risk as set out in Appendix One to the report be noted.

**(e) General Progress Report**

Consideration was given to the general progress report.

**RESOLVED**

That the report be noted.

**11 DATES OF NEXT MEETINGS**

The Chairman reported that the first online introductory workshop for new Councillors was held last week and a further session was planned to take place on 24 November. Anyone interested in attending should contact the Director.

It was reported that the PATROL Executive Sub Committee Meeting would take place on Tuesday 26 January 2021 and the Annual Meeting of the PATROL Joint Committee would take place on Tuesday 13 July 2021.

The meeting commenced at 10.00 am and concluded at 12.35 pm

Councillor Stuart Hughes

## **PATROL ADJUDICATION JOINT COMMITTEE Executive Sub Committee**

**Dates:** 26<sup>th</sup> January 2021

**Report:** Wales Update

### **1. Civil Parking Enforcement (CPE)**

All local authorities in Wales are now in the civil scheme.

### **2. Moving Traffic Enforcement**

There are two authorities undertaking civil enforcement of moving traffic powers (Cardiff Council and Carmarthenshire County Council). Swansea Council is undertaking civil bus lane enforcement.

### **3. Pavement Parking**

The Welsh Government established a Task Force Group in July 2019 to explore the potential regulatory and secondary legislative changes that could be made and determine whether civil enforcement can be used to provide a mechanism to enforcement pavement (footway) parking. The Task Force Group included representation from PATROL, Traffic Penalty Tribunal, a number of Welsh local authorities and other interested parties. On 13<sup>th</sup> October 2020, the Deputy Minister for Economy and Transport announced that the Welsh government accepts all the Taskforce Group's recommendations in principle. The Deputy Minister, responding to the Taskforce Group Report, explained that subject to further policy development and consultation, the intention is to commence civil enforcement of unnecessary obstruction of the pavement by July 2022. Further details can be found below. PATROL continues to provide support to this initiative.

<https://gov.wales/welsh-government-response-recommendations-made-pavement-parking-task-force-report.html>

### **4. Clean Air Zones**

Cardiff and Caerphilly councils were asked to submit feasibility study reports to the Welsh Government by the end of June 2019 outlining action that they will take to achieve legal limits for nitrogen dioxide in the shortest possible time frame.

Cardiff Council ruled out a charging CAZ but was instead looking to impose alternatives measures. On 14<sup>th</sup> January 2020 the Welsh Government accepted the council's new proposals to tackle air pollution in the city. The council's revised plan includes a bus retrofitting programme, taxi mitigation measures, city centre public transport improvements and a new active travel package which anticipates

that the non-charging measures deliver wider air quality benefits across all of Cardiff when compared directly to the results of the charging Clean Air Zones.

On 15<sup>th</sup> January 2020 Cardiff Council launched its Transport White Paper setting out a ten-year plan to tackle the climate emergency and improve air quality in the Welsh capital. This includes the option to introduce a £2 congestion charge by 2024 on all vehicles from outside the city.

Caerphilly County Borough Council do not have immediate plans for a Clean Air Zone but have identified Air Quality Management Areas.

In August 2020, the Welsh Government launched its air quality strategy “Clean Air for Wales: Healthy Air, Healthy Wales”. Amongst the measures outlined were:

- significant investment in active travel infrastructure, improving rail services and supporting decarbonisation through our aim for a zero tailpipe exhaust emission taxi and bus fleet by 2028.
- investigating measures to support a reduction in personal vehicle use such as road user charging, Clean Air Zones and/or Low Emission Zones.
- implementing our electric vehicle charging strategy and supporting an increase in the proportion of vehicles which are ultra-low emission (ULEV) and promoting a shift to ULEVs for waste collection.

<https://gov.wales/we-have-take-action-now-minister-launches-welsh-governments-clean-air-plan-wales-improve-air>.

### **5. Regional Transport Planning**

A Welsh Government consultation on proposals to move from local to regional transport plans recently closed. The proposals include the creation of four corporate joint committees (CJCs) of councils with regional transport and strategic planning powers: South East, South West, North and Mid-Wales. The findings of the consultation will be reported in due course.

## **PATROL ADJUDICATION JOINT COMMITTEE Executive Sub Committee**

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<b>Date of Meeting</b>	26 <sup>th</sup> January 2021
<b>Report of:</b>	The Director in consultation with the Resources Working Group
<b>Subject/Title:</b>	Budget monitoring 2020/21

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### **1.0 Report Summary**

1.1 To present income, expenditure and reserves monitoring information.

### **2.0 Recommendation**

2.1 To note the income and expenditure and forecast outturn position at 30 November 2020.

2.2 To note the cash flow and current and forecast reserves position.

### **3.0 Reasons for Recommendations**

3.1 Compliance with Financial Regulations.

### **4.0 Financial Implications**

4.1 Set out in the report.

### **5.0 Legal Implications**

5.1 None

### **6.0 Risk Management**

6.1 Budget monitoring forms part of the Risk Register.

### **7.0 Background and Options Income**

7.1 The PATROL budget and the resulting basis for defraying expenses was approved for the year 2020/21 at the meeting of the Executive Sub Committee held 28th January 2020 (Appendix 1).

7.2 Additional income is derived from recharges to the Bus Lane Adjudication Service Joint Committee, Highways England and Halton Borough Council,

giving together with PATROL, a total of four appeal streams.

- 7.3** The Joint Committee forecasting model takes account of recent income trends (i.e. within the last 12 months). The budget was set prior to the introduction of Covid-19 national lockdown measures in April and the subsequent effect on enforcement activity.
- 7.4** The Covid-19 pandemic and associated lockdown has impacted on enforcement and appeals in varying ways across the four appeal streams, and has resulted in insufficient income to meet ongoing costs for the first eight months of the current financial year (Appendix 1). Overall confirmed income (excluding any estimates made for outstanding returns from authorities) at 30th November 2020 was 50.9% of that for the same period in 2019/20, and 38% of budgeted Income.
- 7.5** The PATROL Joint Committee has two sets of reserves, Approved Reserves and Free Reserves. Approved Reserves cover the following four headings - General Operating Costs, Technology, Premises, and Research and Innovation.
- 7.7** The Joint Committee also has Free Reserves representing the accumulation of surpluses from previous years. In accordance with the Joint Committees' Financial Regulations, PATROL surpluses (Free Reserves) from previous years (which totalled £834,167 on 1<sup>st</sup> April 2020) have been drawn down to meet ongoing costs in consultation with the Chairs of the Joint Committees.
- 7.8** PATROL's Free Reserves combined with anticipated income are expected to meet ongoing costs for the remainder of 2020/21 with an anticipated balance of £239,176 available at 1<sup>st</sup> April 2021. Should the free reserves be fully utilised, the General Reserve of £1,845,819 is available for drawdown to cover costs. The Technology Reserve payment on FOAM development is being focused on development required for new appeal streams. The Property Reserve will remain at its current level until 2021/22 when it will reduce to reflect the new premises in Wilmslow. The Research and Innovation Reserve is not expected to be used in the current financial year.
- 7.9** 2020 has been an unprecedented year and given the remaining local Covid-19 restrictions, it is difficult to predict its outcome and so it is necessary to make some assumptions about income. The majority of income is known for the first 8 months of the year 2020/21 and some small assumptions have been made for outstanding returns for authorities based on previous months, November and December income are assumed to be as June 2020 (hoped to be a prudent approach) and Q4 income is assumed to be the same as the forecast Q3 income (also hoped to be a prudent approach).
- 7.10** The PATROL Joint Committee with the benefit of previous years' surpluses (Free Reserves) is in the positive position of being largely on track to protect

its Approved General Operating Reserve of £1.5 million which was put in place to mitigate against unforeseen events as in the current pandemic.

## **8.0 Expenditure**

- 8.1** Expenditure at 30<sup>th</sup> November 2020 was lower than budgeted by £478,849 (21.2%).
- 8.2** Adjudicator costs were lower than budget by £284,571 (34.6%).
- 8.3** Staffing costs were lower than budget by £41,681 (5.5%).
- 8.4** Premises costs also favourable to budget by £20,602 (15.0%). The majority of this relates to refurbishment and maintenance costs which have not been incurred.
- 8.5** Transport costs are favourable to budget by £51,383 (83.7%) due to the absence of face to face meetings during the pandemic.
- 8.6** Supplies and Services were favourable by £88,294 (30.4%)
- 8.7** Additional expenditure was incurred in respect of IT infrastructure and servers which resulted in expenditure being adverse to budget by £8,230 (5.3%)
- 8.8** Service Management and Support relates to the fee paid to the Host Authority, Cheshire East Council, under the agreed Service Level Agreement.
- 8.9** Audit fees relate to external audit fees for services reported separately on the agenda. Internal Audit Fees are part of the CEC Service Management and Support charge as at 8.8
- 8.10** As at December 2020, appeals have returned to 68% of the levels seen at the same point in 2019. Adjudicators are anticipating the introduction of Charging Clean Air Zone appeals in 2021 and at some point, the potential for moving traffic appeals in England (outside London). Given the appeal levels, plans to introduce new staff for Clean Air Zones have been put on hold as it is anticipated that these can be absorbed with the current establishment. The Chief Adjudicator will be reviewing adjudicator requirements in anticipation of the new appeal streams.
- 8.11** Steps have been taken to reduce expenditure including a review of service contracts, reduced running costs due to office closure, reduced travel and meeting hire costs.
- 8.12** Following the successful move to remote working and a recent staff consultation, notice has been served on the current office space in Wilmslow and alternative premises have been secured to provide for a smaller office hub facility and increased remote working. Budget setting for 2021/22 will reflect the savings associated with this operational change.

## **9.0 Income**

**9.1** Overall income was £1,214,123 (50.6%) lower than budget comprising:

- a) PATROL Income, comprising Parking (England and Wales), Bus Lanes and Moving Traffic (Wales), Road User Charging (Durham) and Littering from Vehicles (England) was below that budgeted by £724,433 (62.3%)
- b) The recharge for bus lane adjudication service costs is adverse to budget by £205,175 (46.3%). This is due to revised cost allocation in light of the pandemic as reported at 10.1. Income from the Dartford-Thurrock River Crossing and the Mersey Gateways Crossing were both lower than budgeted (30.6% and 31.3% respectively).
- c) Bank interest was 24.3% lower than forecast due to reduced cash balances and interest rates

## **10.0 Apportioning Costs and Reserves**

**10.1** The basis for sharing costs between the four appeals streams (PATROL, BLASJC and non-members (Highways England and Halton Borough Council) is determined by the number of PCNs as a proportion of the whole (in respect of fixed costs) and the number of cases as a proportion of the whole in respect of variable costs. In light of the unprecedented variations in enforcement during this year, the 2019/20 basis for allocating fixed costs will be adopted with any required adjustments being made at the end of the financial year. Costs will not be recharged for April and May to reflect the tribunal putting appeals on hold in the early stages of the pandemic. Variable costs will be apportioned based on 2020/21 actuals.

**10.2** The PATROL and Bus Lane Adjudication Service Joint Committees established their own charges based on anticipated demands and individual Joint Committee surpluses. The Bus Lane Adjudication Service Joint Committee also contributes towards the PATROL General Operating Reserve. Charges are agreed separately with Highways England and Halton Borough Council taking into account their individual balances where surplus or deficit is ring-fenced.

**10.3** The income and expenditure position at 30<sup>th</sup> November is set out in Appendix 1 in an overall deficit of £598,077 for the first eight months of 2020/21 compared to a forecast surplus of £137,198 giving an adverse variance to budget of £735,275.

The deficit of £598,077 breaks down as follow:

PATROL		- £733,136
Halton	Borough	+£16,990
Council		
Highways England		+£118,070

The PATROL deficit will be met from PATROL Free Reserves.

- 10.4** Appendix 1 also indicates the forecast outturn position to 31<sup>st</sup> March 2021. This indicates a forecast overall deficit of £755,772 which breaks down as follows:

PATROL		-£826,592
Halton Borough Council		-£1,457
Highways England		+£72,276

- 10.5** The cash flow position and reserves position at 30<sup>th</sup> November 20 is set out in Appendix 2

Appendix 2 extrapolates the known cash flow and reserves position from 30<sup>th</sup> November 2020 to the end of the financial year. (A) sets this out in total. (B) shows the position excluding Highways England and Halton Borough Council. The overall position at 31<sup>st</sup> March 2021 taking into account the summary of deposits, approved reserves and in-year drawdown from approved reserves forecasts a residual free reserve balance for PATROL of £239,176.

- 11.0** Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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## Appendix 1 PATROL Income and Expenditure at 30<sup>th</sup> November 2020

	Year to Date				Full Year				
	30/11/2020	30/11/2020	30/11/2020	30/11/2020	30/11/2020	30/11/2020	30/11/2020	30/11/2020	30/11/2020
	Year to Date	Budget	Var to Budget	Var to Budget	Forecast Outturn	Full Year Budget	Var to Budget	Prior Year Result	Var to Prior Yr
<b>Income:</b>									
PATROL *	437,573	1,162,006	-724,433	-62.3%	887,069	1,743,009	-855,940	1,729,895	-842,826
Recharge for Bus Lane Adjudication Costs	237,777	442,952	-205,175	-46.3%	437,881	664,428	-226,547	579,821	-141,940
<b>Road User Charging:</b>									
RUCA (Dartcharge) - Highways England	403,042	580,648	-177,606	-30.6%	567,520	870,972	-303,452	816,375	-248,855
RUCA (Mersey Gateway) - Halton Borough Council	92,475	134,534	-42,058	-31.3%	127,549	201,800	-74,251	189,001	-61,452
Clean Air Zones	0	61,008	-61,008	-100.0%	0	61,008	-61,008	56	-56
LFV	0	0	0	0.0%	0	0	0	0	0
Bank Interest	12,117	16,000	-3,883	-24.3%	14,899	24,000	-9,101	25,766	-10,867
Sale of Assets	40	0	40	0.0%	40	0	40	402	-362
Other Income	0	0	0	0.0%	20,323	0	20,323	0	20,323
<b>Total Income</b>	<b>1,183,024</b>	<b>2,397,147</b>	<b>-1,214,123</b>	<b>-50.6%</b>	<b>2,055,281</b>	<b>3,565,217</b>	<b>-1,509,937</b>	<b>3,341,316</b>	<b>-1,286,036</b>
<b>Expenditure:</b>									
Adjudicators	537,138	821,709	284,571	34.6%	732,785	1,254,564	521,779	1,038,590	305,805
Staff	713,997	755,679	41,681	5.5%	1,216,733	1,301,715	84,982	1,064,988	-151,745
Premises / Accommodation	116,498	137,100	20,602	15.0%	157,519	205,650	48,131	192,726	35,207
Transport	9,983	61,367	51,383	83.7%	9,983	92,800	82,817	83,771	73,788
Supplies and Services	202,331	290,625	88,294	30.4%	324,520	504,771	180,251	331,618	7,098
IT	164,020	155,790	-8,230	-5.3%	320,002	233,685	-86,317	246,820	-73,182
Services Management and Support	34,400	34,400	0	0.0%	45,867	51,600	5,733	51,600	5,733
Audit Fees	2,733	3,280	547	16.7%	3,644	4,920	1,276	4,400	756
Contingency	0	0	0	0.0%	0	54,000	54,000	0	0
<b>Total Expenditure</b>	<b>1,781,101</b>	<b>2,259,949</b>	<b>478,849</b>	<b>21.2%</b>	<b>2,811,053</b>	<b>3,703,705</b>	<b>892,652</b>	<b>3,014,515</b>	<b>203,462</b>
<b>Surplus / (Deficit)</b>	<b>-598,077</b>	<b>137,198</b>	<b>-735,275</b>		<b>-755,773</b>	<b>-138,488</b>	<b>-617,285</b>	<b>326,802</b>	<b>-1,082,574</b>
	0	-0			0		0		0
<b>Breakdown of Surplus</b>	<b>-598,077</b>	137,198	-735,275	-535.9%	<b>-755,773</b>	<b>-138,488</b>	<b>-617,285</b>	326,802	<b>-1,082,574</b>
PATROL *	-733,136	60,286	-793,422	-1316.1%	-826,592	-161,030	-665,561	169,537	-835,098
Halton Borough Council	16,990	3,659	13,330	364.3%	-1,457	-14,131	12,674	-47,175	59,849
Highways England	118,070	73,253	44,817	61.2%	72,276	36,674	35,602	204,440	-168,838

\* PATROL = Parking England and Wales, and Bus Lanes and Moving Traffic Wales, RUC Durham and Littering from Vehicles (England)

	Forecast Outturn	Full Year Budget	Var to Budget
Reserves b/f from 19/20	3,089,798	3,089,798	0
Surplus / (Deficit) for year 20/21	-826,592	-161,030	-665,561
Forecast closing balance	2,263,207	2,928,768	-665,561
Approved Reserves less approved Drawdown	2,024,031	2,024,031	0
<b>Forecast FREE Reserves</b>	<b>239,176</b>	<b>904,737</b>	<b>-665,561</b>

Appendix 2 PATROL Cash flow and Reserves at 30<sup>th</sup> November 2020

(A)

Cash Flow and Reserves - PATROL (inc Highways England and Mersey Gateway)

	<b>Nov-20</b> <i>to date</i>	<b>Dec-20</b> <i>forecast</i>	<b>Jan-21</b> <i>forecast</i>	<b>Feb-21</b> <i>forecast</i>	<b>Mar-21</b> <i>forecast</i>	<b>YEAR 20/21</b> <i>forecast</i>
RESERVES Brought Forward April 20	<b>3,089,798</b>	<b>2,491,721</b>	<b>2,420,611</b>	<b>2,386,368</b>	<b>2,338,686</b>	<b>3,089,798</b>
operating income	417,291	50,000	100,000	100,000	219,818	887,109
MGCB	92,475	8,769	8,769	8,769	8,769	127,549
HE	403,042	41,120	41,120	41,120	41,120	567,520
income from BLASJC contribution to costs (say)	237,777	50,026	50,026	50,026	50,026	437,881
			0	0	0	0
Other Non PCN Income	20,322					20,322
interest	12,117	750	713	677	643	14,899
<b>total income</b>	<b>1,183,024</b>	<b>150,664</b>	<b>200,627</b>	<b>200,591</b>	<b>320,375</b>	<b>2,055,281</b>
Adjudicators	537,138	45,452	46,732	56,732	46,732	732,785
Staff	713,997	120,624	120,704	130,704	130,704	1,216,733
Premises	116,498	13,918	12,911	8,715	5,478	157,519
Transport	9,983	0	0	0	0	9,983
Supplies and Services	202,331	19,212	30,926	28,526	43,526	324,520
IT	164,020	19,474	20,503	20,503	95,503	320,002
Service Management & Support	34,400	2,867	2,867	2,867	2,867	45,867
Audit	2,733	228	228	228	228	3,644
Contingency	0	0	0	0	0	0
<b>total expenditure</b>	<b>1,781,100</b>	<b>221,774</b>	<b>234,869</b>	<b>248,273</b>	<b>325,036</b>	<b>2,811,052</b>
		0	0	0	0	-1
<b>closing balance</b>	<b>2,491,722</b>	<b>2,420,611</b>	<b>2,386,368</b>	<b>2,338,686</b>	<b>2,334,025</b>	<b>2,334,026</b>
		0	0	0	0	1
less:						
HE reserves	168,070	144,951	121,526	95,701	72,276	72,276
MGCB Reserves	31,053	23,130	15,131	6,542	-1,457	-1,457
<b>PATROL Reserves</b>	<b>2,292,600</b>	<b>2,252,530</b>	<b>2,249,712</b>	<b>2,236,443</b>	<b>2,263,207</b>	<b>2,263,208</b>
	0	0	0	0	0	

(B)

Approved Reserves - PATROL exc HE & MGCB

	<b>Nov-20</b> <i>to date</i>	<b>Dec-20</b> <i>forecast</i>	<b>Jan-21</b> <i>forecast</i>	<b>Feb-21</b> <i>forecast</i>	<b>Mar-21</b> <i>forecast</i>
General Operating	1,845,819	1,845,819	1,845,819	1,845,819	1,845,819
Technology	369,164	369,164	369,164	369,164	369,164
Property	322,862	322,862	322,862	322,862	322,862
Innovation and Research	50,000	50,000	50,000	50,000	50,000
	<b>2,587,845</b>	<b>2,587,845</b>	<b>2,587,845</b>	<b>2,587,845</b>	<b>2,587,845</b>
Reserve allocated to BLASJC	332,214	332,214	332,214	332,214	332,214
<b>PATROL Approved Reserve</b>	<b>2,255,631</b>	<b>2,255,631</b>	<b>2,255,631</b>	<b>2,255,631</b>	<b>2,255,631</b>
less IT Reserve Drawdown	154,400	173,700	193,000	212,300	231,600
<b>BALANCE on Approved Reserves</b>	<b>2,101,231</b>	<b>2,081,931</b>	<b>2,062,631</b>	<b>2,043,331</b>	<b>2,024,031</b>
<b>FREE RESERVES - PATROL (exc HE and MGCB)</b>	<b>191,369</b>	<b>170,599</b>	<b>187,081</b>	<b>193,112</b>	<b>239,176</b>
movement		-20,770	16,481	6,032	46,063
check		0	0	0	0

## PATROL Reserves Forecast (exc MGCB and HE):

	Nov-20 to date	Dec-20 forecast	Jan-21 forecast	Feb-21 forecast	Mar-21 forecast
<b>Forecast Reserves Balance</b>	<b>2,292,600</b>	<b>2,252,530</b>	<b>2,249,712</b>	<b>2,236,443</b>	<b>2,263,207</b>
<b>Approved Reserves</b>					
General Operating less amount allocated to BL	1,513,605	1,513,605	1,513,605	1,513,605	1,513,605
Technology	369,164	369,164	369,164	369,164	369,164
Property	322,862	322,862	322,862	322,862	322,862
Innovation and Research	50,000	50,000	50,000	50,000	50,000
<b>PATROL Approved Reserve</b>	<b>2,255,631</b>	<b>2,255,631</b>	<b>2,255,631</b>	<b>2,255,631</b>	<b>2,255,631</b>
drawdown - General Reserve	0	0	0	0	0
drawdown - IT Reserve	154,400	173,700	193,000	212,300	231,600
<b>Total Drawdowns</b>	<b>154,400</b>	<b>173,700</b>	<b>193,000</b>	<b>212,300</b>	<b>231,600</b>
<b>Reserves Balance NET of drawdowns</b>	<b>2,101,231</b>	<b>2,081,931</b>	<b>2,062,631</b>	<b>2,043,331</b>	<b>2,024,031</b>
<b>FREE Reserves</b>	<b>191,369</b>	<b>170,599</b>	<b>187,081</b>	<b>193,112</b>	<b>239,176</b>
	0	0	0	0	0
<b>NET Balances:</b>					
Balance on General Operating Reserve	1,513,605	1,513,605	1,513,605	1,513,605	1,513,605
Balance on Technology Reserve	214,764	195,464	176,164	156,864	137,564
Balance on Property Reserve	322,862	322,862	322,862	322,862	322,862
Balance on Innovation & Research Reserve	50,000	50,000	50,000	50,000	50,000
FREE Reserves	191,369	170,599	187,081	193,112	239,176
<b>Total Reserves</b>	<b>2,292,600</b>	<b>2,252,530</b>	<b>2,249,712</b>	<b>2,236,443</b>	<b>2,263,207</b>
	0	0	0	0	0

## At March 2021 - PATROL exc HE &amp; MGCB

	Approved 1920-21	Balance 1920-21	variance	
General Reserve (exc BLASJC)	1,513,605	1,513,605	0	0.0%
Technology Reserve	369,164	137,564	-231,600	-62.7%
Property Reserve	322,862	322,862	0	unless utilised
Innovation & Research Reserve	50,000	50,000	0	unless utilised
	<b>2,255,631</b>	<b>2,024,031</b>	<b>-231,600</b>	

## All Streams

	<b>PATROL (exc HE &amp; MG)</b>	<b>HE</b>	<b>MG</b>	<b>BLASJC</b>
Forecast balance at March 21 - per Dec Cash Flow	<b>2,263,207</b>	<b>72,276</b>	<b>-1,457</b>	<b>451,921</b>
<b>Approved Reserves</b>				
General Operating less amount allocated to BL Technology	1,513,605			332,214
Property	369,164			
Innovation and Research	322,862			
	50,000			
<b>PATROL Approved Reserve</b>	<b>2,255,631</b>	<b>0</b>	<b>0</b>	<b>332,214</b>
drawdown - General Reserve	0			
drawdown - IT Reserve	231,600			
<b>Total Drawdowns</b>	<b>231,600</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Reserves Balance NET of drawdowns</b>	<b>2,024,031</b>	<b>0</b>	<b>0</b>	<b>332,214</b>
<b>FREE Reserves</b>	<b>239,176</b>	<b>72,276</b>	<b>-1,457</b>	<b>119,707</b>
	0	0	0	0

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**PATROL ADJUDICATION JOINT COMMITTEE**  
**Executive Sub Committee**

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**Date of Meeting:** 26<sup>th</sup> January 2021  
**Report of:** The Director in consultation with the PATROL and BLASJC  
**Subject/Title:** Resources Working Group  
Budget 2021/22

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**1.0 Report Summary**

1.1 To request the Committee to adopt the revenue budget estimates for 2021/22.

**2.0 Recommendation**

2.1 To agree to adopt the revenue budget for 2021/22 as detailed in the report.

**3.0 Reasons for Recommendations**

3.1 Joint Committee Financial Regulations

**4.0 Financial Implications**

4.1 Set out in the report

**5.0 Legal Implications**

5.1 Requirement to approve budget before 31 January 2021

**6.0 Risk Management**

6.1 Budget setting contributes to the Risk Management Strategy.

**7.0 Background and Options**

7.1 In accordance with the Joint Committee's agreement, it is necessary to establish a budget estimate for the forthcoming year. An assessment has been made of the likely service take up during 2021/22 and therefore the Adjudicators, administrative support and accommodation needed. The adjudication service is operated on a self-financing basis with income obtained from contributions by PATROL member authorities and the provision of adjudication to third parties.

## 7.2 Income assumptions

Table 1 provides an income summary since 2010/11:

Year	Budgeted Income £	Achieved Income £ *	Variance £
2010/11	2,560,993	2,757,666	196,673
2011/12	2,782,500	3,158,649	376,149
2012/13	2,576,410	2,933,181	356,771
2013/14	3,091,564	3,260,847	169,283
2014/15	3,300,457	3,085,885	-214,572
2015/16	3,664,745	3,951,284	286,539
2016/17	3,670,344	3,537,576	-132,768
2017/18	3,529,490	3,307,838	-221,652
2018/19	3,396,230	3,467,612	71,382
2019/20	3,464,297	3,341,316	-122,981
2020/21	3,565,217	2,055,281	-1,509,937

\* forecast for 2020/21 to be reviewed

- 7.3** The Joint Committee has determined that member authorities will defray the expenses of the Joint Committee by way of a contribution based on the number of penalty charge notices they issue.
- 7.4** For 2021/22, the budget model focuses on trends from the past 24 month's income and new appeal streams that are confirmed as being due to come into force during 2021/22. The proposed income figure is the mid-point between the outturn figure for 2019/20 and the current forecast figure for 2020/21.
- 7.5** Additional income to the PATROL budget arises from a recharge to the Bus Lane Adjudication Service Joint Committee for the purposes of integrated adjudication services.
- 7.6** During 2021/22, additional income also derives from the Secretary of State for Transport in respect of adjudication of appeals arising from the enforcement of road user charging (RUCA) at the Dartford-Thurrock River Crossing. Further additional income derives from charges to Halton Borough Council in respect of adjudication of appeals arising from the enforcement of road user charging at the Mersey Gateway Bridge. These charging authorities are not members of the PATROL Joint Committee. Any surplus/deficit arising from appeals activity in this respect is ring-fenced to those charging authorities. Charges are also agreed separately with these authorities.
- 7.7** During 2018/19, new powers were introduced to enable Local Authorities in England to undertake civil enforcement of littering from vehicles. Whilst there has been considerable interest from local authorities, levels of enforcement have been low and at the time of writing this report, to date only nine appeals

have been received by the tribunal. The forecast for 2021/22 remains low for this area of enforcement.

- 7.8** It is anticipated that 2021 will see the introduction of road user charging appeals associated with Charging Clean Air Zones. A provisional estimate of additional income of £61,921 has been included in respect of schemes with confirmed start dates.
- 7.9** It is understood that the Government is considering the introduction of the remaining powers of Part 6 of the Traffic Management Act in 2021. It is anticipated that the process for introducing these powers and local authorities preparing for and applying for such powers will mean that any appeals are unlikely until the late 2021/early 2022. A further report will be presented in this respect at the annual meeting in July 2021. A forecast for bank interest has been included in the income projection based on the Annual Investment Strategy and performance in 2020/21 reported elsewhere.
- 7.10** The Joint Committee approves a Reserves Policy Statement annually, reported separately.

## **8.0 Expenditure**

- 8.1** An assessment has been made of the revenue budget that will be needed to meet the demands on the service during 2021/22
- 8.2** The budget assumes that enforcement activity will be half way between 2019/20 levels and those forecast to be achieved in 2020/21 which was impacted by the pandemic.
- 8.3** At its meeting on 2 April 2019, the Resources Working Group and Sub Committee, in considering the Joint Committee's updated Reserves Policy, agreed that as it had been some time since the organisation had reviewed its staff and adjudicator requirements and that it would be timely to do so, in order to ensure that there was sufficient resource to meet its commitments and objectives for the five-year period 2020 to 2025. The annual meetings of the Joint Committees in July 2019 requested that the Resources Working Group undertake this piece of work in the light of the increasing complexity of the civil traffic enforcement landscape and a 5-Year Review Group has been established. This Review Group has been consulted in respect of the anticipated exceptional costs arising from the 5 Year Investment Plan for 2021/22 included in this proposal.
- 8.4** In preparing this budget for 2021/22, account has been taken of this together with the following objectives:
- Reviewing the need for adjudicator recruitment in the light of the introduction of road user charging appeals for Clean Air Zones which commence in 2021

- Preparing for and delivering adjudication in respect of road user charging appeals for charging clean air zones.
- Appointing a Policy and Research Manager post to support the work of the PATROL Joint Committees and Traffic Penalty Tribunal.
- Implementing the smaller office hub and remote working model introduced in response to remote working during the pandemic and following a staff consultation reported elsewhere.
- To explore the optimum ways for developing the intuitive online appeal service for appellants and respondent authorities.
- To develop the range of information available through the Traffic Penalty Tribunal website.
- To strengthen local authority understanding of adjudication as a judicial process through local authority engagement and workshops.
- To continue to promote best practice in public information on civil enforcement including the development of shared resources available to local authorities.

**8.5 The following provides a summary of anticipated expenditure in 2021/2022 Adjudicators**

The budget assumes a 2% inflationary increase in adjudicator fees. Adjudicator salaries and fees are aligned with the Ministry of Justice judicial salary scales.

**Staffing**

A 2% inflationary increase has also been assumed for salaries. Non-judicial salaries are determined by Local Government Services' Pay Agreement and will reflect any agreements reached in respect of 2021/22.

**Premises**

The total budgeted premises figure of £68,600 reflects rent, service charge, business rates, utilities, car parking, office maintenance, health and safety, and cleaning. This reflects a reduction from £205,650 in 2020/21.

**Travel**

In addition to staff travel, this budget line includes meeting the travel costs of local authority officers attending PATROL and Traffic Penalty Tribunal meetings and workshops. Without this, many authorities would not be able to attend these events which receive positive feedback and provide an opportunity to share innovation and best practice. Following approval at the

July 2018 meeting, the budget also includes provision for member expenses for Joint Committee meetings outside the annual meeting. It is anticipated that there will be a blend of face-to-face and virtual meetings when the pandemic subsides.

### Supplies and Services

The increase in supplies and services reflects an increasing focus on communication to raise awareness of the right to appeal and public information on traffic management matters. The tribunal's web site continues to be refreshed and the cost of providing public information films on the PATROL website is also included. These projects are being delivered through the use of tailored consultancy services to ensure the deployment of a range of skills.

### IT Costs

The IT budget shows an increase on the previous year (£342,188 compared to £233,685). This is an increase of £108,503 and represents the cost of Hardware and Network updates for End of Life equipment. New developments for the tribunal's online appeal system are funded through the technology reserve, reported separately.

### Service Management & Support

For 2021/22, the proposed Service Level Agreement (SLA) charges with Cheshire East Council as Host Authority for routine services will remain broadly in line with those for 2020/21 (£51,600). The uplift is based on the Consumer Price Index in November 2020 at 2.0%. Information for previous years is set out below. If there is any variation, this will be drawn to the attention of the Executive Sub Committee.

	2018-19 <i>actual</i>	2019-20 <i>actual</i>	2020-21 <i>actual</i>	2021-22 <i>budget</i>
HR	8,240	8,420	8,550	8,721
Audit	4,850	4,960	5,030	5,131
Democratic Services Support	8,240	8,420	8,550	8,721
Legal	8,240	8,420	8,550	8,721
Finance	4,850	4,960	5,030	5,131
Highways - Hosting of PATROL	5,680	5,800	5,890	6,008
Retainer (Assets, FOI, procurement, IT Support, H&S)	10,000	10,000	10,000	10,200
	<b>50,100</b>	<b>50,980</b>	<b>51,600</b>	<b>52,632</b>

The current SLA is aligned to the lease at Springfield House which had it run the full term, would terminate on 14<sup>th</sup> February 2023. The new lease at Merlin House is for 3 years with a break clause at year 2. A variation is being agreed with the Host Authority to extend this to 29<sup>th</sup> September 2024.

### Audit

External Audit fees are broadly in line with those for 2020/21. Internal Audit is included in the SLA Charges from Cheshire East see table above.

## 9.0 Summary of movement in income and expenditure

The tables below compare overall budgeted income and expenditure between 2019/20 and 2020/21 and the detail in relation to budgeted contributions to and from reserves (PATROL and those ring-fenced to Highways England and Halton Borough Council). Those schemes are currently charged based on 30 pence and 35 pence per PCN respectively.

	Budget 2021/2 2	Budget 2020/2 1	Variance	% Change
Income	£2,909,739	£3,565,217	(£655,479)	19.0% decrease
Expenditure	£3,487,571	£3,691,638	£204,067	8.0% decrease
<b>Contribution to/ (from) Reserves</b>	<b>(£577,832)</b>	<b>(£126,420)</b>	<b>(£451,412)</b>	

### Contribution split as follows:

	Budget 2021/2 2	Budget 2020/2 1
PATROL ( <b>from</b> reserves)	£-433,636	-£148,963
Halton Borough Council ( <b>from</b> ring-fenced reserves)	-£48,545	-£14,131
Highways England ( <b>to</b> ring-fenced reserves)	-£20,344	£36,674
<b>TOTAL</b>	<b>-£505,525</b>	<b>-£126,420</b>

*\*note – negative numbers indicate a contribution FROM Reserves*

The proposed budget for 2021/22 assumes the continuation of defraying the expenses amongst members of the Joint Committee on the basis of 30 pence

per PCN as approved at the January and October 2020 meetings. The basis for defraying expenses will also be considered at the January 2021 meeting of the Executive Sub Committee.

The budgeted income and expenditure for 2021/22 results in an overall forecast contribution **FROM** reserves of £505,525 (a proportion of which will be ring-fenced to road user charging schemes – see table above). This compares to a budget contribution from Reserves for the financial year 2020/21 of £126,420 (a proportion of which relates to road user charging).

Appendix 1 provides contextual information for the proposed 2021/22 budget:

- Actual full year expenditure for 2019/20 **(Col 1)**
- Full budget for 2020/21 **(Col 2)**
- Full budget for 2021/22 **(Col 3)**
- **Variance between Col 2 and Col 3 (Col 4)**

## 10.0 Forecast

### Reserves to 31<sup>st</sup>

#### March 2022

	PATROL (exc HE & MG)	HE	MG	BLASJC
Forecast balance at March 21 - per Dec Cash Flow	2,263,207	72,276	-1,457	451,921
<b>Approved Reserves</b>				
General Operating less amount allocated to BL	1,513,605			332,214
Technology	369,164			
Property	322,862			
Innovation and Research	50,000			
<b>PATROL Approved Reserve</b>	<b>2,255,631</b>	<b>0</b>	<b>0</b>	<b>332,214</b>
drawdown - General Reserve	0			
drawdown - IT Reserve	231,600			
<b>Total Drawdowns</b>	<b>231,600</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Reserves Balance NET of drawdowns</b>	<b>2,024,031</b>	<b>0</b>	<b>0</b>	<b>332,214</b>
<b>FREE Reserves at March 21</b>	<b>239,176</b>	<b>72,276</b>	<b>-1,457</b>	<b>119,707</b>
	0	0	0	0
Proposed Budget 21/22	-483,445	-70,000	-26,109	-194,502
<b>Budgeted FREE Reserves at March 22</b>	<b>-244,269</b>	<b>2,276</b>	<b>-27,566</b>	<b>-74,795</b>

## 11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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## Appendix 1:

PATROL Budget Summary 2021/22

	1	2	3	4
	Actual 2019/20	FULL Budget 2020/21	FULL Budget 2021/22	Budget Var 20/21 to 21/22
<b>Income</b>				
PATROL *	1,679,897	1,692,009	1,250,419	(441,590)
Recharge for Bus Lane Adjudication Costs	579,821	664,428	677,798	13,370
Moving Traffic	50,400	50,400	50,400	0
<b>Road User Charging:</b>				
Highways England	816,375	870,972	649,908	(221,063)
Halton Borough Council	189,001	201,800	205,240	3,439
Durham Peninsular				
Littering from Vehicles	56	600	330	(270)
Clean Air Zones	0	61,008	61,921	913
Other Income	0	0	0	0
Bank Interest	25,766	24,000	12,000	(12,000)
<b>Total Income</b>	<b>3,341,316</b>	<b>3,565,217</b>	<b>2,908,017</b>	<b>(657,201)</b>
<b>Expenditure:</b>				
Adjudicators	1,038,590	1,254,564	1,296,859	(42,295)
Staff	1,064,432	1,301,715	1,229,132	72,583
Premises / Accommodation	192,727	205,650	68,600	137,050
Transport	83,771	92,800	90,500	2,300
Supplies and Services	307,734	492,704	403,019	89,685
IT	246,820	233,685	342,188	(108,503)
Services Management and Support	51,600	51,600	52,632	(1,032)
Audit Fees	4,400	4,920	4,641	279
Contingency	24,440	54,000	0	54,000
<b>Total Expenditure</b>	<b>3,014,515</b>	<b>3,691,638</b>	<b>3,487,571</b>	<b>204,067</b>
<b>Surplus / (Deficit)</b>	<b>326,801</b>	<b>(126,420)</b>	<b>(579,554)</b>	<b>(453,134)</b>

0

**Breakdown of Contribution to Reserves:**

<b>TOTAL</b>	<b>-126,420</b>	<b>-579,554</b>
PATROL	-148,963	-483,445
Halton Borough Council	-14,131	-26,109
Highways England	36,674	-70,000

\* PATROL = Parking England and Wales, and Bus Lanes and Moving Traffic Wales, RUC Durham and Littering from Vehicles (England)

Note: A negative number means a contribution from reserves

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**PATROL ADJUDICATION JOINT COMMITTEE**  
**Executive Sub Committee**

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<b>Date of Meeting</b>	26 <sup>th</sup> January 2021
<b>Report of:</b>	The Director in consultation with the Resources Working Group
<b>Subject/Title:</b>	Reserves Policy Statement

---

**1.0 Report Summary**

1.1 To review the Reserves Policy Statement for the Joint Committee for 2021/22.

**2.0 Recommendation**

2.1 To approve the proposed Reserves Policy Statement for 2021/22.

2.2 To approve the total PATROL approved reserve level for 2021/22 of £1,912,104. This reflects the contribution from the BLASJC reserve of £338,899. The equivalent amount for 2020/21 was is £2,255,631. This allowing for the proposed Reserve Allocation to BLASJC of £332,214.

2.3 To review the Reserves Policy Statement at the October 2021 meeting in the light of the circumstances outlined at 7.9.

2.4 To approve the balances of any surplus from 2020/21 being carried forward to 2021/22.

2.5 To approve the delegation of authority to the Chair and the Vice Chair for authorising the withdrawal of funds from PATROL Free Reserves to meet budgetary deficits.

**3.0 Reasons for Recommendations**

3.1 Compliance with Financial Regulations

**4.0 Financial Implications**

4.1 The Reserves Policy Statement contributes to the self-financing objectives of the Joint Committee.

**5.0 Legal Implications**

5.1 The Reserves Policy Statement will enable contractual obligations to be met.

## **6.0 Risk Management**

**6.1** The Reserves Policy Statement forms part of the Risk Management Strategy. The Risk Management Framework is reviewed at each meeting and includes the following statement:

*“We will maintain a sufficient level of reserves to support liquidity and absorb short-term fluctuations in income and expenditure beyond our control.”*

## **7.0 Background and Options**

**7.1** PATROL has built up a body of reserves which ensures the continuation of service should there be an unexpected downturn of income or unforeseen expenditure. The availability of reserves is central to maintaining its ability to self-finance and reduce the likelihood of having to call on additional resources from member authorities mid- year. The availability of reserves (Approved and Free Reserves) has enabled the Joint Committee to be self-supporting during a prolonged period of fluctuations in income arising from the Covid-19 pandemic.

**7.2** For 2021/22, it is recommended that the Reserves Policy Statement will be made up of four elements:

General Reserves  
Property Reserves  
IT Reserve  
Research and Innovation Reserve

## **7.3 The General Reserve**

The General Reserve is an operating reserve that aims to mitigate the risk arising from:

- a) Reduction in income because of individual enforcement authority issues.
- b) Reduction in income as a result of issues affecting civil enforcement across all or a majority of enforcement authorities
- c) Unanticipated costs associated with legal action
- d) Unanticipated expenditure due to unforeseen circumstances
- e) Overrun on expenditure
- f) Meeting contractual obligations in the event of closure.

**The General Reserve is based on 50% of total budgeted costs. It is recommended that the General Reserve for 2021/22 will be £1,743,785. This compares to £1,845,819 for the previous year.**

#### 7.4 The Property Reserve

This provides an indemnity to the Host Authority in relation to any outstanding rent associated with the lease that they have entered into on behalf of the Joint Committee. In January 2020, the Executive Sub Committee reviewed this reserve and approved a constant 2-year reserve in respect of premises. Notice has been served on the current lease that ends mid-February 2020. The Property Reserve reflects the new office costs.

**It is recommended that the Property Reserve from 2021/22 is maintained to cover two years beyond the current financial year. The property reserve for 2020/21 will be £108,460, which compares with £322,862 in the previous year.**

#### 7.5 Technology Reserve

It is recommended that the Technology reserve be set at the equivalent of 10% of total budgeted costs i.e. £348,757. This compares with £369,164 in 2020/21.

Table 2: Technology Reserve Levels

2021/22	£348,757
2020/21	£369,164
2019/20	£325,510
2018/19	£250,000
2017/18	£350,000

**For 2021/22 it is recommended that a reserve of £348,757 is approved. This is consistent with the previous year's calculation. This will support further improvements to digital appeal service.**

#### 7.6 Research and Innovation Reserve

It is recommended for 2021/22 to apply £50,000 of its Free Reserve to establish an additional approved reserve to support Research and Innovation initiatives. This is the same as approved for 2020/21. Initiatives might include:

- a) Commissioning independent research to support PATROL objectives
- b) Supporting member authorities to undertake research/initiatives/pilots that support PATROL objectives.

The Resources Working Group and Sub Committee will be requested to oversee the expenditure from the Research and Innovation Reserve. Update reports will be presented to the Joint Committee or its Executive Sub Committee.

It is recommended for 2021/22 to apply £50,000 of its Free Reserve to establish an additional approved reserve to support Research and Innovation initiatives.

- 7.7. It is recommended that the total PATROL approved reserve level for 2021/22 is **£1,912,104**. This after allowing for the proposed Reserve Allocation to **BLASJC** of **£338,899**.

Reserves Summary:

	2019/20	2020/21	2021/22
General Operating Reserve	1,637,548	1,845,819	1,743,785
Technology Reserve	325,510	369,164	348,757
Property Reserve	135,230	322,862	108,460
Innovation and Research Reserve		50,000	50,000
<b>Total approved Reserve</b>	<b>2,098,288</b>	<b>2,587,845</b>	<b>2,251,003</b>
<i>Reserve allocated to BLASJC</i>	<i>231,304</i>	<i>332,214</i>	<i>338,899</i>
<b>PATROL Reserve</b>	<b>1,866,984</b>	<b>2,255,631</b>	<b>1,912,104</b>

- 7.8 It is anticipated that PATROL reserve will reach £1,779,762 (excluding ring-fenced amounts) at the 31<sup>st</sup> March 2022 and therefore insufficient reserves will be in place to accommodate the recommended approved reserve of

	<b>PATROL (exc HE &amp; MG)</b>
Forecast balance at March 21 - per Dec Cash Flow	<u>2,263,207</u>
 <b>Approved Reserves</b>	
General Operating less amount allocated to BL	1,513,605
Technology	369,164
Property	322,862
Innovation and Research	<u>50,000</u>
<b>PATROL Approved Reserve</b>	<u><b>2,255,631</b></u>
 drawdown - General Reserve	 0
drawdown - IT Reserve	<u>231,600</u>
<b>Total Drawdowns</b>	<u><b>231,600</b></u>
 <b>Reserves Balance NET of drawdowns</b>	 <u><b>2,024,031</b></u>
 <b>FREE Reserves at March 21</b>	 <u><b>239,176</b></u>
	0
 Proposed Budget 21/22	 -483,445
 <b>Budgeted FREE Reserves at March 22</b>	 <u><b>-244,269</b></u>
 Forecast Reserves to March 22	 1,779,762
Proposed Approved Reserve 2021/22	<u>1,912,104</u>
<b>Balance to be taken from approved Reserves</b>	<u><b>-132,342</b></u>
 £1,912,104.	

7.9 This will leave a shortfall on Approved Reserves of £132,342. It is therefore recommended that Reserves are reviewed at the October 2021 meeting in light of the first six months activity.

## 8.0 PATROL Free Reserves

8.1 PATROL Free Reserves is the Residual balances over and above the approved reserve (which combines General, Premises and Technology Reserves). PATROL Free Reserves excludes any ring-fenced reserves arising from agreed charging arrangements for adjudication held with third parties. PATROL Free Reserves may be used for the following purposes:

- To balance an in-year budgetary deficit
- To fund approved reductions in member charges.
- To uplift an existing specific or ear marked reserve such as the Technology Reserve.
- To establish an ear marked reserve.

- To undertake approved initiatives delivering mutual benefits to member authorities within the remit of the Joint Committee.

8.2 The maximum permitted level of residual balance will be no greater than the approved reserve level.

8.3 Approval for use of PATROL Free Reserve must be given by the Joint Committee, its Executive Sub Committee or Resources Working Group and Sub Committee except in the case of use for meeting budgetary deficits where authority is delegated to the Chair and Vice Chair.

## **9.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## **PATROL ADJUDICATION JOINT COMMITTEE**

### **Executive Sub Committee**

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<b>Date of Meeting:</b>	26 <sup>th</sup> January 2021
<b>Report of:</b>	Director in consultation with the PATROL and BLASJC Resources Working Group
<b>Subject/Title:</b>	Defraying the expenses of the Joint Committee 2021/22

---

#### **1.0 Report Summary**

- 1.1 To establish the basis for defraying expenses during 2021/22.

#### **2.0 Recommendation**

- 2.1 That for 2021/22, the Joint Committee maintains the rate of 30 pence per PCN for member authorities. This will be reviewed at the October 2021 meeting in the light of actual income and expenditure information for the first half of the year. The rate of 30 pence will apply to penalties issued as follows:

Parking - England  
Parking - Wales  
Bus Lanes and Moving Traffic - Wales  
Littering from vehicles - England  
Road User Charging – England and Wales

The latter will include new road user charging penalties arising from the introduction of charging Clean Air Zones in 2021<sup>1</sup> (including but not restricted to Bath and North East Somerset Council (BANES) and Birmingham City Council) as well as the existing Durham Peninsular Charging Zone.

Note 1: It is anticipated that the Bath and North East Somerset (BANES) Clean Air Zone will commence on 15<sup>th</sup> March 2021 and the charge of 30 pence per PCN will apply from that date.

- 2.2 To note that separate charging arrangements are entered into with Highways England and Halton Borough Council who are not members of the Joint Committee but with each of whom the Joint Committee has entered into a Memorandum of Understanding. Ring-fenced balances associated with these schemes are reported separately to the Joint Committee within budget monitoring reports.
- 2.3 There will be no annual charge, nor cost per case.

2.4 To note that the decision to provide a transcription from the audio recording of proceedings rests with the Adjudicator. Where this has been agreed to, the Joint Committee agree that the incidental costs of making a transcription from the audio recordings of the proceedings at a hearing is charged to the requesting party except when, in the view of the Adjudicator, a disability of the requesting party would make it desirable for that person to receive such a transcript.

2.5 Invoicing will be undertaken based on monthly returns received from enforcement authorities.

### **3.0 Reasons for Recommendations**

3.1 Compliance with Financial Regulations

### **4.0 Financial Implications**

4.1 Detailed in the report

### **5.0 Legal Implications**

5.1 In accordance with the PATROL Adjudication Joint Committee Agreement

### **6.0 Risk Management**

6.1 Financial resilience is monitored within the Risk Management Strategy.

### **7.0 Background and Options**

7.1 The Joint Committee provides the means to appeal to an independent adjudicator in respect of civil traffic enforcement in England (outside London) and Wales, road user charging and littering from vehicles.

7.2 The PATROL agreement provides for the adjudication service to be operated on a self-financing basis with expenses defrayed by member authorities. Where authorities are working in partnership, it is practice to charge those enforcement authorities who manage the enforcement income stream. Table 1 provides an overview of the Joint Committee's basis for defraying expenses since inception.

Table 1 History of defraying the expenses of the Joint Committee

Year	Per PCN	Annual	Case
1991/2001	70 pence	£500	£10
2001/2003	70 pence	£500	£0
2003/2005	65 pence	£250	£0
2005/06	60 pence	£0	£0
2006/07	55 pence	£0	£0
2007/08	55 pence	£0	£0
2008/09	60 pence	£0	£0
2009/10	60/65 pence	£0	£0
2010/11	65 pence	£0	£0
2011/12	65 pence	£0	£0
2012/13	60 pence	£0	£0
2013/14	60 pence	£0	£0
2014/15	55 pence	£0	£0
2015/16	50/45 pence	£0	£0
2016/17	45/40 pence	£0	£0
2017/18	35 pence	£0	£0
2018/19	30 pence	£0	£0
2019/20	30 pence	£0	£0
2020/21	30 pence	£0	£0

7.3 The per PCN charge has more than halved since the inception of the Joint Committee and the annual and per case charges withdrawn entirely. This reduction is a result of economies of scale and efficiencies arising from the introduction of digital appeals.

7.4 Following consideration by the Resources Working Group, it is recommended that for 2021/22, the Joint Committee maintain the rate of 30 pence per PCN. This will be reviewed at the October 2021 meeting when the actual income and expenditure information for the first half of the year is available. The rate of 30 pence per PCN issued will apply to penalties as follows:

Parking - England

Parking - Wales

Bus Lanes and Moving Traffic - Wales

Road User Charging – England and Wales (please also see paragraph 7.5)

Littering from vehicles - England

7.5 This will include new road user charging penalties arising from the introduction of charging Clean Air Zones in 2021<sup>1</sup> (including but not restricted to Bath and North East Somerset Council (BANES) and Birmingham City Council) as well as the existing Durham Peninsular Charging Zone.

Note 1: It is anticipated that the Bath and North East Somerset (BANES) Clean Air Zone will commence on 15<sup>th</sup> March 2021 and the charge of 30 pence per PCN will apply from that date.

7.6 The Joint Committee is asked to note that the PATROL Joint Committee provides access to independent adjudication through the Traffic Penalty Tribunal for appeals arising from penalty charge notices issued under Road User Charging regulations at the Dartford-Thurrock River Crossing (Highways England) and at the Mersey Gateway Bridge Crossing (Halton Borough Council). These arrangements are each underpinned by a Memorandum of Understanding as the Charging Authorities are not members of the PATROL Joint Committee. The charges and agreed reserve levels for these are subject to separate arrangements agreed with the Charging Authority. Balances associated with these schemes are reported separately to the Joint Committee within budget monitoring reports.

7.6 The formal recommendation for defraying expenses for Member Authorities for 2021/22 and its impact on reserves is as follows:

To maintain a charge per PCN of 30 pence per PCN issued

This will require a **contribution from reserves** for PATROL for 2020/21 (excluding Highways England and Mersey Gateway ring-fenced amounts) of £483,445.

It is forecast that this deficit would be met by drawing from

FREE Reserves at March 21	£239,176
Approved General Reserve 21/22	£244,269

The basis for defraying expenses will be reviewed in October 2021 in the light of six-month income and expenditure information.

## 8.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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## Appendix 1:

	<b>PATROL</b> <b>(exc HE &amp; MG)</b>
Forecast balance at March 21 - per Dec Cash Flow	<u>2,263,207</u>
 <b>Approved Reserves</b>	
<i>General Operating less amount allocated to BL</i>	1,513,605
<i>Technology</i>	369,164
<i>Property</i>	322,862
<i>Innovation and Research</i>	<u>50,000</u>
<b>PATROL Approved Reserve</b>	<u><b>2,255,631</b></u>
 <i>drawdown - General Reserve</i>	 0
<i>drawdown - IT Reserve</i>	<u>231,600</u>
<b>Total Drawdowns</b>	<u><b>231,600</b></u>
 <b>Reserves Balance NET of drawdowns</b>	 <u><b>2,024,031</b></u>
 <b>FREE Reserves at March 21</b>	 <u><b>239,176</b></u>
	0
 Proposed Budget 21/22	 -483,445
 <b>Budgeted FREE Reserves at March 22</b>	 <u><b>-244,269</b></u>

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**PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES  
Executive Sub Committees**

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**Date of Meeting:** 26<sup>th</sup> January 2021  
**Report of:** The Director on behalf of the PATROL and BLASJC Resources Working Group  
**Subject/Title:** Report of the PATROL and BLASJC Resources Working Group meetings held since the meeting of the Executive Sub Committees in October 2020.

---

**1.0 Report Summary**

1.1 To report on the PATROL and BLASJC Resources Working Group meetings held since the Executive Sub Committee Meeting held in October 2020.

**2.0 Recommendations**

2.1 To note the matters discussed at the meetings since the Executive Sub Committee in October 2020.

2.2 To approve the Resources Working Group and Sub Committee overseeing matters highlighted in the report and reporting back to the next meeting of the Joint Committee in July 2021.

**3.0 Reasons for Recommendations**

3.1 To update the Joint Committees

**4.0 Financial Implications**

4.1 The Resources Working Group considered financial matters reported to this meeting.

**5.0 Legal Implications**

5.1 None

**6.0 Risk Management**

6.1 The Resources Working Group considered the risk management report presented to this meeting.

**7.0 Background and Options**

7.1 The July 2019 meetings of the Joint Committees resolved that the Resources Sub Committee and Working Group would oversee a number of initiatives on its behalf.

- 7.2 The Resources Working Group comprises the Chairs of the Joint Committee and representatives from the Joint Committees' Advisory Board. The Resources Sub Committee comprises the Members.
- 7.3 During the Covid-19 pandemic, the Chairs of the Joint Committees have been appraised of the impact of reduced income on cash flow and the need to drawdown from the reserves from previous years in accordance with the Joint Committees' Reserves Policy.
- 7.4 The Resources Working Group have been consulted in the decision to service notice on the current lease at the Wilmslow office in response to a move to increased remote working and the planned introduction of a smaller office hub following a staff consultation. Adjudicators already work remotely.
- 7.5 At its meeting on 17<sup>th</sup> December 2020, the Resources Working Group received a report from the Five Year Review Group including the appointment of the new PATROL Director, Laura Padden who will be introduced to members at the Executive Sub Committee Meeting.
- 7.6 The Five Year Review Group is tasked with reviewing the resource requirements of the Traffic Penalty Tribunal and PATROL in the light of anticipated opportunities and challenges over the period 2020-25. Other aspects of the Five Year Review will reported separately on this agenda.
- 7.7 The Resources Working Group reviewed the financial recommendations being made to this meeting together with:
- a) The Public Affairs Report including recommendations to broaden the scope of the PARC (Parking Annual Reports by Councils) Awards to reflect the widening range of traffic management responsibilities of Local Authorities.
  - b) The Traffic Penalty Tribunal's General Progress Report
  - c) The risk management report, reported separately.
- In addition, it reviewed any procurement falling outside the Joint Committee's financial regulations.
- 7.8 It is proposed that the Resources Working Group and Sub Committee continue to oversee the above matters and report to the annual Joint Committee meetings in July 2021.
- 8.0 Recommendation**
- 8.1 To note the matters discussed at the meetings held since the Executive Sub Committee in October 2020.
- 8.2 To approve the Resources Working Group and Sub Committee overseeing matters highlighted in the report and reporting to the annual Joint Committee meetings in July 2021.

## 9.0 Access to Information

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## **PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEES Executive Sub Committees**

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**Date of Meeting:** 26<sup>th</sup> January 2021

**Report of:** The Director in consultation with Resources Working Group

**Subject/Title:** Risk Register

---

**1. Report Summary**

The report presents the current assessment of risk.

**2. Recommendation**

To note the current assessment of risk (Appendix 1).

**3. Reasons for Recommendations**

To report on arrangements for identifying, managing and reporting risk

**4. Financial Implications**

As reported within this report and financial reports on the agenda.

**5. Legal Implications**

None

**6. Risk Management**

Provides a framework for risk management.

**7. Background and Options**

The Risk Register is set out at Appendix 1

**8. Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## Appendix 1

# Risk Management Framework

## 1. Introduction

This report provides a summary of the most significant threats facing the Joint Committees which may prevent or assist with the achievement of its objectives. We are grateful to input from Cheshire East Council in reviewing our approach to managing and reporting risks and feedback from officers and members.

It is the role of the Joint Committee's Resources Working Group and Sub Committee to review the report prior to consideration by the Joint Committees or their Executive Sub Committees. This review aims to provide assurance on the adequacy of the risk management framework and internal control environment. Risk management is not about being risk averse, it is about effectively managing risks that could affect the achievement of objectives and ensuring that an appropriate risk culture is in place.

A risk is concerned with a threat, or a possible future event, which will adversely or beneficially affect the Joint Committee's ability to achieve its objectives. Risk management is central to good governance and is all about people making the best decision at all levels within the organisation.

A strong risk framework:

- Strengthens governance effectiveness
- Provides a focusing mechanism
- Balances the scale of risk and reward
- Enables better decision making

## 2. Corporate Risks

The Joint Committee summarises its risk appetite as follow:

*"We will avoid risks that threaten our ability to undertake our principal objectives in a way that provides quality and value. We will maintain a sufficient level of reserves to support liquidity and absorb short-term fluctuations in income and expenditure beyond our control."*

There are presently five threats on the Corporate Risk Register. These are currently measured as being "low" or "medium" scale risks. The classification of risk is set out below.

**Risk Matrix**

		Consequence				
		5	4	3	2	1
Likelihood	5	25	20	15	10	5
	4	20	16	12	8	4
	3	15	12	9	6	3
	2	10	8	6	4	2
	1	5	4	3	2	1

**3. Background to Corporate Risks:**

Local authorities who undertake civil parking and bus lane enforcement are required by statute to make provision for independent adjudication. The relationship between the adjudicators and the Joint Committee is derived from and governed by the Traffic Management Act 2004 and, in the case of the Bus Lane Adjudication Service Joint Committee, the Transport Act 2000.

The main function of the Joint Committee is to provide resources to support independent adjudicators and their staff who together comprise the Traffic Penalty Tribunal. The tribunal's appeal streams include:

- Parking
- Bus Lanes
- Moving Traffic (Wales only)
- Road User Charging
- Littering from vehicles

The objectives of PATROL include:

- a) A fair adjudication service for Appellants including visible independence of adjudicators from the authorities in whose areas they are working.
- b) Consistency in access to adjudication.
- c) A cost effective and equitable adjudication service for all Parking Authorities and Bus Lane authorities in England and Wales.
- d) Flexibility to deal with a wide range of local authorities with varying levels of demand for adjudication.

The relationship between the adjudicators and the PATROL and Bus Lane Adjudication Service Joint Committees is underpinned by a Memorandum of Understanding. The overriding principle of this memorandum is that the adjudicators are independent judicial office holders exercising a judicial function.

The adjudicators and joint committees are committed to a fair adjudication service for appellants including visible independence of adjudicators from the authorities in whose area they are working.

A core principle for the tribunal has been providing an accessible tribunal which is proportionate to the jurisdiction. It is recognised that for most appellants, appealing to the tribunal will be the only time they come into contact with the judiciary. For this reason, the tribunal seeks to provide access to adjudication which is simple to use and timely for appellants in England and Wales.

The focus for the delivery of adjudication is:

***“a tribunal service that is user-focused,  
efficient, timely, helpful and readily accessible”***

The Traffic Penalty Tribunal is committed to the principles of Digital by Design and the provision of Assisted Digital Support to support people who are unable to or need assistance to appeal online. The tribunal's online appeal system has received national and regional awards and its levels of customer service has also been commended. The FOAM (Fast Online Appeal Management) initiative and the collaboration between more than 300 local authorities has been cited as a digital exemplar.

#### **4. Review**

The Director is responsible for coordinating the review of the Risk Management Framework and reporting to the Joint Committee's Officer Advisory Board and the Resources Working Group and Sub Committee whose terms of reference include the review of risk. Following this scrutiny, the Risk Management Framework is report to the PATROL and Bus Lane Adjudication Service Joint Committees or their Executive Sub Committees.

Additional assurance is provided by Internal and External Audit. PATROL and the Bus Lane Adjudication Service is not required to prepare and publish audited accounts but does so to promote transparency.

## 5. Corporate Risks

Ref & Type	Risk Description (Including Cause, threat and impact upon outcomes)	Risk Owners	Rating and Direction	Comments
CR1	<p><b>Inability to meet demand for service</b> (Cause) The tribunal provides a statutory function which is available to all vehicle owners who receive a Notice of Rejection of Representations in respect of specified penalties. (Threat) the tribunal is unable to meet its statutory obligations (impact) appellants are unable to appeal penalties</p>	Chief Adjudicator and Stakeholder Manager.	4 ↔	<p>The net risk rating is 4 (low). The tribunal has a fully scalable online system and a flexible adjudicator and staffing model.</p> <p>The online process is complimented by assisted digital support for appellants who are unable to make their appeal on line. The tribunal continues to refine and develop the online system in response to user feedback.</p> <p>The tribunal has demonstrated a seamless transition to homeworking for staff in response to Covid-19 which has also seen a reduction in appeals.</p> <p>A further assessment of adjudicator requirements is currently underway.</p>
CR2 Threat	<p><b>Lack of Financial Resilience</b> (Cause)The basis for defraying Joint Committee expenses is based on variable rather than fixed charges. This means that the Joint Committee must manage unforeseen significant fluctuations in either Income or Costs such that (threat) Reserves are significantly eroded and (impact) financial obligations cannot be met.</p>	Director and Central Services Manager	15 ↔	<p>This rating remains at 15 as reported in October 2020. This reflects continued uncertainty with local and national lockdowns over recent months. The current position has been mitigated by increased income between the lockdowns which if the current pattern persists will reduce the draw on the Joint Committees' approved reserves. Expenditure and therefore</p>

				drawdown from that reserve will be kept under strict review during this period.
CR3 Threat	<p><b>Loss of Data Integrity</b> (Cause) The Tribunal operates an on-line appeal system to improve the quality and flexibility for tribunal users. Support systems are also underpinned by a range of technologies. With this deployment of technologies, the risk of security breaches increases. This could result in the inability of IT to support the needs of the organization and users such that (threat) the statutory service is not accessible to all and (impact) appeals cannot be adjudicator online.</p> <p>Potential breach of General Data Protection Regulations 2016 and Data Protection Act 2018</p>	Director and Stakeholder Manager	9 —	<p>This rating remains unchanged - medium. A range of security monitoring features, data management procedures and training are being reviewed/deployed in the light of the General Data Protection Regulation 2016 and Data Protection Act 2018. These measures have been reviewed in the light of homeworking.</p> <p>The data impact of the UK leaving the EU is being kept under review and hosting of the appeal system is transferring from the EU to UK.</p>

<p>CR4 Threat</p>	<p><b>Lack of Resource Planning</b> (Cause) Insufficient adjudicator or staff resources to support the needs of the organisation such that (threat) the organisation is unable to meet its statutory obligations and (impact) the quality or timeliness of the adjudication process, administrative standards or the achievement of development objectives compromised</p>	<p>Chief Adjudicator &amp; Director</p>	<p>4</p> <p>&lt; &gt;</p>	<p>This rating remains at 4 in the light of reduced appeals during the first quarter of 2020/21.</p> <p>A further assessment of adjudicator requirements is currently underway in the light of Clean Air Zones.</p>
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CR5 Threat	<p><b>Lack of preparation for business continuity</b> (Cause) that an internal or external incident occurs which renders the organisation unable to utilise part or all of its infrastructure such that (impact) the organisation is unable to deliver some or all of its services resulting in (impact) reduced accessibility to our service.</p>	Central Services Manager & Stakeholder Engagement Manager	5 ↔	<p>This rating remains at 5 and reflects the flexibility demonstrated in moving from an office based to remote workforce with no unplanned loss of service. Planned technology upgrades have taken place to further support business continuity.</p> <p>A detailed DR plan is held and reviewed each quarter. This is accessible to all managers and has clearly defined responsibilities. This plan acts to mitigate this risk. This plan is due to be reviewed and as such is on the 'watch' list</p>

**PATROL & BUS LANE ADJUDICATION SERVICE JOINT  
COMMITTEES EXECUTIVE SUB COMMITTEES**

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<b>Date of Meeting:</b>	26th January 2021
<b>Report of:</b>	The Director in consultation with the PATROL and BLASJC Resources Working Group
<b>Subject/Title:</b>	Annual Investment Strategy

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**1.0 Report Summary**

- 1.1 To report on investments during 2020/21 and request the Joint Committee to approve the annual investment strategy for 2021/22.

**2.0 Recommendation**

- 2.1 To approve the Annual Investment Strategy 2021/22

**3.0 Reasons for Recommendations**

- 3.1 Joint Committee Financial Regulations

**4.0 Financial Implications**

- 4.1 Set out in the report

**5.0 Legal Implications**

- 5.1 None

**6.0 Risk Management**

- 6.1 The Annual Investment Framework is informed by the Joint Committee's Risk Management Strategy.

**7.0 Background and Options**

- 7.1 The Joint Committee or its Executive Sub Committee is responsible for approving the Joint Committee's Annual Investment Strategy.

- 7.2 The Director will prepare an Annual Investment Strategy in consultation with the Joint Committee's Treasurer (the Host Authority's Section 151 Officer)

- 7.3 The Annual Investment Strategy will be informed by the Joint Committee's Risk Management Strategy. The Joint Committee has determined:

*“We will avoid risks that threaten our ability to undertake our principal objectives in a way which provides quality and value. We will maintain a sufficient level of reserves to support liquidity and absorb short term fluctuations in income and expenditure beyond our control”*

**7.4** In the year to date the interest generated for PATROL has been on average £1,596 per month. This compares with £2,179 over the financial year 2019/20 for PATROL and £668 per month (20/21) compared to £312 per month (19/20) for BLASJC.

**7.5** Deposits utilised in the year include six-month and 12-month deposits and continuous transfer of overnight balances from the current account, leaving a residual balance of £30,000. Deposits are placed with a variety of withdrawal notice periods to ensure adequate access to funds. In addition, deposits are made across a number of banks.

## **8.0 Annual Investment Strategy 2021/22**

**8.1** Investments will only be made with low risk institutions with offices in the UK.

The CIPFA requirements in the Treasury Code of Practice require the use of credit ratings as a qualifying level – for example Cheshire East Council will be requiring grade A- for 2021/2022. This relates to the lowest published long-term credit rating from Fitch, Moody’s or Standard and Poor’s.

Investments take the form of fixed term deposit accounts. Deposits will be spread over at least two banks to reduce risk. The banks are currently Santander, Lloyds and HSBC which have the required credit rating.

**8.2** The availability of new investments will be reviewed regularly to ensure that the best products are chosen in terms of rate of return and accessibility.

**8.3** Investments for PATROL and BLASJC are placed separately.

## **9.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566

Email: [lhutchinson@patrol-uk.info](mailto:lhutchinson@patrol-uk.info)

**PATROL AND BUS LANE ADJUDICATION SERVICE JOINT  
COMMITTEES  
Executive Sub Committees**

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**Date of Meeting:** 26<sup>th</sup> January 2021  
**Report of:** The Director  
**Subject/Title:** General Progress Report of the Traffic Penalty Tribunal

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**1.0 Report Summary**

1.1 To provide a General Progress Report for the period April to November 2020.

**2.0 Recommendations**

2.1 To note the matters reported.

**3.0 Reasons for Recommendations**

3.1 To update the Joint Committees

**4.0 Financial Implications**

4.1 This information will be reviewed in preparing budgets.

**5.0 Legal Implications**

5.1 None

**6.0 Risk Management**

6.1 Appeals activity is reflected in the Risk Management Framework reported separately.

**7.0 Background and Options**

7.1 A report is presented at Appendix 1

**8.0 Access to Information**

The background papers relating to this report can be inspected by contacting:

Name: Louise Hutchinson

Designation: Director

Tel No: 01625 445566

Email: [lhutchinson@patrol-uk.info](mailto:lhutchinson@patrol-uk.info)

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## Appendix 1



# General Progress Report

**1 April 2020 – 30 November 2020**

## 1. Introduction and context of COVID-19 impact on enforcement / appeals

### 1.1.

This report provides an overview of Traffic Penalty Tribunal (TPT) statistics, trends and initiatives for the period 1 April 2020 to 30 November 2020.

This period has seen a **52.1% decrease in penalty charge notices (PCNs) appealed**, when compared to the same period last year.

### 1.2.

This huge impact on appeal activity is explained by the onset of significant COVID-19 pandemic restrictions, with the *Health Protection (Coronavirus, Restrictions) (England) Regulations 2020* (the 'Lockdown Regulations') coming into effect on 26 March 2020.

The Lockdown Regulations brought about widespread closure of businesses, retail and hospitality, as well as restrictions on freedom of movement.

### 1.3.

The TPT was well placed to respond to the pandemic, even before the Lockdown Regulations were announced, with adjudicators having always been based from home and – from 17 March – all administrative and office staff able to transfer seamlessly to home working.

### 1.4.

Responding to the potential impact on appellants, as well as the adapted enforcement and working practices of authorities, the TPT took the decision to put on hold all appeal activity, including decisions being made on cases, for a minimum of 8 weeks, effective Monday 30 March.

Appellants and would-be appellants were advised of the hold period via a message on the TPT website and – in the case of appeals registered before 30 March – an individual message on their case in the online appeals system (or a letter by post if not using the system).

By effectively, 'stopping the clock', each case at the Tribunal was held at the stage it had reached and adjudicators stopped issuing any decisions. Timescales within the online appeals system (e.g. relating to the submission of evidence on a case) were also increased.

## 1.5.

Following the temporary hold on appeal activity, TPT took the decision to start considering cases again, effective 11 June.

The parties of each appeal in the system were contacted as to how their case would proceed, including an update on the progression of Telephone Hearings, where applicable.

As was the case during the 'stop the clock' hold period, those wishing to submit new appeals continued to be able to do so as normal through the Tribunal's online appeals system. New cases were registered and progressed as normal.

Those with appeals ongoing or making a new appeal were able to put forward any information or evidence surrounding the circumstances of their case, which may have come as a consequence of the COVID-19 situation. This information was taken into account by the adjudicators.

## 1.6.

The Government eased Lockdown Regulations more significantly from July – September, including the reopening of the hospitality sector and further high street businesses (including hairdressers and beauty salons), with 'local' lockdowns introduced for targeted areas across England with higher rates of infection. This was replaced with a three-tier system in October, based on infection risk level – medium, high, or very high.

**A second national lockdown was announced at the end of October, to run from 5 November – 2 December.**

## 1.7.

During the ongoing COVID-19 situation, TPT staff – themselves working entirely remotely – have been able to continue to support appellants, respond to queries from authorities and receive new appeals, including registering appeals over the phone (rather than relying on paper forms and post) for those appellants who wished to proceed without going online.

This is a credit to all involved and a testament to the flexibility of the TPT's online appeal system, as well as its 'digital first' approach and solutions.

**This introduction and background contrasts appeal numbers for 1 April 2020 to 30 November 2020 with the same period in 2019/20.**

At the time of publication, there have been signs of increased enforcement activity from authorities in the period 'between lockdowns'. This has implications for future levels of appeals, although the picture remains varied across England and Wales.

## 2. TPT Background

### 2.1.

The TPT decides appeals against penalties issued for traffic contraventions by local authorities and charging authorities in England (outside London) and Wales. This includes appeals against civil enforcement penalties issued by local authorities for parking, bus lane, littering from vehicles and (in Wales only) moving traffic contraventions, as well as appeals arising from road user charging enforcement.

The road user charging schemes for which the TPT sees appeals for include the:

- Dartford-Thurrock River Crossing ('Dart Charge') scheme, where the charging authority is the Secretary of State for Transport
- Mersey Gateway Bridge Crossings ('Merseyflow') scheme, where the charging authority is Halton Borough Council
- Durham Road User Charge Zone (Congestion Charge), where the charging authority is Durham County Council.

### 2.2.

Appeals arising from enforcement of forthcoming charging Clean Air Zones (CAZs), anticipated in 2021, will be a new road user charging appeal stream for the TPT. The *Road User Charging Schemes (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2013* will apply to the CAZ scheme appeals, as they do to the other road user charging schemes.

### 2.3.

The relationship between the TPT and the PATROL Joint Committee is derived from and governed by the *Traffic Management Act 2004* and *Transport Act 2000*, and the regulations made under the Acts. The TPT and PATROL have also established a Memorandum of Understanding, reviewed each year.

### 3. Appeals summary, April – November 2020

*Please note: The figures within this section include all PCNs dealt with by the Tribunal. This includes Witness Statements referred to the Adjudicators following debt registration at the Traffic Enforcement Centre at Northampton County Court. The PCN figures will also include a small number of duplicated PCNs, and those PCNs not registered by the Adjudicator*

#### 3.1. PCNs appealed: All appeal streams

The below table and graph show all PCNs appealed to the Tribunal from 1 April – 30 November this year (2020/21) against the same period in the year 2019/20. The figures for 2020/21 show a 54.7% decrease Year-on-Year (YOY).

	2019/20	2020/21
<b>April</b>	3,905	2,083
<b>May</b>	4,379	1,422
<b>June</b>	3,627	1,314
<b>July</b>	3,240	1,368
<b>August</b>	3,372	1,588
<b>September</b>	2,897	1,586
<b>October</b>	3,219	1,803
<b>November</b>	2,817	1,998
<b>TOTAL</b>	<b>27,456</b>	<b>13,163</b> <b>(-52.1% YOY)</b>

**FIG 1: PCNs appealed: All appeal streams**  
(Apr–Nov 2020/21 vs. 2019/20)

2020 / 21



2019 / 20



### 3.2. PCNs appealed: Specific appeal streams

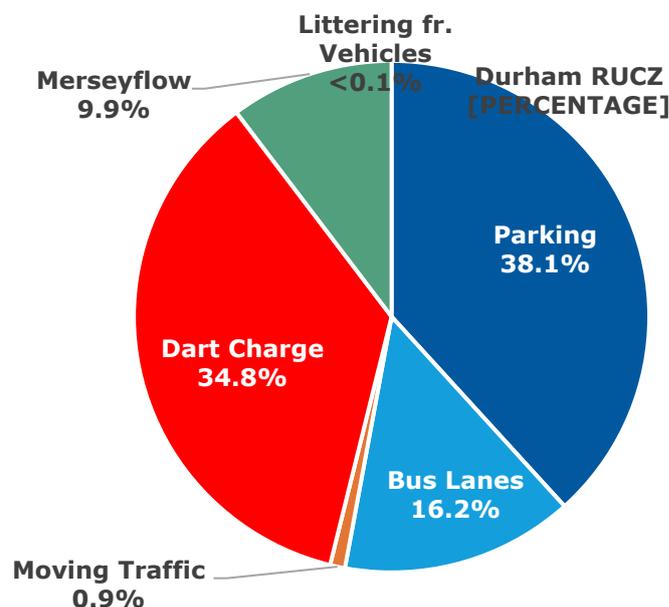
The below table breaks down all PCNs appealed to the Tribunal by separate appeal stream between 1 April – 30 November this year (2020/21). Totals for the same period in 2019/20 are included for comparison, together with the percentage increase or decrease Year-on-Year (YOY).

2020/21							
	Parking	Bus Lanes	Moving Traffic	Dart Charge	Merseyflow	Durham RUCZ	Littering fr. Vehicles
April	742	305	26	725	285	0	0
May	614	184	16	457	151	0	0
June	525	178	10	510	91	0	0
July	488	237	6	528	109	0	0
August	481	234	8	751	114	0	0
September	630	283	9	487	173	0	4
October	754	343	31	554	120	0	1
November	779	374	8	566	271	0	0
<b>TOTAL</b>	<b>5,014</b>	<b>2,138</b>	<b>114</b>	<b>4,578</b>	<b>1,314</b>	<b>0</b>	<b>5</b>
Totals for Apr–Nov 2019/20	8,521	3,904	133	6,000	8,895	0	3
	<b>-41.2% YOY in 2020/21</b>	<b>-45.2% YOY in 2020/21</b>	<b>-14.3% YOY in 2020/21</b>	<b>-23.7% YOY in 2020/21</b>	<b>-85.2% YOY in 2020/21</b>	<b>~ YOY in 2020/21</b>	<b>+66.7% YOY in 2020/21</b>

The decreases in PCNs appealed across all appeal streams can be attributed to the onset of COVID-19 restrictions (see Page 1–2), with fewer vehicles on the road, generally, and many authorities not enforcing restrictions.

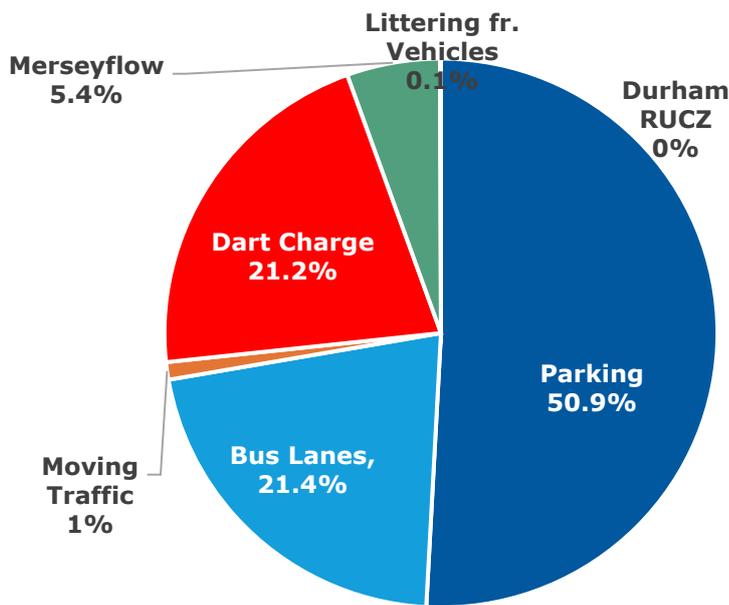
The pie chart below shows the types of appeal stream as a percentage of the total number of PCNs appealed to the Tribunal this year (2020/21).

**FIG 2: PCNs appealed by appeal stream, as percentage of total appealed (Apr–Nov 2020/21)**



The pie chart below shows the types of appeal stream as a percentage of the total number of cases appealed to the Tribunal this year (2020/21). Cases may consist of more than one PCN, particularly in the case of the road user charging schemes.

**FIG 3: Cases by appeal stream, as percentage of total (Apr–Nov 2020/21)**



### 3.3. PCNS appealed: England

The below table provides a breakdown of PCNs appealed to the Tribunal, issued from English Parking and Bus Lane schemes, as well as Littering from Vehicles enforcement, from 1 April – 30 November this year (2020/21).

2020/21			
	Parking England	Bus Lanes England	Littering from Vehicles
<b>April</b>	696	300	0
<b>May</b>	566	171	0
<b>June</b>	488	174	0
<b>July</b>	435	226	0
<b>August</b>	438	223	0
<b>September</b>	598	272	4
<b>October</b>	725	338	1
<b>November</b>	736	371	0
<b>TOTAL</b>	<b>4,682</b>	<b>2,075</b>	<b>5</b>
Totals for Apr–Nov 2019/20	7,935	3,734	3
	<b>-41.0% YOY against 2020/21</b>	<b>-44.4% YOY against 2020/21</b>	<b>+66.7% YOY against 2020/21</b>

### 3.4. PCNs appealed: Wales

The below table provides a breakdown of PCNs appealed to the Tribunal, issued from Welsh Parking, Bus Lane and Moving Traffic schemes from 1 April – 30 November this year (2020/21).

2020/21			
	Parking Wales	Bus Lanes Wales	Moving Traffic Wales
<b>April</b>	46	5	26
<b>May</b>	48	13	26

<b>June</b>	37	4	10
<b>July</b>	53	11	6
<b>August</b>	43	11	8
<b>September</b>	32	11	9
<b>October</b>	29	5	31
<b>November</b>	43	3	8
<b>TOTAL</b>	<b>332</b>	<b>63</b>	<b>114</b>
Totals for Apr–Nov 2019/20	586	170	133
	<b>-43.3% YOY against 2020/21</b>	<b>-62.9% YOY against 2020/21</b>	<b>-14.3% YOY against 2020/21</b>

### 3.5. PCNs appealed: Dartford-Thurrock River Crossing ('Dart Charge') scheme – Charging Authority: Secretary of State for Transport

The below table provides a breakdown of PCNs appealed to the Tribunal, issued from the Dart Charge scheme from 1 April – 30 November this year (2020/21).

<b>2020/21</b>	
	<b>Dart Charge</b>
<b>April</b>	725
<b>May</b>	457
<b>June</b>	510
<b>July</b>	528
<b>August</b>	751
<b>September</b>	487
<b>October</b>	554
<b>November</b>	566
<b>TOTAL</b>	<b>4,578</b>
Totals for Apr–Nov 2019/20	6,000
	<b>-23.7% YOY against 2019/20</b>

### 3.6. PCNs appealed: Mersey Gateway Bridge Crossings ('Merseyflow') scheme – Charging Authority: Halton Borough Council

The below table provides a breakdown of PCNs appealed to the Tribunal, issued from the Merseyflow scheme from 1 April – 30 November this year (2020/21).

<b>2019/20</b>	
	<b>Merseyflow</b>
<b>April</b>	285
<b>May</b>	151
<b>June</b>	91

<b>July</b>	109
<b>August</b>	114
<b>September</b>	173
<b>October</b>	120
<b>November</b>	271
<b>TOTAL</b>	<b>1,314</b>
Totals for Apr–Nov 2018/19	8,895
	<b>-85.2% YOY against 2020/21</b>

### 3.7. PCNs appealed: Durham Road User Charge Zone (Congestion Charge)

The below table provides a breakdown of PCNs appealed to the Tribunal, issued from the Durham Road User Charge Zone (RUCZ) from 1 April – 30 November this year (2020/21).

2020/21	
	Durham RUCZ
<b>April</b>	0
<b>May</b>	0
<b>June</b>	0
<b>July</b>	0
<b>August</b>	0
<b>September</b>	0
<b>October</b>	0
<b>November</b>	0
<b>TOTAL</b>	<b>0</b>
Totals for Apr–Nov 2019/20	0
	<b>~YOY against 2020/21</b>

### 3.8. PCNs appealed: Littering from Vehicles: England

The below table provides a breakdown of PCNs appealed to the Tribunal, issued from English authorities enforcing Littering from Vehicles from 1 April – 30 November this year (2020/21).

2020/21	
	Littering from Vehicles
<b>April</b>	0
<b>May</b>	0
<b>June</b>	0
<b>July</b>	0
<b>August</b>	0
<b>September</b>	4
<b>October</b>	1
<b>November</b>	0
<b>TOTAL</b>	<b>5</b>
Totals for Apr–Nov 2019/20	3
	<b>+66.7% YOY against 2020/21</b>

## 4. Hearings

### 4.1.

The TPT's Fast Online Appeals Management (FOAM) system has transformed the handling of appeals, and this is particularly evident in the figures for Hearings. The ability to message, comment on evidence and request that extra evidence be uploaded within the FOAM system has meant that most cases can be resolved without a Hearing (through an 'e-Decision'). In addition, an appellant only has the option to request a Hearing once all the evidence is available to the parties, and the Adjudicators are able to review cases in advance to see whether a Hearing is actually required.

### 4.2.

Telephone Hearings have replaced Face-to-Face Hearings as the primary Tribunal Hearing method (Face-to-Face is still an option, where circumstances necessitate it), requiring no travel or related costs by either party or the TPT, and a decision often given during a call.

The TPT began to trial video hearings in 2018, and is increasingly rolling these out as an alternative to Telephone Hearings.

### 4.3.

The table below shows a breakdown of the different Hearing types (together with e-Decision) selected by appellants for 1 April to 30 November 2020/21, alongside figures for the same period in 2019/20.

Breakdown of decision method					
	TOTAL Cases	e-Decision	Face-to-face Hearing	Telephone Hearing	Video Hearing
<b>2020/21 (Apr–Nov)</b>	<b>8,737</b>	<b>7,964</b> (91.15% of total)	<b>0</b> (0% of total)	<b>766</b> (8.77% of total)	<b>7</b> (0.08% of total)
<b>2019/20 (Apr–Nov)</b>	<b>17,524</b>	<b>14,901</b> (85.03% of total)	<b>6</b> (0.03% of total)	<b>2,598</b> (14.83% of total)	<b>19</b> (0.11% of total)

## 5. Case Closure

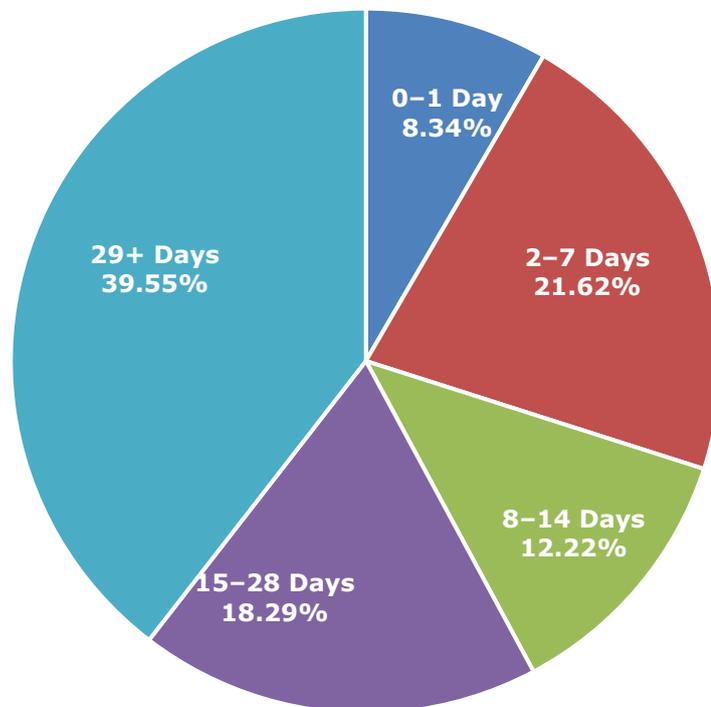
### 5.1.

Appealing to the Traffic Penalty Tribunal is a judicial process, and while it is not appropriate to set rigid timescales, the TPT's objective is to provide a Tribunal service that is user focused, efficient, timely, helpful and readily accessible. For appellants and authorities, case resolution times provide a clear window on the efficiency and usability of the online system and associated improved business processes.

### 5.2.

The pie chart below shows appeal case closure times from 1 April to 30 November this year (2020/21).

**FIG 4: Case closure times (all decisions)**  
(Apr–Nov 2020/21)



- **8.34%** of cases were resolved in 0–1 day
- **21.62%** within 2–7 days
- **12.22%** in 8–14 days
- **18.29%** in 15–28 days
- **39.55%** in 29 days+

The significant percentage of cases closed in 15 days+ (57.84%) in this period can be explained by the decision taken by TPT to put on hold all appeal activity, including decisions on cases, for a minimum of 8 weeks from Monday 30 March.

By effectively, 'stopping the clock', each case at the Tribunal was held at the stage it had reached and Adjudicators stopped issuing any decisions.

For comparison, case closure figures from the same reporting period last year (April – November 2019) can be seen below:

- **12.90%** of cases were resolved in 0–1 day
- **21.75%** within 2–7 days
- **18.17%** in 8–14 days
- **21.79%** in 15–28 days
- **25.50%** in 29 days+

### 5.3.

It is understandable that cases that have a Hearing involved will take longer to be finalised. When appellants request a Hearing, the time to close their case will typically allow for a Hearing date 7–10 days away, and where Adjudicators are seeking to clarify points using messaging, the time taken to close cases will also be affected.

## 6. Helping 'offline' appellants

### 6.1.

While more than 90% of all appeals to the TPT are submitted online through the Fast Online Appeals Management (FOAM) system, introduced in 2016, the TPT customer support team supports appellants who cannot or prefer not to submit their appeal online.

### 6.2.

For the small percentage of people who do find it initially difficult to go online, the TPT provides 'Assisted Digital' support. In line with the stipulations set out in the Government's Digital Service Standard, Assisted Digital at the TPT provides an active form of customer engagement with appellants, to 'walk through' the online appeal submission process and / or complete it on their behalf (by 'proxy'). Contact with the TPT customer service team remains available throughout the process should it be required, including through instant messaging and Live Chat functionality within FOAM.

### 6.3.

This support has taken on a greater significance with the onset of COVID-19 Lockdown Restrictions. With TPT staff now working entirely remotely, in order to restrict the number of incoming and outgoing mail, efforts have been made to help those not appealing online still further, with cases being registered over the phone, rather than by post.

### 6.4.

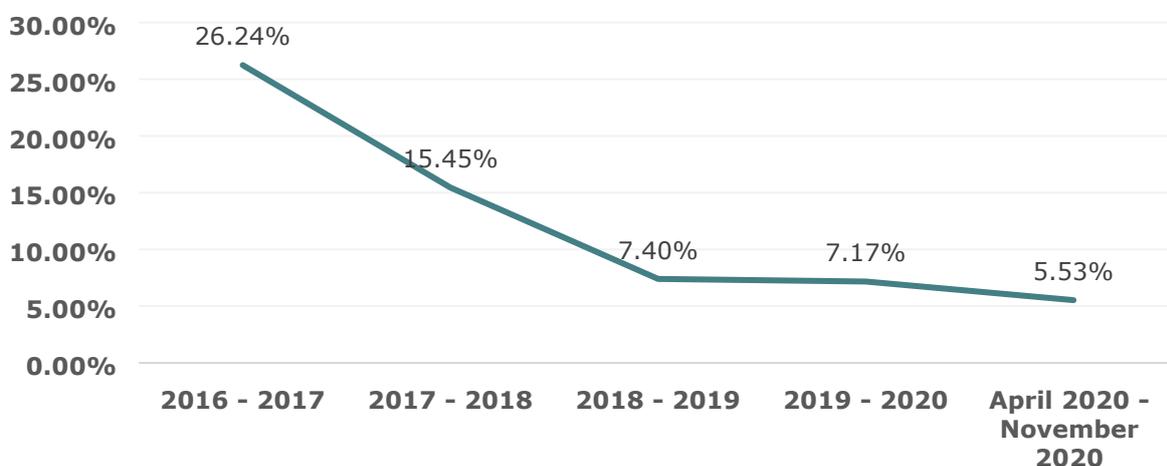
The Tribunal does recognise, however, that there will be appellants who, because of their ability, confidence or preference, still choose to request a paper form be sent to them. Once returned, these cases will be submitted to the online system by the TPT customer service team. The case is shown as online for the authority, but all communications to the appellant will be carried out via post.

To reduce post in and out in relation to those appellants unable to appeal online – or preferring to appeal offline – the customer support team offered to register appeals over the phone, rather than sending forms. This process has been successful and will continue. While it will not necessarily reduce proxy cases, the number of such cases is already low. Appellants with cases started by proxy can opt to be 'converted' to an online appellant; however, more often than not they continue as proxy.

### 6.5.

While support is there for appellants who need it, the percentage of cases submitted by proxy has declined to low levels (reporting from April 2017, in the year after the introduction of FOAM), although this is regularly monitored.

**FIG 5: Decrease in % of cases by proxy  
(to November 2020)**



## 7. Live Chat

### 7.1.

In August 2018, a Live Chat facility was added to the appeal pages on the TPT website and within the Fast Online Appeals Management (FOAM) system.

### 7.2.

Live Chat has since become an extra channel for case-related enquiries and enhances the TPT’s ‘Assisted Digital’ offer by being a useful support channel for appellant queries when creating their cases online. TPT customer services staff can:

- add links to the chats, which can take appellants to the exact page they need to be in FOAM
- see the website pages the appellant has already viewed, and whether they already have a case.

### 7.3.

Live Chat has continued to provide a useful and convenient means of contacting the Tribunal in the wake of the COVID-19 Lockdown Restrictions and the impact they have had on appeal activity (see Pages 1–2).

### 7.4.

A recent review has taken place of the common themes arising from Live Chats, which could help contribute to further developments of FOAM and provide the best possible user experience.

### 7.5.

Between April – November 2020, there have been a total of 468 Live Chats. A series of insights from these chats are presented below.

**FIG 6: Number of Live Chats by month  
(Apr–Nov 2020/21)**

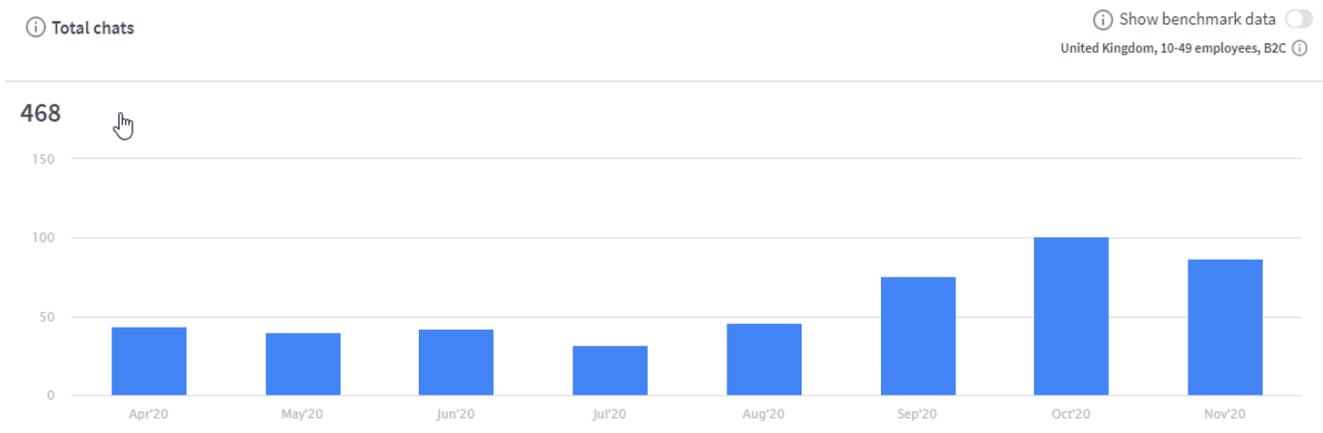


FIG 7: Chat satisfaction rating (Apr–Nov 2020/21)



FIG 8: Survey responses (Apr–Nov 2020/21)

What is your query regarding? (510 answers)

Dropdown | Required



**Is this the first time you have chatted with us?** (113 answers)

Choice list | Required

94.69% — Yes



5.31% — No

**Was the issue resolved during the chat?** (113 answers)

Choice list | Required

64.60% — Yes



35.40% — No

**How would you have contacted us if Livechat wasn't available.** (110 answers)

Choice list | Optional

63.64% — Phone



26.36% — Email



10.00% — Not at all



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## Item 14

### **PATROL and Bus Lane Adjudication Service Joint Committees Executive Sub Committees**

**Date of Meeting: 26<sup>th</sup> January 2021**

#### **Report of the Director**

## **PATROL Public Affairs Overview January 2021**

### **1. Introduction**

With a membership of over 300 local authorities, PATROL is uniquely placed to understand the local authority perspective on civil enforcement matters whilst at the same time having regard to the issues that matter to motorists through the experience of appeals to the Traffic Penalty Tribunal.

The Resources Working Group and Sub Committee has been overseeing a range of public affairs initiatives on behalf of the PATROL and the Bus Lane Adjudication Service Joint Committees and their Executive Sub Committees.

The following report provides an update on activities in the following categories:

- Current Issues
- Public Information – Parking Annual Reports

Each sub-section within these categories is split into:

- Background
- Update
- Next Steps

### **2. Current Issues**

#### **a) The impact of COVID-19 on transport**

In summary

Local authorities reduced or stopped enforcement during April and May and also made parking provision available for NHS and Care Workers. Local authorities reported redeploying civil enforcement officers to assist with welfare provision in response to the Covid-19 pandemic.

Following the first lockdown where enforcement was curtailed or stopped with civil enforcement officers being deployed to support welfare measures in the community, authorities are now emerging from lockdown at different pace, re-commencing enforcement and their priorities are likely to be framed by factors including:

- A staged recovery;
- Managing pavements for safe distancing
- Coastal resorts, national parks and visitor attractions facing parking pressure when lockdown eased with increased numbers of staycations putting additional pressure on car parks with increased prevalence of inconsiderate parking.
- The increased use of delivery services
- Increasing use of pay by phone, developments to local authority communication channels for challenge and representations against penalties.
- Responding to resident requests for enforcement, for instance on permit parking.
- Responding to increasing requests for school gate enforcement
- Reduced capacity of and use of public transport;
- Increasing reliance on cars
- Increased home-working.
- Addressing the needs of people reliant on public transport
- Promoting active travel (walking and cycling including pop-up cycles lanes
- Use of experimental and temporary traffic regulation orders
- Encouraging dual mode journeys e.g. car and walking/cycling;
- Supporting business and the local economy
- Supporting NHS and Key Workers through the parking pass
- Continued working from home for many workers

The Government through a range of announcements and funding initiatives is promoting active travel (walking and cycling) and hoping to build on the impact of COVID-19 on personal mobility during lockdown.

The Government introduced a Pavement License allowing license holders to place removable furniture on certain highways adjacent to premises to provide for social distancing within the hospitality industry.

The Government introduced temporary legislation (Traffic Orders Procedure (Coronavirus) (Amendment) (England) Regulations 2020) to simplify the Traffic Regulation Order process to support the introducing of temporary traffic schemes such as pavement widening or cycle lanes. Whilst meeting urgent needs, consideration needs to be given to how these schemes may impact on other traffic management objectives.

In June 2020, the Department for Transport provided clarification on the (Traffic Orders Procedure (Coronavirus) (Amendment) (England) Regulations 2020 stating that TROs can be permanent, temporary or experimental. The Statutory Instrument introduces an emergency procedure for temporary orders and amends publicity requirements.

Traffic authorities may use the new emergency procedure to put in place measures urgently if they are necessary for purposes connected to coronavirus. The emergency procedure is set out in the newly-inserted [Regulation 18 of Part VI \(Temporary Provisions Applicable During the Coronavirus Pandemic\)](#) of [The Road Traffic \(Temporary Restrictions\) Procedure Regulations 1992 \(SI 1992/1215, as amended by SI 2020/536\)](#).

The recovery in terms of use of public transport has been slower and has prompted concerns for how to manage urban centres in the light of increasing car usage. This may involve car parks being used as hubs to transfer to walking or cycling for the “final mile”.

MHCLG has convened a fortnightly forum on parking matters in the light of the pandemic. PATROL is participating in this forum

There have been reports of delays in the DVLA processing changes in ownership on account of the pandemic. Change of ownership is common issue in appeals to the Traffic Penalty Tribunal.

## **Update**

Periods of reduced enforcement have highlighted the important role of civil enforcement in managing road space and traffic flow. Local authorities are responding to the changing transport modes and patterns of use arising from the lockdown. Local authorities have requested clarification from Government on the appropriate use of NHS Parking Passes to protect provision for those who require it most.

## **b) Transport Committee 2020**

Ongoing inquiries include::

Young and Novice Drivers  
Coronavirus: Implications for Transport  
Escooters  
Reforming Public Transport after the Pandemic  
Zero Emissions Vehicles and Road Pricing

<https://committees.parliament.uk/committee/153/transport-committee>

## **c) Pavement Parking**

**Objectives: To contribute evidence and solutions to the government’s exploration of how local authorities outside London can more effectively enforce pavement parking, streamlining the regulatory regime and demonstrating the benefits for local communities.**

### **Background**

Consideration of pavement parking has taken place over the last five years:

- In 2016 the then Minister, Andrew Jones, convened a roundtable discussion on pavement parking. Discussion focused on the local authority concerns regarding the ability to introduce and enforce pavement parking prohibitions outside London were issues relating to the processing of Traffic Regulation Orders. PATROL and TPT were represented on that round table.
- In August 2017 the Department for Transport published a consultation document “Accessibility Action Plan Consultation – A Transport System that is open to everyone”. The consultation included a section on unauthorised pavement parking. PATROL submitted a response to the consultation. The consultation document refers to a survey on the wider Traffic Regulation Order (TRO) process in terms of the current situation, the

costs and timescales for processing TROs and information about options for change.

Representatives from PATROL and the Traffic Penalty Tribunal met with civil servants at the Department for Transport and outlined the challenges of the TRO making process generally and, in particular, for pavement parking and set out the option of introducing obstruction as a contravention. Parking Review invited PATROL to outline its position on pavement parking and this was published in March.

- In 2018 three Pavement Parking Workshops were held one with members and two in the North and South of England with a mixture of local authority members and officers. The latter two received a presentation from the Department for Transport with the lead civil servant listening to the feedback from delegates on this issue. A clear message from PATROL's workshops is that local authorities are looking to build upon existing powers to tackle pavement parking in a way that meets the specific needs of their community rather than a "one size fits all" approach. Officers attending the workshop said they face constant calls to enforce against obstruction but are currently powerless to intervene. A small number of local authorities have introduced schemes prohibiting footway parking but these tend to focus on geographically distinct areas such as city centres. Authorities shared examples of education projects they were undertaking to raise awareness of the problems of pavement parking and other street clutter. There was a consensus that adding highway obstruction by a stationary vehicle to the list of contraventions for which civil enforcement applies, contained in Part 1 of Schedule 7 of the Traffic Management Act 2004 would provide local authorities with the power to take targeted enforcement action against pavement parking in a proactive and reactive way. There was also considerable interest in the potential of the contravention of obstruction to apply to vehicles parked in proximity to junctions which would be beneficial in terms of road safety. The workshops highlighted that civil enforcement officers were already undertaking dropped kerb enforcement and had demonstrated that this could be done proportionately. Dealing with obstruction in off-street carparks is also commonplace. A number of authorities have outlined the challenges that an overall ban could mean for some communities. There was also overwhelming agreement that any new measures need to be accompanied by public information to ensure that motorists understand what is required of them.
- A meeting was held with the Minister, Jesse Norman, on 18<sup>th</sup> March 2019 to discuss the issue and an explanation was provided of the challenges for some local communities of a national pavement parking ban and the potential of introducing obstruction as a civil contravention which could be introduced quickly without the need for changes to primary legislation.
- The Transport Committee launched an inquiry into Pavement Parking on 2<sup>nd</sup> April 2019 which is ongoing. A briefing note was prepared and a submission to the Transport Committee Inquiry. The Director gave evidence to the Inquiry as part of a Local Authority Panel.
- The Transport Committee published its report and recommendations including consulting on a new offence of obstructive pavement parking, making such an offence subject to civil enforcement under the Traffic Management Act 2004 and introducing relevant legislation by summer 2020. This was a preferred option from the PATROL workshops and featured in the PATROL submission to the transport committee, providing powers in a timely way pending any plans to introduce a national pavement parking ban.
- The Government responded in March 2020 and this included:

- Including pavement parking and impact in a wider consultation on the Government's Loneliness Strategy.
- Consulting on a national ban on pavement parking
- Considering the possible offence of "obstructive pavement parking" or "unnecessary obstruction" to enhance police powers which potentially could be enforced by the police and local councils.
- Consult on the challenges of making Traffic Regulation Orders in 2020.

<https://www.patrol-uk.info/pavement-parking-transport-committee-2019/>

The Deputy Minister for Economy and Transport of the Welsh Government announced that a Taskforce Group was to be set up to consider all issues around "Pavement Parking". PATROL and the Traffic Penalty Tribunal are represented on that Group. PATROL has been asked by the Task Group to undertake evaluation of the introduction of a new civil contravention of unnecessary obstruction. The Task Group has concluded its work and the Welsh Government is expected to consider its findings in due course.

The Government has now launched a consultation on Managing Pavement Parking (Appendix 1) and published an associated impact assessment (Appendix 2). The consultation is seeking views on the Traffic Regulation Order making process, the introduction of a new civil contravention of unnecessary obstruction of the pavement and the introduction of an overall pavement parking ban. PATROL will be updating its Pavement Parking briefing note prepared in response to the Transport Committee Inquiry and will circulate in due course. The closing date for submissions is 22<sup>nd</sup> November 2020.

<https://www.gov.uk/government/consultations/managing-pavement-parking>

### **Update**

PATROL's submission to the Department for Transport Consultation "Pavement Parking: Options for Change" is included at Appendix 1.

A copy of the Welsh Pavement Parking Task Force Group Report is included at Appendix 2. Recommendation 8 states that PATROL will coordinate the evaluation report in summer 2023 following a 12 month operation period for the new civil contravention of unnecessary obstruction. PATROL has also been asked to contribute to the development of Operational and Statutory Guidance in this respect.

## d) Moving Traffic Powers

**Objectives: To support and contribute to the call for the government to introduce the remaining powers of Part 6 of the Traffic Management Act 2004.**

### Background

The Traffic Management Act 2004 (TMA) was originally conceived to give local authorities a consistent civil enforcement framework to apply to all parking and traffic management schemes. The Act also offered the public checks and balances beyond the existing Road Traffic Act (RTA), including the redress of procedural impropriety and the imposition of a statutory duty on authorities to consider compelling reasons in appeals.

- The TMA was not, however, brought into force when in 2005, English local authorities instead commenced bus lane enforcement under the Transport Act 2000 (TA). This may have been due to the regulatory process of the TMA having been started but not allowing the bus lane enforcement powers to come under the Act at that time.
- In 2007, the civil enforcement of parking restrictions in England *was* brought under the TMA; an evolution of powers having previously been first de-criminalised under the RTA. With only Parking enforcement in England coming under the TMA in 2007 – while bus lane enforcement remained under the TA – a disparity and frustration in the ethos of the single, consistent civil enforcement framework originally conceived of the TMA was created.
- The Welsh Government originally followed England’s lead, but realised the importance of bringing parking, bus lane and the additional power to enforce moving traffic restrictions under the TMA.
- Any movement to rectify the disparity in powers coming under different Acts in England has undoubtedly been influenced by issues that have arisen in London, where the civil enforcement of traffic contraventions has been legislated under several London Local Authority Acts.
- PATROL has surveyed member authorities in relation to their likelihood of taking up these powers were they made available. It is clear that local authorities in England (outside London) have an interest in these powers and are willing to support any actions taken to raise awareness with Ministers. The Local Government Association (LGA) published a report in 2017 “A country in a jam: tackling congestion in our towns and cities”. PATROL has engaged with the Local Government Association and circulated details of the LGA survey on local authority views on moving traffic enforcement. The LGA survey results were presented to the PATROL Executive Sub Committee meeting in October 2019.
- The Transport Committee in two recent inquiries: “Bus Services in England Outside London” published in May 2019 and “Active Travel – increasing levels of walking and cycling in England” (July 2019) included a recommendation that the government should look to introduce moving traffic enforcement in England (outside London) to reduce congestion. The government’s response to the first report was to “consider it carefully” and in relation to the second rejected it citing concerns about the volume of penalties issued and revenue raising.
- In October, Transport Secretary Grant Shapps indicated that he could move to grant English authorities the right to issue penalty charges for moving traffic offences: *“I have been looking at powers outside of London provided to local areas to do some of these things, and think that I’ll shortly be making an announcement.”*

- PATROL has been liaising with the LGA on their communications on these powers and is developing a complimentary briefing document.

The Government has published its strategy for promoting active travel with the aim of:

- better streets for cycling and people
- cycling and walking at the heart of decision-making
- empowering and encouraging local authorities
- enabling people to cycle and protecting them when they do

The strategy document “Gear Change A bold vision for cycling and walking” is wide-ranging in scope and includes:

- The intention to commence the remaining powers of Part 6 of the Traffic Management Act – moving traffic contraventions including issuing guidance to local authorities on the importance of the public being informed of schemes, effective traffic signs and proposals for warning notices for first time contraventions.
- New standards for pedestrian and cycling infrastructure
- The intention to review the Statutory Guidance as it applies to the Network Management Duty to reflect active travel objectives
- Introduction of a new commissioning body and inspectorate Active Travel England to oversee £5 billion investment over the next five years whose local assessment will be taken into account in relation to funding allocations for other transport schemes.
- A review of the Highway Code

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/904146/gear-change-a-bold-vision-for-cycling-and-walking.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904146/gear-change-a-bold-vision-for-cycling-and-walking.pdf)

PATROL and the Traffic Penalty Tribunal will liaise with the Department for Transport in respect of the introduction of these powers.

### **Update**

PATROL has written to the Secretary of State for Transport and offered to assist him and his civil servants in the introduction of these new powers which are anticipated in 2021. It is anticipated that four new statutory instruments will be required, statutory guidance will be updated and local authorities will be required to apply for a designation order.

## **e) Highway Code Review to improve road safety for cyclists, pedestrians and horse riders**

This is an open consultation which runs to **27<sup>th</sup> October 2020**. The consultation seeking views on proposed changes to The Highway Code to improve safety for vulnerable road users, particularly the groups of cyclists; pedestrians and horse riders.

The main alterations to the code being proposed are:

- introducing a hierarchy of road users which ensures that those road users who can do the greatest harm have the greatest responsibility to reduce the danger or threat they may pose to others
- clarifying existing rules on pedestrian priority on pavements, to advise that drivers and riders should give way to pedestrians crossing or waiting to cross the road,
- providing guidance on cyclist priority at junctions to advise drivers to give priority to cyclists at junctions when travelling straight ahead
- establishing guidance on safe passing distances and speeds when overtaking cyclists and horse riders

### **Update**

A copy of the PATROL/TPT response is included at Appendix 3.

## **f) The Parking (Code of Practice) Act 2019**

**Objectives: To bring the experiences of civil enforcement and adjudication to plans to introduce a single Code of Practice to the private parking sector promoting fairness and transparency.**

### **Background**

Sir Greg Knight (Conservative Member of Parliament for East Yorkshire) sponsored this Private Member's Bill in response to a range of concerns private sector car parks including:

- Practices which could be in breach of consumer protection laws, such as companies setting excessive parking charges, or levying excessive penalties for overstaying which are dressed up as official "parking fines".
- Practices that undermine the principle underlying the formation of a contract, including unclear or missing signage, or a lack of transparency on charges and/or fines.

- Failure to treat drivers fairly when they have incurred a penalty, including the failure to provide information, consider appeals fairly and the aggressive use bailiffs.
- Some have called for specific action, including the introduction of a binding code of practice; for mandatory membership of an accredited trade association; or a rethink of whether the rules about access to the DVLA database are robust enough

### **The new Act in summary**

The Government has stated that the new act will result in:

- End unfair parking fines by rogue private parking firms
- Private parking firms will need to follow a new Code of Practice
- Drivers will be able to challenge unfair fines through a new independent appeals service.
- A new single Code of Practice will ensure parking is consistent, transparent and easier to understand. If private parking firms break it, they could be barred from making data enquiries from the DVLA to enforce tickets.

The then Local Government Minister, Rishi Sunak announced that arrangements would be put in place to develop the code of practice and appeals and scrutiny mechanisms that the Act provides. The Secretary of State will also have the power to raise a levy on the sector to fund the production, publishing and enforcement of the code. That levy will also cover the cost of appointing and maintaining a single appeals service.

A single code is intended to set a higher standard across the sector, especially in the area of appeals

A Car Parks as a Service workshop was held in London in August attended by a range of local authorities with representation from the MHCLG and the Vehicle Certification Agency. The purpose is to establish how local authorities can build upon their experience of delivery a car park service to meet future demands whilst at the same time assisting the introduction of single code or practice for private car park operators. A briefing note is in preparation.

The BSI commenced work on the Single Code of Practice in December 2019, and have convened a group of key stakeholders, representing consumers and the industry to contribute to this process.

The Government committed to developing the Parking Code of Practice this year.

The Ministry of Housing, Communities and Local Government has launched a six-week consultation on a Private Parking Code Regulation Framework (Appendix 3 )simultaneously with The British Standards Institute's six-week consultation on a Draft Code of Practice (Appendix 4). The closing date is 12<sup>th</sup> October 2020

## **Update**

A copy of the PATROL and TPT submissions to the Parking Code Enforcement Framework are enclosed at Appendix 4 and 5.

## **g) Simplifying the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007**

### **Background**

The Government has confirmed that the lower band of penalty charges will be retained, to give local authorities the discretion to reduce their parking penalties, if elected councillors wish to adopt such a policy. The response points to the intention to adopt the Welsh model of listing higher level contravention types in an Order while publishing the specific contravention codes in guidance. The Government will seek to amend the 2007 Order to this effect.

Currently London Councils performs a coordinating role on behalf of all councils in the review of contravention codes. PATROL has offered to undertake this role on behalf of outside London Councils.

PATROL has confirmed its willingness to undertake this role.

### **Update**

The importance of reviewing the higher level codes has been set out in PATROL's response to the MHCLG consultation on the Parking Code Enforcement Framework.

## AIR QUALITY

### h) Clean Air Zones

**Objectives: To bring experiences from road user charging enforcement and appeals to the government and local authority plans to introduce Clean Air Zones, where these are charging clean air zones (CAAZ).**

### Background

In its [Clean Air Strategy 2019](#), the Government identifies nitrogen oxide (NOx) concentrations around roads as an 'immediate and urgent' air quality challenge, with road transport being responsible for some 80% of all NOx concentrations at the roadside.

This follows the *UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations*, published in 2017 and supplemented in 2018, which mandated local authorities in England to develop plans to bring roadside concentrations of nitrogen dioxide (NO<sub>2</sub>) within legal limits in the shortest possible time.

- Five City Councils were originally mandated by the Department for Environment, Food & Rural Affairs (Defra) under the 2017 / 18 plan to reduce NO<sub>2</sub> levels: Birmingham, Derby, Leeds, Nottingham and Southampton. These authorities were also instructed to include the potential of introducing a Clean Air Zone (CAZ) in their plans – and whether this would include a charging scheme.
- In March 2018, a further 23 local authorities were instructed by Defra to take steps to reduce roadside emissions and 33 to carry out studies on reducing NO<sub>2</sub> air pollution in their areas.
- In November 2018, the Welsh Government published its [supplemental plan](#) to the UK plan for tackling roadside nitrogen dioxide concentrations, which directed the councils of Cardiff and Caerphilly to undertake an assessment by 30 June 2019 to achieve NO<sub>2</sub> limit values within the shortest possible time.

### Types of Charging CAZ

There are four types of Charging CAZ, which will be indicated on signs through the letters A–D.



**A:** Buses, coaches, taxis and private hire vehicles

**B:** As above, plus Heavy Goods Vehicles (HGVs)

**C:** As above, plus Light Goods Vehicles (LGVs)

**D:** As above, plus cars

## Charging Clean Air Zones Status Update – wc. 11 January 2020: Local authority plans

Many town and city authorities across England and Wales (outside London) are considering ways to improve air quality through a reduction of nitrogen dioxide NO<sub>2</sub> levels. With some of these authorities in the process of introducing, consulting on, or drawing up plans for a charging Clean Air Zone (CAZ), PATROL provides an update as of wc. 11 January 2021.\*

### Overview of current local authority plans

A detailed overview of authority plans for Charging CAZs can be found in the table below.

ENGLAND			
Location	Zone proposed	Current status	Further information
Basildon	TBC	<ul style="list-style-type: none"> <li>Council voted against the notion of introducing a Charging CAZ</li> <li>Discussions with Defra ongoing on alternative to the CAZ plan, pending a public consultation.</li> </ul>	<a href="#">Essex Highways</a>
Bath		<ul style="list-style-type: none"> <li>Launch now scheduled for 15 March 2021.</li> <li>Charges:               <ul style="list-style-type: none"> <li>Taxis (Hackney Carriages &amp; Private Hire), LGVs, minibuses: £9 / day</li> <li>HGVs, PHGVs, coaches and buses: £100 / day</li> <li>A number of exemptions apply</li> </ul> </li> </ul>	<a href="#">Bath &amp; North East Somerset Council</a>
Birmingham		<ul style="list-style-type: none"> <li>Launch now scheduled for 1 June 2021.</li> <li>Charges:               <ul style="list-style-type: none"> <li>Cars, Taxis (Hackney Carriages &amp; Private Hire), LGVs: £8 / day</li> <li>HGVs, coaches and buses: £50 / day</li> <li>A number of exemptions apply</li> </ul> </li> <li>Further proposals announced in Jan 2020 for a total ban on cars driving through city centre TBC.</li> </ul>	<a href="#">Brum Breathes</a>

<b>Bradford</b>		<ul style="list-style-type: none"> <li>• A public consultation in early 2020 showed 66% of respondents were in favour of a CAZ.</li> <li>• The Council is continuing to develop its proposals ahead of submission to Defra.</li> <li>• Launch expected by January 2022.</li> </ul>	<a href="#"><u>Breathe Better Bradford</u></a>
<b>Bristol</b>	 	<ul style="list-style-type: none"> <li>• Responding to the COVID-19 pandemic and measures that have already improved air quality, the Council is now consulting on two new Clean Air Zone options             <ol style="list-style-type: none"> <li>1. Small Class D zone covering central city area</li> <li>2. Option 1, plus a wider Class C zone</li> </ol> </li> <li>• The consultation closed on 13 December – results pending.</li> </ul>	<a href="#"><u>Bristol City Council</u></a>  <a href="#"><u>Clean Air for Bristol</u></a>
<b>Cambridge Cambridge (Greater Cambridge Partnership) –</b> Cambridge City Council, Cambridgeshire County Council, South Cambridgeshire District Council)		<ul style="list-style-type: none"> <li>• Potential for Class C charging CAZ as part of air quality plans under development, as well as a future Ultra Low Emission Zone (ULEZ).</li> <li>• Further consultation expected.</li> </ul>	<a href="#"><u>Cambridge City Council</u></a>
<b>Leicester</b>		<ul style="list-style-type: none"> <li>• Draft proposal for CAZ submitted to Government; final business case expected</li> <li>• Implementation in 2022.</li> </ul>	<a href="#"><u>Leicester City Council</u></a>
<b>Liverpool</b>		<ul style="list-style-type: none"> <li>• Discussions with Defra ongoing for Class D zone.</li> <li>• Launch would be 2022 at earliest.</li> </ul>	<a href="#"><u>Liverpool City Council</u></a>
<b>Manchester (Greater Manchester Combined Authority) –</b> Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan		<ul style="list-style-type: none"> <li>• Launch in 2022 proposed for two phases:             <ul style="list-style-type: none"> <li>○ Phase 1: Buses, coaches, HGVs, Taxis and PHVs.</li> <li>○ Phase 2: Vans and minibuses.</li> </ul> </li> <li>• Consultation on the proposals closed 3 December – results pending.</li> </ul>	<a href="#"><u>Clean Air Greater Manchester</u></a>

<b>Newcastle, Gateshead and North Tyneside</b>		<ul style="list-style-type: none"> <li>• Consultation on plans for a Class C zone closed 27 November, indicating widespread support.</li> <li>• Council has backed the plan; Defra approval pending.</li> <li>• Launch now planned for 'later in 2021' at earliest.</li> </ul>	<a href="#">Tyneside Clean Air</a>
<b>Oxford</b>		<ul style="list-style-type: none"> <li>• Single city centre zone proposed, with two launch phases.</li> <li>• Pilot zone in heart of city centre planned for launch Summer 2021, with wider extension in Spring 2022 (based on further consultation).</li> <li>• Final consultation on pilot phase underway until 17 January 2021.</li> </ul>	<a href="#">Oxfordshire County Council</a>
<b>Portsmouth</b>		<ul style="list-style-type: none"> <li>• In July 2020, Defra instructed the council to consult on a Class B zone.</li> <li>• A public consultation was run until 31 August 2020, with plans for a zone approved by the council 6 October.</li> <li>• Now pending Defra approval.</li> <li>• Implementation by November 2021.</li> </ul>	<a href="#">Portsmouth City Council</a>
<b>Stoke-on-Trent City Council and Newcastle Borough Council</b>	TBC	<ul style="list-style-type: none"> <li>• Defra has instructed the authorities to reduce levels of NO2 by 2023, with the potential for a charging CAZ.</li> <li>• Proposals due to be submitted to Defra July 2021.</li> </ul>	
<b>WALES</b>			
<b>Location</b>	<b>Zone proposed</b>	<b>Current status</b>	<b>Further information</b>
<b>Cardiff</b>	TBC	<ul style="list-style-type: none"> <li>• Charging CAZ removed from air quality plan following public consultation.</li> <li>• HOWEVER: Council is now considering a congestion charge as part of a wider 10-year transport vision for the city.</li> </ul>	<a href="#">Cardiff City Council</a>

\* PLEASE NOTE: This article is intended to track the development of charging Clean Air Zones in England and Wales, and is updated periodically based on information that becomes available in the public domain.

## i) Green Number Plates

The Government has responded to a recent consultation on the introduction of green number plates. Patrol and the Traffic Penalty Tribunal's response to this consultation can be found at: <https://www.patrol-uk.info/docs/green-number-plates.pdf>

Green number plates are set to be rolled out from autumn, under plans to drive a green economic recovery. As part of the government's plans to achieve net zero emissions by 2050, drivers will be encouraged to make the switch to electric vehicles through the introduction of green number plates. It is suggested that the plates will make it easier for cars to be identified as zero emission vehicles, helping local authorities design and put in place new policies to incentivise people to own and drive them.

Front plate:



Rear plate:



More information is available at this link <https://www.gov.uk/government/news/green-number-plates-get-the-green-light-for-a-zero-emission-future>

### Update

The green "flash" number plates will be available to be used on new and used electric vehicles from 8<sup>th</sup> December 2020.

## j) Responding to the challenge of electric vehicles

### Background

The government has issued a "league table" of charging availability across the UK.

<https://www.gov.uk/government/statistics/electric-vehicle-charging-device-statistics-october-2020>

The recent local authority workshops identified that local authorities face a number of challenges in this area. Brighton & Hove City Council has been instrumental in addressing this issue and is willing to share its experiences as part of a workshop.

## Update

PATROL's Chair, Councillor Stuart Hughes (Devon County Council) welcomed 100 officers and members to hear about the support available for increasing local charging infrastructure at its workshop, 'Leading the Charge', on 2<sup>ND</sup> December 2020.

Representatives from the Government's Office for Low Emission Vehicles (OLEV) and the Energy Saving Trust outlined the support available for local authorities. This was followed by invaluable accounts from four local authorities (Brighton & Hove City Council, Devon County Council, Durham County Council and Oxfordshire County Council).

Traffic Penalty Tribunal Deputy Chief Adjudicator, Stephen Knapp, provided observations on some of the issues that could arise representations and appeals.

The event was chaired by Stakeholder Engagement Manager, Iain Worrall, and presentations and documents referred to at the workshop are available.

### **3) PATROL commitment to improving public information on civil enforcement: PACER (Promoting Awareness of Civil Enforcement through Reporting) Awards\***

\* Formerly the PARC Awards

**Objectives: To support and share best practice in the production of local authority parking annual reports, in order to promote transparency and greater public understanding of traffic management and civil enforcement.**

**Background: A new name for our Annual Report awards programme**

In an annual awards programme, PATROL recognises local authorities that have used an Annual Report to articulate and communicate on their area's parking and traffic management services, appeals and finances in a compelling and well-structured way.

**This year, PATROL has rebranded the awards to reflect the wider traffic management and enforcement responsibilities of authorities – beyond just parking.**

We also wanted to better highlight the importance that increased awareness on the purpose of civil enforcement has on helping the public understand its role in traffic management and improving communities for residents, visitors and businesses.

We are therefore pleased to introduce the **PATROL Promoting Awareness of Civil Enforcement through Reporting (PACER) Awards**.



The awards process will run as it has previously with the PARC (Parking Annual Reports by Councils) Awards and we very much hope to be able to host the authorities shortlisted for a report this year (as well as those from last year) at a reception at the House of Commons in the summer.

**2019/20 Reports should be submitted to <mailto:info@patrol-uk.info> by Friday 31 March to be considered for this year's PACER Awards. Find out more about the awards [here>>](#).**

**PATROL Annual Report Toolkit microsite: Supporting authorities to produce their 2019/20 reports**



PATROL has updated its [Annual Report Toolkit microsite>>](#), developed to help authority teams to produce an engaging parking and traffic management Annual Report.

This digital toolkit – now in its second year – provides swift, convenient access to information covering the importance of producing a report, step-by-step guidance on putting different elements of a report together, together with actual examples of past reports and content.

**Key features of this year’s toolkit**

- [Reporting Digest>>](#) – compiled by last year’s PATROL PARC (Parking Annual Reports by Councils) Awards independent Review Group Chair, Paul Nicholls of Brighton & Hove City Council, this interactive document includes links to some of the best examples of reporting seen from 2018/19 reports, not just from those authorities that were selected for an award.
- **‘5 Steps to Success’** – a collection of useful tips and guidance, focused on key themes, to help you write and structure your report, including video insights from previous award winners and reporting examples.
  - Includes [Exemplar Finance and statistics reporting guide>>](#) – PATROL has asked David Leibling, Transport Consultant and member of the 2020 PARC Review Group, to help produce an ‘exemplar’ reporting document, which is intended to act as a template or ‘blueprint’ for your authority to produce a financial and statistics section of your next Annual Report.
- **Dedicated tips about design** – 2020 PARC Review Group member and freelance graphic designer, Lizzie Unwin, provides her ‘top tips’ for utilising design in your Annual Report.
- **Gallery of shortlisted 2018/19 reports** – access all the reports that were selected for recognition at the PARC Awards in 2020.
  - We are also pleased to highlight Lincolnshire County Council – [awarded Overall Winner for its report last year>>](#) – once again, with some useful insight from Parking Services Manager Matt Jones on his team’s approach. We will also shortly be adding a video interview with Matt – who will be chairing the awards’ independent Review Group next year – to the toolkit website.

### Local Authority Workshop

PATROL is planning a virtual workshop focused on the Annual Report Toolkit, together with hints and tips on producing an engaging and informative report on Wednesday 20 January. Planned guest speakers include independent Review Group members and past award winners.

**Please register your interest in attending this workshop [here>>](#).**

### Feedback, questions and next steps

PATROL hopes authorities will find this year's Annual Report Toolkit helpful and welcome any feedback or suggestions to help us keep improving it as a useful resource. Please also feel free to contact [info@patrol-uk.info](mailto:info@patrol-uk.info) if you have any questions on producing or submitting a report this year.

PATROL would like to take this opportunity to once again thanks Paul Nicholls for chairing the independent PARC Review Group in 2020 – a difficult year for us all – as well as all the members of the group for their valuable experience and insight into the awards process and toolkit materials. PATROL also looks forward to Matt Jones chairing the Review Group on behalf of Lincolnshire County Council later this year.

Finally, as you will have heard from previous communications, Louise Hutchinson will be retiring in the spring, so it will be PATROL's newly appointed Director, Laura Padden, who will be taking things forward with the PACER Awards.



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**PATROL AND BUS LANE ADJUDICATION SERVICE JOINT COMMITTEE  
EXECUTIVE SUB COMMITTEES**

**Item 14**

**PUBLIC AFFAIRS APPENDICES**

1. PATROL response to Department for Transport Consultation – Pavement Parking: Options for Change. (page 2)
2. Welsh Pavement Parking: Task Force Group Report (page 23)
3. Response to Highway Code Consultation (page 47)
4. PATROL response to Ministry of Housing, Communities & Local Government Consultation: Parking Code Enforcement Framework (page 53)
5. Traffic Penalty Tribunal response to Ministry of Housing, Communities & Local Government Consultation: Parking Code Enforcement Framework (page 62)

**Explanatory note and question responses to:**

Department for Transport

*Pavement Parking: Options for change* consultation

# PATROL

**PATROL (Parking and Traffic Regulations Outside London)**

**Joint Committee**

[www.patrol-uk.info](http://www.patrol-uk.info)

**20 November 2020**

**Contact:**

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# Introduction

**PATROL welcomes the Government's consultation seeking views on how to control pavement parking in England (outside London). Pavement parking has caused significant problems for many years – to a greater or lesser extent – in all PATROL local authority areas. The impact of pavement parking on people with disabilities, older people and children in prams and pushchairs, together with the Government's recent focus on active travel and pedestrians as road users in the wake of COVID-19, has emphasised the pressing need to take steps to tackle the issue.**

In its consultation, the Department for Transport (DfT) has set out, as a starting point, three options. The first is an ongoing initiative to review the Traffic Regulation Order (TRO)-making process. Options 2 and 3 suggest two different approaches to pavement parking control and enforcement, and consultees are asked which of the two they prefer. The consultation also invites any alternative proposals for managing pavement parking. The DfT recognises there are pros and cons for each option, and has indicated that the responses received will inform how the issue should be addressed.

PATROL does not consider the three options proposed as alternatives, or that any should be abandoned. PATROL recommends that the suggested options should, instead, all be pursued as related measures in a phased approach, starting with Option 2 – taking immediate steps to add 'unnecessary obstruction of the pavement'\* to the list of offences that are subject to civil enforcement by local authorities.

The fundamental difficulty is that it is widely believed pavement parking is permitted outside London. This misconception has arisen because pavement parking has never really been enforced. Because the answer to the question, 'Will I be fined for parking on the pavement outside London?' is 'No', even the DfT in its consultation has regrettably stated that parking is permitted on the pavement in England outside London. This is wrong – the express statutory ban in London (since 1974) didn't result in permitting pavement parking outside London; it created a defined offence that the Metropolitan Police was confident in enforcing.

**PATROL therefore disagrees and is bound to comment that the assertion made in the consultation introduction, that in England (outside London) '*...parking on pavements and verges is permitted unless specifically prohibited by a local authority...*', is incorrect.**

The old case law, most of which stems from the 1960s and '70s, mainly deals with carriageway obstruction, seen through the lens of society shifting to increased vehicle use. Yet in those days, the Highway Code listed 10 compulsory 'musts' and 'must nots'. Number 6 stated: '*you must not park on the footway unless authorised.*' The 2007 edition, however, reflects the London legislation, stating at 244: 'You MUST NOT park partially or wholly on the pavement in London, and should not do so elsewhere unless signs permit it.'

It *does not* say that pavement parking is permitted outside London. It has never been permitted, but lapsed enforcement has led to a belief that it is. However, the position is no different to parking and bus lane contraventions that went unenforced by the police for many years until local authorities commenced civil enforcement. Driving in bus lanes and parking on yellow lines had not become permitted before civil enforcement.

The current Welsh Government proposals do not state that pavement parking is permitted

There are those still old enough to remember when it never occurred to anyone to park on the pavement. Gradually, the combination of getting away with it, giving oneself the benefit of the doubt – reinforced by no enforcement – developed into the strongly held (but misguided) belief that it is permissible to park on the pavement, except in London, where, for many years, you risked being towed away for doing so.

**The overarching principle that still applies, and always has, is that pavements and footways are for pedestrians and carriageways are for vehicles. Any stationary vehicle left on the footway is preventing a pedestrian from proceeding along that area of footway.** It is an offence to drive on the footway, except to enter premises, so a vehicle parked on the pavement can reasonably be presumed to have broken the law to access the place where it is parked.

Therefore, the problem is not that parking is permitted on the footway outside London, it is that generations of motorists believe that they may park on the pavement / footway. The challenge now is to reinforce in the minds of the motoring public that pavements are provided for pedestrians (and definitely not for cycles and scooters). Any vehicle parked unnecessarily on the footway is de facto obstructing the use of the footway, whether or not a pedestrian is actually obstructed; or, in the driver's opinion, ought to be able to manoeuvre around their car. It must be explained that it is only lack of enforcement that has resulted in vehicles being parked on the footway with impunity – and that in future, penalty charges will be issued.

This is not impossible. That you are permitted to park on the pavement is just one of a number of parking and traffic myths that have no basis in law. We are all familiar with the barrack room lawyer in the pub holding forth that one can:

- pull into a bus lane 20 metres before it ends if you are turning left
- stop on yellow lines for 10 minutes
- park behind yellow lines, because the restrictions do not apply; and
- 'I was only there for five minutes' is an acceptable reason.

Civil enforcement by local authorities has gradually put a stop to these myths. The stumbling block for the police, however, has been the changing nature of what constitutes obstruction in a world where vehicle use on the road has ever been increasing, and what evidence is required in order to establish the criminal standard of proof. This would have a change of focus if footway parking contraventions were subject to civil enforcement.

## **The three consultation options; progressing them in a phased approach**

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

It is self-evident that if parking is not permitted on the pavement / footway, then there should be no need to create a bylaw by means of a TRO prohibiting it. However, because the police do not enforce pavement parking, and unnecessary obstruction of the highway is not subject to civil enforcement, local authorities outside London currently only have the power to enforce against a vehicle parked on the footway by making a TRO, enabling a civil Penalty Charge Notice (PCN) to be issued for contraventions.

TRO contraventions are, however, unenforceable if not signed and there were no signs in the Traffic Signs Regulations and General Directions (TSRGD) for prohibited footway parking (it not being allowed). This meant that a council wishing to use a prohibitive TRO to take on enforcement required special authorisation for signs. This contrasts with TROs *permitting or designating* parking on (or partially on) the footway, for which there have been TSRGD signs for some time. The 2016 TSRGD contains an entry sign to a zone where parking is prohibited (Schedule 5; Part 3; Item 7).

*The review of the TRO-making process is of significant importance for local authorities and to future digital mapping. PATROL recommends this work should continue and be progressed in parallel to the solution to pavement parking. Streamlining the process would assist TRO making – prohibitive or permissive – should authorities still need to use those measures, either in the short or long term.*

## Option 2: To allow local authorities to enforce against ‘unnecessary obstruction of the pavement’

Option 2 represents the most effective way forward in the short term, enabling all enforcement authorities to target the worst cases of pavement parking. It is a flexible solution and targeted enough to tackle the issue specific to individual communities, but applicable and actionable nationally by any civil enforcement authority.

Introducing the offence of unnecessary obstruction to Schedule 6 of the *Traffic Management Act 2004* (TMA) would also mean that the enforcement authorities must have regard to Statutory Guidance. This Guidance would enable the Secretary of State to provide clear examples of unnecessary obstruction (e.g. where there is not enough room for a wheelchair to pass). Examples of where parking on the pavement is necessary could also be included. The Guidance can also recommend enforcement policies, such as the issuing of warning notices and sensitive consideration of representations against PCNs, aimed at achieving compliance.

The success of Option 2 is predicated on a national public information campaign (and syndicated locally) to reverse the perception that pavement parking is permitted, while promoting behaviour change and compliance among motorists.

*PATROL recommends that Option 2, with the necessary safeguards described above, should be progressed as a first step to tackling the issue of pavement parking in England (outside London)*

## Option 3: A national pavement parking prohibition

Option 3 is a longer term consideration, requiring primary legislation, so the likelihood of introducing the prohibition is realistically some way in the future. The problems and challenges of pavement parking differ from area to area. A national ban would need to contain a similar provision to the *Greater London (General Powers Act) 1974*, where a council can lift the ban and permit parking based on a Resolution, rather than making a permissive TRO. Nonetheless, most authorities would need to identify areas where pavement parking must be permitted and would need to undertake consultation exercises.

*If Option 2 is introduced first, in time – through impact assessment – the Government and local authorities alike will be able to assess whether primary legislation is needed to tackle the problem, with clear evidence-based examples of successes and difficulties in enforcement.*

\* The legal term for a pavement next to a carriageway is ‘footway’. ‘Pavement’ is the more common term. As per the Department for Transport’s use of ‘pavement’ rather than ‘footway’ in its consultation, PATROL will follow this approach.

Consultation question	Explanation / Reference
<p><b>Q7. Do you prefer:</b></p> <ul style="list-style-type: none"> <li>• Option 1</li> <li>• Option 2</li> </ul>	

- **Option 3**
- **an alternative option?**

**PATROL does not regard the options as mutually exclusive, instead it proposes an alternative, phased approach.**

This is because:

- Option 1 is not a solution in itself and PATROL recommends this should be considered aside from the scope of this consultation. The important work of reviewing the Traffic Regulation Order (TRO)-making process and modernising it to reflect future digital mapping must continue, regardless of whether a reform of the process will have an impact on controlling pavement parking
- Option 2 allows local authorities to immediately tackle pavement parking and / or respond to complaints of pavement parking, while also being an enforcement option that is flexible and targeted enough to meet the specific circumstances 'on the ground' in different communities. Feedback from workshops with PATROL authority Members and Offices (see reference right) was clear about the need for a locally responsive solution to meet the challenge of tackling pavement parking across communities comprising hugely different road networks and built environments.
- Option 3 is a longer term consideration, and PATROL recommends this should be preceded by a thorough evaluation of the evidence from implementing Option 2, impact assessments by local authorities and the ongoing experience of the governments in Scotland and Wales. A nationwide prohibition remains an option, should Option 2 fail to deliver the solution to the problem across differing communities in England (outside London).

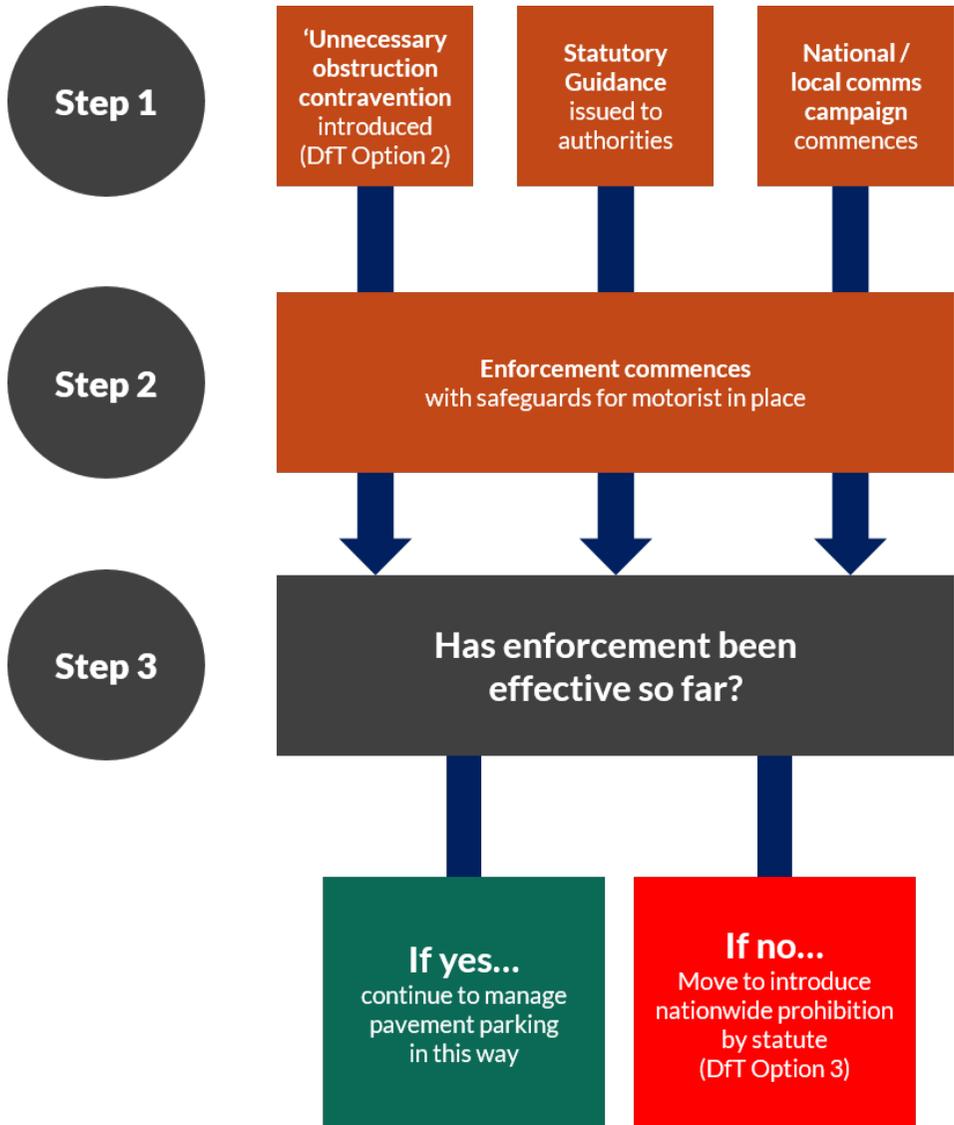
**PATROL's alternative, phased approach – 'Taking action now, paving the way for tomorrow' – is set out in detail below.**

*In 2018, to contribute to the Department for Transport's evidence gathering on pavement parking, PATROL held workshops with Members and Officers from among its 300+ local authority members.*

*A clear message – one that was central to [PATROL's submission to the Transport Committee's inquiry](#)>> last year – was that local authorities were looking to tackle pavement parking in a way that meets the specific needs of their communities, rather than a 'one-size-fits-all' approach. Officers attending the workshops said they face constant calls to enforce against obstruction on pavements, but are currently powerless to intervene.*

*Authorities are currently unable to respond to complaints about pavement parking that do not relate to:*

- *Vehicles parked in contravention of existing waiting restrictions;*
- *'Heavy commercial vehicles', with an operating weight of over 7.5 tonnes (instead they are referred to the police);*
- *where a designated area-wide ban is in place, based on Traffic Regulation Orders (TROs) and signage.*



*There was a consensus among workshop attendees that adding obstruction by a stationery vehicle to the list of contraventions for which civil enforcement applies, contained in Part 1 of Schedule 7 of the Traffic Management Act 2004, would provide local authorities with the power to take targeted action against pavement parking in a proactive and reactive way.*

*There was also considerable interest in the potential of the civil contravention of obstruction to apply to vehicles parked in proximity to junctions, which would be beneficial in terms of road safety for pedestrians, cyclists and other motorists.*

*This is a power that could have potential benefits for local authorities both outside and within London.*

**Step 1:** Moving first to allow local authorities to enforce against 'unnecessary obstruction of the pavement' (Option 2) through secondary legislation would provide an immediate solution to address the most acute offences of pavement parking right from the outset. The new power would also allow a targeted, flexible

*The Traffic Management Act 2004 creates two new parking*

response to the problem, sensitive to local circumstances and the differing road networks and built environments across communities.

Local authorities already have experience of enforcing against restrictions outside of TROs, including dropped kerbs and double parking (see reference in right hand column).

When introducing unnecessary obstruction to Schedule 7 of the *Traffic Management Act 2004* (TMA), the Secretary of State would extend his Statutory Guidance (under Section 87 of the TMA), setting out appropriate considerations for the application of the new power. Enforcement authorities must have regard to the Guidance, which could address the types of obstruction that should typically be subject to civil enforcement and deal with the use of warning notices on the first occasion a vehicle is identified as causing an obstruction.

A key element of implementing Option 2 will be a national communications campaign to inform and make the public aware of the purpose of pavements and the problems caused by pavement parking. This will include warnings that local authorities will be enforcing contraventions, and be syndicated by authorities on their own local communications channels, accompanied by the publishing of their intended enforcement policies.

PATROL, with membership of all civil enforcement authorities in England outside London, is well placed to coordinate a public information campaign. Consideration could be given to resourcing the campaign from the recently announced Active Travel Fund.

PATROL recommends that the key messages of the national communications campaign be as follows:

- **Core message: Pavements are for pedestrians, not vehicles**
- Secondary messaging could include:
  - a vehicle left stationary on the footway is presumed to be obstructing a pedestrian from using the part of the footway where the vehicle is parked, even if there is space to pass by.
  - pavement parking causes significant problems for pedestrians, particularly those in wheelchairs, the blind and partially sighted, and people with prams.
  - not parking on the pavement is a civil responsibility and changing behaviour will help improve communities

*contraventions enforceable by local authorities in a 'special enforcement area' (area of an authority that has civil enforcement powers):*

- *Section 85 creates a prohibition of double parking; and*
- *Section 86 creates a prohibition of parking at dropped footways*

*These contraventions, for which authorities can issue Penalty Charge Notices (PCNs), are not dependent on Traffic Regulation Orders (TROs) or signage. Dealing with obstruction in car parks is also commonplace.*

*Most enforcement arises from a particular complaint. Local authorities in England (outside London) have approached enforcement of these new contraventions with a light touch. Authorities tend to issue PCNs when there has been a complaint by the public about parking in front of / blocking access to a property, or where they are aware of streets with problems of this nature, which they target.*

*In the same way, local authorities receive complaints about pavement parking (see example from [Devon County Council's latest Parking Annual Report](#)>>; Page 10). Currently, the Council is unable to enforce in response to such complaints, so the introduction of Option 2 would enable authorities in a similar position to respond to the issue effectively.*

- o enforcement powers are now available and will be used as a deterrent.

In parallel with the commencement of Option 2, the reform of the TRO process (Option 1) could be progressed as a separate project to bring speed and efficiencies to the implementation of traffic restrictions, generally, by local authorities. This reform would complement Option 2 by enabling authorities (who wish to) to more easily introduce areas of permitted footway parking in their communities.

**Step 2:** Civil enforcement of ‘unnecessary obstruction of the pavement’ commences in England (outside London), accompanied by Statutory Guidance and the national communications campaign

**Step 3:** Evaluate the impact of:

- enforcement (Option 2), including evidence from appeals made to the Traffic Penalty Tribunal and Adjudicator decisions, and the effectiveness of Statutory Guidance
- the national communications campaign (and local syndication), in terms of changed driver behaviour and the instances / levels of pavement parking in different local authority areas.

The evaluation and learnings from Option 2 can be used to inform and evidence future consideration of the need for a national prohibition on pavement parking (Option 3) or continue with the current approach.

The experience from enforcement in both Scotland – where a national ban is set to be introduced in 2021 – and Wales – where the Government has agreed a number of recommendations from an independent Task Force Group (see further information in this answer below) – can also be fed into the evidence base, as can any impact from the reform of the TRO process (Option 1), if applicable.

### **Welsh Government’s proposals for a similar phased approach**

In October 2020, the Welsh Government announced that it had accepted all of the recommendations made by the Task Force Group it had set up to examine the problem.

*Details on the introduction of the national ban in Scotland can be viewed [here>>](#).*

*The Welsh Task Force Group’s report, including all recommendations can be viewed [here>>](#).*

The Chief Adjudicator of the Traffic Penalty Tribunal, Caroline Sheppard OBE, and PATROL's Director, Louise Hutchinson, were invited to join the Task Force Group with representatives from local authorities in Wales, the Welsh Local Government Association, third-sector organisations and the British Parking Association.

The Group rejected an outright ban on pavement parking as being 'overly slow and complex'. Instead, the report focused on the premise that parking on the pavement 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 Welsh plan:

- gives authorities the powers to enforce against obstruction: providing immediate action, nationally, while allowing autonomy for local circumstances
- takes action, in parallel, to ease the TRO process, enabling authorities to also introduce permitted parking more readily, where required / feasible
- provides for a robust framework of public information, monitoring and evaluation
- retains the possibility to introduce primary legislation for a nationwide ban at a later date, should this be required.

In summary, the recommendations from the Welsh Task Force Group provide a blueprint for allowing local authorities in England (outside London) to take the same immediate action to manage pavement parking in their communities, while an assessment of the most effective long-term solution can be carried out (including the option to introduce primary legislation, should this be required).

**Q8. How would you define an 'unnecessary obstruction of the pavement'?**

PATROL recommends that 'unnecessary obstruction of the pavement' should not be defined in the statutory instrument. Any attempt to define obstruction will inevitably result in disputes about situations that may not have been considered in the legislation.

Obstructing free passage is the first critical ingredient of introducing the 'unnecessary obstruction' contravention. This essentially means that *any* stationary vehicle left so that it impedes pedestrians wanting to pass is, in principle, obstructing the highway. This is not vague – it is a clear message to the motoring public.



Many motorists may consider it sensible to park as illustrated in the image above. The cars parked may appear not to be obstructing the pavement, they nevertheless are impeding pedestrians who wish to use that section of the footway. The pavement has been created as an engineering feature for the use of pedestrians. This image was included in the report of the Task Force Group set up by the Welsh Government to examine the issue of pavement parking in Wales. The second critical ingredient of introducing the new power is that the obstruction needs to be 'unnecessary'. The Secretary of State's Statutory Guidance issued under Section 87 of the *Traffic Management Act 2004* can set out examples of what will normally be considered unnecessary obstruction, being the incidents that most trouble pavement users (for example, blocking the free passage of a wheelchair or

***The Welsh Task Force Group's report, including all recommendations can be viewed [here>>](#).***

buggy). These examples can form part of the proposed national communications campaign (see answer to Question 7).

Examples can also be given in the Guidance of what might be considered 'necessary'. Where, for example, a vehicle is used for setting down a passenger (and maybe left to escort a disabled or child passenger), or for loading / unloading a heavy burden, it could be said that it was necessary to park adjacent to the premises. Again, this can also be made clear in the national communications campaign.

There has never been a requirement to specify distances that constitute unnecessary obstruction, etc. It would be a complication to do so now and, in any event, that is not how the offence is drafted in Regulation 103 of the *Road Vehicles (Construction and Use) Regulations 1986*.

Arguments about where people have habitually parked – and whether or not anyone was actually obstructed – can be dealt with in representations made against the issuing of Penalty Charge Notices (PCNs). Furthermore, Traffic Penalty Tribunal Adjudicators' decisions will deal with differing factual situations amounting to obstruction, providing a framework for authorities and motorists alike.

Consideration can be given to including some express exemptions on the statutory instrument to include offences against Regulation 103, if thought necessary.

**Q9. 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

Yes. Warning notices would help to reinforce the national communications campaign and local syndication (see answer to Question 7), and promote awareness and acceptance of considerate parking. It has consistently been the view of PATROL and the Adjudicators of the Traffic Penalty Tribunal that the 'three Es' approach of Engineering, Education and Enforcement (as a last resort) is one that best achieves compliance to traffic restrictions.

In the case of pavement parking, as with the enforcement of dropped kerbs and double parking by local authorities (see reference right), there are no signs or lines (Engineering), therefore, education / information is key.

*The Traffic Management Act 2004 creates two new parking contraventions enforceable by local authorities in a 'special enforcement area' (area of an authority that has civil enforcement powers):*

- *Section 85 creates a prohibition of double parking; and*
- *Section 86 creates a prohibition of parking at dropped footways*

*These contraventions, for which authorities can issue Penalty Charge Notices (PCNs), are not dependent on Traffic Regulation Orders (TROs) or signage. Dealing with obstruction in car parks is also commonplace.*

*Most enforcement arises from a particular complaint. Local authorities in England (outside London) have approached enforcement of these new contraventions with a light touch. Authorities tend to issue PCNs when there has been a complaint by the public about parking in front of / blocking access to a property, or where they are aware of streets with problems of this nature, which they target.*

**Q10. What do you think are the advantages and disadvantages associated with Option 2?**

***Advantages***

- It can be achieved very quickly, able to address the most acute offences of pavement parking right from the outset, before and without the problem of local and specific circumstances posing barriers (as would be the case with a nationwide prohibition).
- Considerably less resource intensive and costly for local authorities than Options 1 and 3.
- Authorities already have the power to issue Penalty Charge Notices (PCNs) for parking adjacent to a dropped kerb (a similar contravention) and have approached enforcement of these restrictions with a 'light touch', sensitive to local conditions. Civil Enforcement Officers also have experience of issuing penalties for obstruction in car parks (see reference right), some of which are appealed to the Traffic Penalty Tribunal.
- It is a proportionate, flexible and targeted approach, which is responsive to local needs – enforcement can be quickly focused and rolled-out to areas where obstructions are high / persistent.
- It can easily be accompanied by a national communications campaign message on pavement parking (backed up by local policies and communication), with the ultimate deterrent of enforcement at the higher rate of penalty. This allows a greater opportunity to engage with the general public, for them to understand the issues and impact of poor parking and gather support.
- There is the possibility of regular publishing of the locations where enforcement will occur, locally, to make enforcement transparent and raise even greater awareness of the issue.
- It allows for an 'evaluation period' to assess the impact of the new power. Data for evaluation could include the outcomes of Traffic Penalty Tribunal Adjudicator decisions, as well as representations made to the authorities against penalties issued. The evaluation and learnings from Option 2, as

*The Traffic Management Act 2004 creates two new parking contraventions enforceable by local authorities in a 'special enforcement area' (area of an authority that has civil enforcement powers):*

- *Section 85 creates a prohibition of double parking; and*
- *Section 86 creates a prohibition of parking at dropped footways*

*These contraventions, for which authorities can issue Penalty Charge Notices (PCNs), are not dependent on Traffic Regulation Orders (TROs) or signage. Dealing with obstruction in car parks is also commonplace.*

*Most enforcement arises from a particular complaint. Local authorities in England (outside London) have approached enforcement of these new contraventions with a light touch. Authorities tend to issue PCNs when there has been a complaint by the public about parking in front of / blocking access to a property, or where they are aware of streets with problems of this nature, which they target.*

well as the increased understanding and awareness of the issue from the public, could inform and evidence future consideration of the need for a prohibition on pavement parking (Option 3).

### **Disadvantages**

- Because Option 2 would, essentially, be a local initiative, and each authority will be responsible for public information in its own area, it will not be clear to visitors and strangers as to whether pavement parking is permitted in a given area. Concerns are often expressed that visitors, who have not experienced a local public information campaign, will – without the presence of signs – not know that pavement parking is being enforced, or where it is tolerated. This could be aided by the proposed national communications campaign (see answer to Question 7). Issuing warning notices to vehicles identified on the pavement for the first time (see answer to Question 9) will also alert drivers about enforcement. Where pavement parking is tolerated, the authority will consider at least an experimental Traffic Regulation order (TRO) and will not enforce during the consultation period.
- Initially there might be a flurry of representations and appeals against issued PCNs, claiming that where the vehicle was parking did not constitute an obstruction / that the obstruction was necessary / that nobody was actually obstructed. The Traffic Penalty Tribunal appeals data shows a spike in appeals where a hitherto unenforced bus lane becomes subject to civil enforcement, but the norm is that compliance is soon achieved and appeals drop off considerably. Pavement parking authority data would likely show a similar pattern. The Secretary of State's Statutory Guidance (issued under Section 87 of the *Traffic Management Act 2004*) can advise about matters to be considered in dealing with representations and the publication of Adjudicators' decisions will add clarity as the enforcement beds in (see answer to Question 8).
- While it is suggested that there might be an impression of inconsistency, it is important that the local nature of enforcement measures are emphasised, and that different authorities will have different priorities.
  - This works well in the enforcement of the dropped kerb and double parking offences introduced in Sections 85 and 86 of the *Traffic Management Act 2004*, where authorities tend to operate 'light touch' enforcement, depending on the extent and area of the nuisance.

- o With improvements in technology, if a Civil Enforcement Officer is in doubt about whether to issue a PCN, photos can instantly be sent to superiors for confirmation.

- Q11. 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)

Not immediately (see alternative model set out in Question 7).

The evaluation and learnings from Option 2 can be used to inform and evidence future consideration of the need for a national prohibition on pavement parking (Option 3) or continue with the current approach. The experience from enforcement in both Scotland – where a national ban is set to be introduced in 2021 – and Wales – where the Government has agreed a number of recommendations from an independent Task Force Group (see further information in this answer below) – can also be fed into the evidence base, as can any impact from the reform of the TRO process (Option 1), if applicable.

This is, however, very much a local consideration and PATROL expects a diverse set of responses to this question from authorities in England (outside London).

***Details on the introduction of the national ban in Scotland can be viewed [here>>](#).***

***The Welsh Task Force Group's report, including all recommendations can be viewed [here>>](#).***

<p><b>Q12. Should a national prohibition apply to:</b></p> <ul style="list-style-type: none"> <li>• pavements only?</li> <li>• pavements and verges?</li> </ul>	<p><i>The road includes the footway, as well as the carriageway (established in Bryant v Marx [1932 AER 518]). The grass verge is part of the highway (established in Worth v Brook [1959 CrLR 885]).</i></p>
<p>Pavements and verges.</p>	

<p><b>Q13. What are your views on the impact this would have on the built and historic environment?</b></p>	
<p>PATROL's 300+ member authorities outside London represent a diverse range of built environments.</p> <p>In a series of workshops in Autumn 2018, PATROL brought together some 75 Councillors and Officers representing district, county and unitary authorities to discuss the challenges of managing pavement parking in their communities, in order to contribute to the Department for Transport's evidence review.</p> <p>One of the key findings over the workshops was that there will <i>always</i> be a need for pavement parking on some roads, such as narrow terraced residential streets in former industrial towns. Local authority officers have also pointed to the issue of restrictions resulting in the displacement of the problem to other areas.</p> <p>The need to erect signage and paint lines on the highway / footway to designate permitted areas of pavement parking in the event of a nationwide prohibition would inevitably lead to debate with interest groups in historic towns and cities.</p> <p>Individual authorities' submissions will no doubt expand on the local issues involved.</p>	

**Q14. 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?

***Advantages***

This would be a single step approach.

***Disadvantages***

As Option 3 would involve primary legislation, local authorities could potentially be left with no enforcement options for up to five years.

The recent announcement from the Welsh Government on its plans to tackle pavement parking cited a rejection (at least in the short term) of an outright ban in Wales. The Task Force Group's eventual report, published in October 2020, stated that an outright ban on pavement parking would be 'overly slow and complex'.

A nationwide, 'blanket' ban is a 'one-size-fits-all' approach, which will involve local authorities taking costly and resource intensive steps to mitigate against its effects in different areas, and increase the regulatory burden on local authorities. This was a clear view of PATROL's member authorities during workshops undertaken in Autumn 2018, and was a key strand of [PATROL's submission to the Transport Committee's inquiry](#) last year (see case study cited in the inquiry submission referenced in the right column).

For example, taking steps to introduce permitted parking (with the signs and lines required to do this) in rural areas – where pavement parking may not have as much impact – would divert resources away from more pressing demands on transport budgets. This type of investment should come after an evidence-based approach and full impact assessment, enabling local authorities across England (outside London) to identify the impact on the three differing built environments referred to in the question.

***The Welsh Task Force Group's report, including all recommendations can be viewed [here](#)>>.***

*It is the clear view of PATROL's members that a national prohibition on pavement parking would result in significant traffic management challenges in their communities.*

*There are some circumstances where requiring vehicles parked partially on footways to instead park on the carriageway could cause more issues than it resolves; for example, the passage of emergency vehicles, buses and larger vehicles, together with any associated congestion and air quality issues. Furthermore, restrictions on parking in one area could have the effect of displacing problems elsewhere.*

*One PATROL authority in the North of England has estimated the potential cost of introducing 'permitted' signs and lines, if implementing a nationwide pavement parking ban, at £666,000.\**

*While the task will differ from authority to authority, depending on such factors as the scale of the road network; the balance of urban and rural areas; the density of development; historic town road layouts, etc., this example provides an indication of what would be involved in introducing permitted parking areas in a community, should a nationwide ban be introduced.*

*In the case of this authority, this would need to involve:*

- **2,200 hours (306 days)** for surveys, consultations, customer relations, reporting and managing street works.
- **£1,800** to sign and line each average residential road.
- **£148,000** to introduce required TROs.
- **2 years and the requirement of an additional officer** to implement the changes.
- **740 additional hours** to handle queries from the public following implementation of the ban.

*\* There are a total of 3,700 individual roads across the authority. Assuming that only 10% were suitable for permitted pavement parking, this would mean a total of 370 roads. The authority also assumed the length of an average residential road to be 200 metres.*

*The calculation assumes that all the Traffic Regulation Orders (TROs) were introduced together and, therefore, associated legal costs were minimised. A piecemeal approach to this would add a further £400 per road, which would cost an additional £148,000. To put this in context, the annual budget for TROs in this authority is £75,000.*

<p><b>Q15. Do you believe Option 2 or Option 3 would have an impact on the environment?</b></p> <p><b>Option 2:</b></p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• Don't know</li> </ul>	
<p>This would be determined by the approach each authority takes in meeting local needs, as per the provision for local enforcement policies suggested in the alternative, phased approach set out in Question 7. However, enforcement under Option 2 would not require signs or lines.</p> <p>The recent focus on active travel and pedestrians as road users in the wake of COVID-19 has emphasised the pressing need and opportune moment to tackle the issue of pavement parking.</p> <p>Option 2 would bring about improvements for pedestrians and, if extended to unnecessary obstruction of the highway, would bring about improvements for all road users.</p>	
<p><b>Option 3:</b></p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> <li>• Don't know</li> </ul>	
<p>Yes. More significantly, all local authorities would be required to assess their area to establish where they must introduce signs and lines (for areas of permitted parking), which would increase the environmental impact and potential 'street clutter'. This may, ironically, in itself also increase mobility hazards on pavements.</p> <p>Many of PATROL's member authorities (outside London) have consistently identified the challenge of managing pavement parking in areas where terraced properties are prevalent, without off-street parking provision and narrow roads.</p>	

Pavement parking is a matter for communities (residents, businesses, visitors), and local authorities are best placed to determine the most appropriate solutions for their pavement parking challenges, taking specific built environment into account.

# About PATROL

**The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises over 300 local authorities in England (outside London) and Wales.**

The principal function of the Joint Committee is to make provision for independent adjudication in respect of appeals against penalties issued for traffic contraventions by local authorities and charging authorities in England (outside London) and Wales.

Adjudication is delivered through the **Traffic Penalty Tribunal (TPT)**.

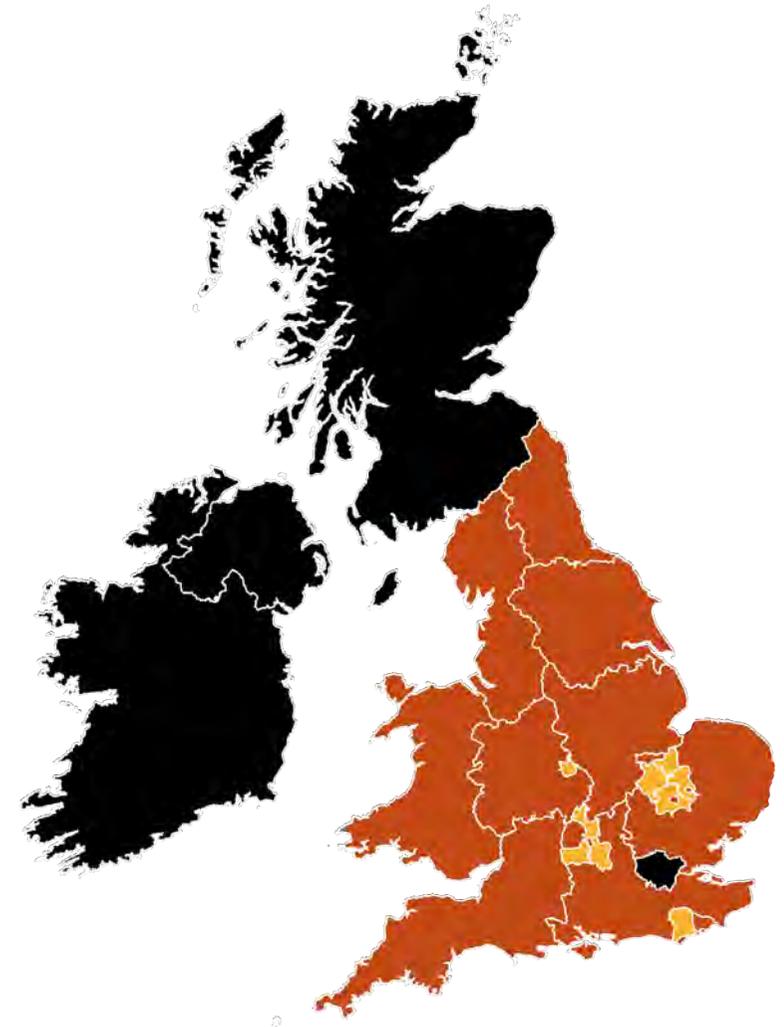
TPT Adjudicators are wholly independent lawyers, appointed with the consent of the Lord Chancellor, and are supported by a small team of administrative staff, who provide customer support. The TPT is the UK's first fully online tribunal, deciding ~37,000 appeals a year.

The Adjudicators decide appeals against civil enforcement penalties issued by authorities for parking, bus lane, littering from vehicles and (in Wales only) moving traffic contraventions, as well as appeals arising from road user charging enforcement (including from the Dartford-Thurrock River Crossing, Mersey Gateway Bridge Crossings and the Durham Road User Charge Zone). It is anticipated that from 2021, appeals arising from charging Clean Air Zones will be determined by the TPT Adjudicators

PATROL represents its member authorities on traffic management issues of mutual interest, whilst also taking into account the motorist's perspective – as seen through appeals to the TPT.

PATROL also promotes best practice in public information to increase understanding of traffic management objectives. This includes the annual PARC (Parking Annual Reports by Councils) Awards held at the House of Commons.

PATROL member authorities comprise each type of local authority and a spectrum of political allegiances – a representative voice on civil traffic enforcement outside London, through the sharing of issues, insight, evaluation and best practice from a broad and diverse geographic area.



# Welsh Pavement Parking

## Task Force Group Report

October 2020



## Notes

See Glossary of Terms for definition of words in italic and underlined.

***Recommendations*** are shown italic and bold.

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# 1. Executive Summary

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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.<sup>1</sup>

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.

<sup>1</sup> 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

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### 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<sup>2</sup>, 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.



<sup>2</sup> (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.<sup>3</sup>”*

The parking of motor vehicles on *pavements*<sup>4</sup> 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<sup>5</sup> 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.<sup>6</sup>”*

Living Streets Cymru prepared a report on the problem of pavement parking in Wales in 2019<sup>7</sup>, 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*

<sup>3</sup> gov.wales/welsh-government-take-action-against-pavement-parking

<sup>4</sup> 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.

<sup>5</sup> www.gov.uk/guidance/the-highway-code

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

<sup>7</sup> 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.”<sup>8</sup>***

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<sup>9</sup>, which aims to ensure improvement to the lives of both current and future generations; and the Active Travel (Wales) Act<sup>10</sup>, which aims to make walking and cycling the most natural and normal ways of getting around. Planning Policy Wales<sup>11</sup> 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<sup>12</sup> 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<sup>13</sup>. 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.

<sup>8</sup> [www.racfoundation.org/media-centre/pavement-parking-ban-a-step-closer](http://www.racfoundation.org/media-centre/pavement-parking-ban-a-step-closer)

<sup>9</sup> [futuregenerations.wales/about-us/future-generations-act/](http://futuregenerations.wales/about-us/future-generations-act/)

<sup>10</sup> [www.legislation.gov.uk/anaw/2013/7/contents](http://www.legislation.gov.uk/anaw/2013/7/contents)

<sup>11</sup> [gov.wales/planning-policy-wales](http://gov.wales/planning-policy-wales)

<sup>12</sup> [www.legislation.gov.uk/ukpga/2004/18/contents](http://www.legislation.gov.uk/ukpga/2004/18/contents)

<sup>13</sup> For more details see [commonslibrary.parliament.uk/research-briefings/sn01170/](http://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<sup>14</sup>. 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<sup>15</sup> 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.<sup>16</sup> 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<sup>17</sup> which created a new offence of parking a motor vehicle on a pavement<sup>18</sup> – 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.

<sup>14</sup> [publications.parliament.uk/pa/cm201719/cmselect/cmtrans/1982/1982.pdf](https://publications.parliament.uk/pa/cm201719/cmselect/cmtrans/1982/1982.pdf)

<sup>15</sup> [publications.parliament.uk/pa/cm5801/cmselect/cmtrans/158/158.pdf](https://publications.parliament.uk/pa/cm5801/cmselect/cmtrans/158/158.pdf)

<sup>16</sup> Greater London Council (General Powers) Act 1974, section 15.

<sup>17</sup> Part 6 of the Transport (Scotland) Act 2019

<sup>18</sup> 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<sup>19</sup> 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.

<sup>19</sup> 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.

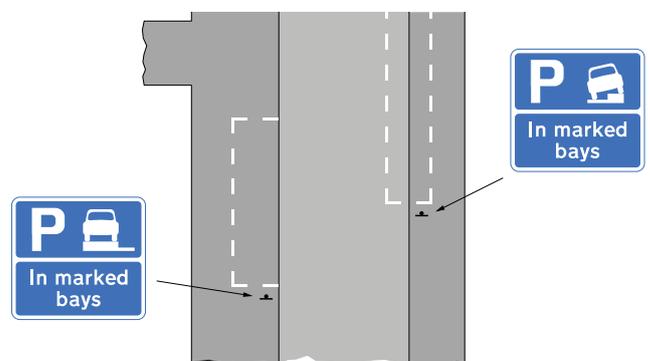
Civil enforcement involves the civil standard of proof, namely a balance of probabilities. The premise that a vehicle stationary on the footway is obviously preventing a pedestrian from using that part of the footway is the fundamental starting point.

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<sup>20</sup> 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)<sup>21</sup>**

<sup>20</sup> Including blue badge holders' vehicles

<sup>21</sup> [assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/782724/traffic-signs-manual-chapter-03.pdf](https://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<sup>22</sup> 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<sup>23</sup> 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<sup>24</sup> of making TROs can be somewhat costly and time-consuming and in 2018 the Department for Transport commissioned GeoPlace<sup>25</sup> to advise how they could be made quicker and more cost-effective<sup>26</sup>.

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.**

<sup>22</sup> [www.legislation.gov.uk/ukxi/1986/1078/contents/made](http://www.legislation.gov.uk/ukxi/1986/1078/contents/made)

<sup>23</sup> Road' includes the footway (and also the verge).

<sup>24</sup> 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

<sup>25</sup> GeoPlace is a Limited Liability Partnership jointly owned by the Local Government Association (LGA) and Ordnance Survey

<sup>26</sup> 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

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## 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

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### 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

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## 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

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Term	Definition
<b>Pavement</b>	A route solely for the use of pedestrians next to a carriageway.
<b>Footway</b>	The legal term for a pavement
<b>Shared use route</b>	A route which may be used by both pedestrians and cyclists but not by motor vehicles.
<b>Primary legislation</b>	The general term used to describe the main laws passed by the legislative bodies of the UK, including Acts made by the Senedd.
<b>Subordinate legislation</b>	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.
<b>Negative procedure</b>	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.
<b>Traffic Regulation Order (TRO)</b>	A legal document that introduces a parking restriction or traffic movement restriction on roads, in line with The Road Traffic Regulation Act 1984
<b>PATROL</b>	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
<b>Penalty Charge Notice (PCN)</b>	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

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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

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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

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## 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

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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.

**Response to:**

Department for Transport

***Consultation on a review of the Highway Code***

**Submitted by:**

**PATROL**

**PATROL (Parking and Traffic Regulations Outside London)**

Joint Committee

[www.patrol-uk.info](http://www.patrol-uk.info)



**Traffic Penalty Tribunal**

[www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk)

**27 October 2020**

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## About PATROL

**The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises over 300 local authorities in England (outside London) and Wales.**

The principal function of the Joint Committee is to make provision for independent adjudication in respect of appeals against penalties issued for traffic contraventions by local authorities and charging authorities in England (outside London) and Wales.

Adjudication is delivered through the **Traffic Penalty Tribunal (TPT)**. TPT Adjudicators are wholly independent lawyers, appointed with the consent of the Lord Chancellor, and are supported by a small team of administrative staff, who provide customer support. The TPT is the UK's first fully online tribunal and decides ~37,000 appeals a year.

The Adjudicators decide appeals against civil enforcement penalties issued by authorities for parking, bus lane, littering from vehicles and (in Wales only) moving traffic contraventions, as well as appeals arising from road user charging enforcement (including from the Dartford-Thurrock River Crossing, Mersey Gateway Bridge Crossings and the Durham Road User Charge Zone). It is anticipated that from 2021, road user charging appeals arising from charging Clean Air Zones will be determined by the TPT Adjudicators

PATROL represents its member authorities on traffic management issues of mutual interest, whilst also taking into account the motorist's perspective – as seen through appeals to the TPT.

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**(Right) Authority coverage in orange; lighter shade reflects authorities where civil enforcement is not in operation.**



## About the Traffic Penalty Tribunal

**The Traffic Penalty Tribunal (TPT) decides motorists' appeals against Penalty Charge Notices (PCNs), issued by local authorities and charging authorities in England (outside London) and Wales, for parking and traffic contraventions.**

This includes appeals against penalties issued by over 300 local authorities in England and Wales for parking – both on-street and off-street – bus lanes, littering from vehicles and (in Wales only) moving traffic contraventions.

The TPT Adjudicators also decide appeals against penalties from a number of road user charging schemes in England, including:

- the Dartford-Thurrock River Crossing ('Dart Charge') scheme, where the charging authority is the Secretary of State for Transport;
- the Mersey Gateway Bridge Crossings ('Merseyflow') scheme, where the charging authority is Halton Borough Council;
- the Durham Road User Charge Zone, where the charging authority is Durham County Council; and
- from mid-2021, appeals against penalties issued by authorities introducing Clean Air Zone charging scheme contraventions in England and Wales.

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- In 2018/19, the TPT decided appeals against ~31,000 PCNs. 79% of cases resulted in appellants not having to pay the PCN.
- 97% of all appeals submitted to the Tribunal are completed fully online through an online appeals management system.
- The online appeals system and associated business processes represent a 'digital-by-design' approach to dispute resolution, which has been described as an international exemplar.
- The majority of cases are decided by Adjudicators on the basis of uploaded evidence, with Telephone and Video Hearings available if necessary, while instant messaging and Live Chat are available for communication by the parties throughout a case.
- Typically, more than half of cases submitted are completed within 14 days, with nearly three quarters within 28 days. As many as 12% are closed within just a day.

The efficiency of the online system and transformed business processes have inevitably also brought about significant savings for local authorities and the Tribunal, in terms of operational costs.

The independent TPT is funded by a Joint Committee of 300+ local authorities and charging authorities in England (outside London) and Wales fulfilling a statutory duty to create a Joint Committee to make provision for independent adjudication. This Joint Committee is known as PATROL (Parking and Traffic Regulations Outside London).

## Consultation Response (selected questions)

### Rule H1

#### Do you agree with the introduction of new Rule H1 (hierarchy of road users)?

Agree. The hierarchy of road users will assist understanding for all road users.

As alluded to in the introduction to the consultation, further updates will be required following trials of e-scooters, in terms of where users of this mode of transport will fall within the hierarchy?

#### Is the proposed wording easy to understand?

The change of wording proposed on the second paragraph is more opaque, whereas the text that is subject to deletion is clearer.

Will everyone understand 'supporting a healthy, sustainable and efficient transport system'? Perhaps the hierarchy of road users should feature nearer the beginning of the introduction?

Consideration should also be given to how to actively promote any changes to the Highway Code targeting *experienced* rather than just learner drivers, as well as directly to other different road users featured within the hierarchy.

...

### Waiting and parking

#### Do you agree with the proposed change to Rule 239 (Dutch Reach)?

Agree.

#### Is the proposed wording easy to understand?

There are challenges, generally, in presenting some of the information contained within the Highway Code in a form or format that is accessible and meets the needs of a broad audience; for example, those with differing reading ages or for whom English is not a first language. Visual representations and graphics would assist in this respect – visualising the action of the 'Dutch Reach' would be a perfect example.

...

## Annexes and final comments: Any other comments?

### Recommended changes to 'Waiting and Parking' Rules

**PATROL and the Traffic Penalty Tribunal recommend a number of further changes to the rules covering 'Waiting and Parking (238 to 252)', in the light of the recent announcement by the Welsh Government on efforts to tackle pavement parking, as well as the Department for Transport's own ongoing consultation on the same issue in England.**

Earlier in October, the [Welsh Government announced](#) that it had accepted all of the recommendations made by the Welsh Pavement Parking Task Force Group, which had been asked to examine ways to tackle pavement parking in towns and cities across Wales. The group includes Caroline Sheppard OBE, Chief Adjudicator of the Traffic Penalty Tribunal, and PATROL Director Louise Hutchinson, alongside officers from Welsh local authorities and the Welsh Local Government Association and the British Parking Association.

The recommendations for Wales included the passing of secondary legislation to add the existing offence of 'Obstruction' – 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 parking on footways (including pavements).

In England, the Department for Transport's live consultation puts forward the option to allow local authorities in England (outside London) to enforce against 'Unnecessary obstruction of the pavement'. This 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 under the *Traffic Management Act 2004*.

- **Rule 239**  
We propose adding 'do not park on the footway (including pavements)' to the list included with this rule. This is likely to deter a significant number of motorists from parking unnecessarily on the pavement, ahead of the more nuanced changes that should come in time in both Wales and England.
- **Rule 242**  
We propose extending this rule to '...where it causes any unnecessary obstruction of the road **or footway (including pavements)**.'
- **Rule 244**  
We propose extending this rule to all locations, not just in London. Again, this is likely to be a deterrent against unnecessary pavement parking for the time being.

For any future representations or appeals relating to penalty charges arising from parking on the footway (including pavements), Highway Code compliance will be a critical evidential component for authorities and the Adjudicators of the Traffic Penalty Tribunal. The Highway Code is also citable in the courts, and while infringing it is not an offence per se, it is persuasive evidence. The Adjudicators of the Traffic Penalty Tribunal frequently refer to the requirements of the Highway Code in their decisions, as do the Magistrates, and the County Court in road traffic accident cases.

**A note on changes to the 'Traffic signs' section**

The Adjudicators of the Traffic Penalty Tribunal are consistently dismayed that the section of the Highway Code covering traffic signs is not up to date, as far as those signs that are prescribed in the *Traffic Signs Regulations and General Directions 2016* (TSRGD) and *Traffic Signs Manual* (TSM) for the creation of Bus Lane restrictions by local authorities are concerned.

We recommend a comprehensive review of this section alongside the TSRGD and TSM.

**Appendix 4**

**Response to:**

Ministry of Housing, Communities & Local Government  
***Parking Code Enforcement Framework consultation***

**Submitted by:**

**PATROL**

**PATROL (Parking and Traffic Regulations Outside London)**

**Joint Committee**

[www.patrol-uk.info](http://www.patrol-uk.info)

**12 October 2020**

**Contact:**

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## About PATROL

**The PATROL (Parking and Traffic Regulations Outside London) Joint Committee comprises over 300 local authorities in England (outside London) and Wales.**

The principal function of the Joint Committee is to make provision for independent adjudication in respect of appeals against penalties issued for traffic contraventions by local authorities and charging authorities in England (outside London) and Wales.

Adjudication is delivered through the **Traffic Penalty Tribunal (TPT)**. TPT Adjudicators are wholly independent lawyers, appointed with the consent of the Lord Chancellor, and are supported by a small team of administrative staff, who provide customer support. The TPT is the UK's first fully online tribunal and decides ~37,000 appeals a year.

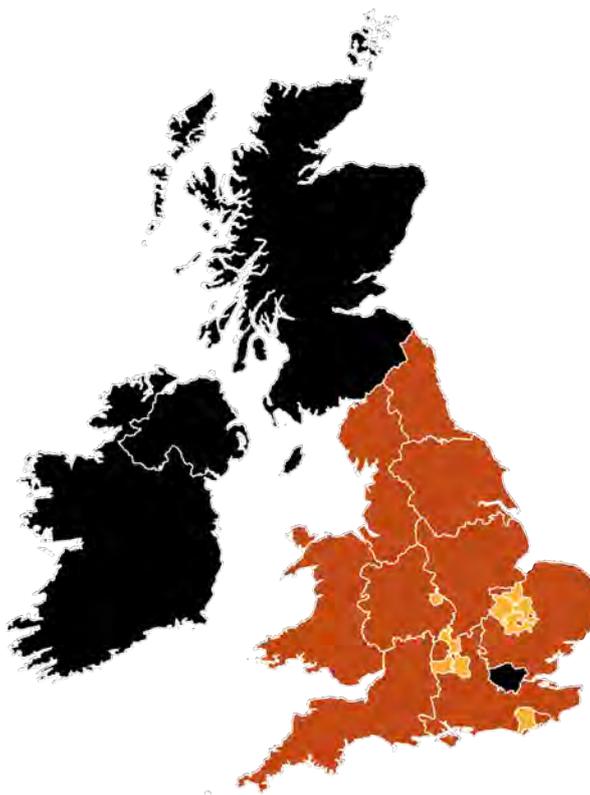
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**(Right) Authority coverage in orange; lighter shade reflects authorities where civil enforcement is not in operation.**



### **PATROL authorities and off-street car park management / enforcement**

Most PATROL member local authorities operate off-street car parks in their local areas and the TPT Adjudicators have considerable experience in dealing with appeals relating to car parks and the difficulties that arise.

The difference between local authority off-street car parks and those managed by private operators may not be apparent to motorists, which is why Parking Charge Notices issued by private operators should not be similar in appearance to local authority Penalty Charge Notices.

Most drivers entering a car park do not intuitively recognise whether it is a public or private car park, so confusion between the civil and private schemes often arises.

## **Civil and private parking schemes: Key similarities and differences**

Both the civil and private parking schemes relate to service provision and paid parking, together with common problems caused by poor parking; for example parking in a Blue Badge bay or causing an obstruction. They also share the common purpose of achieving compliance with regulations or contractual conditions.

There is, however, a fundamentally different legal framework upon which of each of the two regimes are predicated.

The public civil enforcement scheme is a regulated penal scheme with prescribed penalties and processes, underpinned by regulations and the Secretary of State's Statutory Guidance. Private car parks, however, are a commercial consumer arrangement, based on contract.

The subsequent important differences between civil and private parking schemes are:

- Local authorities are not currently permitted to use ANPR for enforcement purposes, whereas private operators can.
- A private Parking Charge Notice is a money claim and can become a debt subject to a County Court Judgement (CCJ), whereas a PCN issued by a local authority can be registered at the Traffic Enforcement Centre of the Northampton County Court, but it cannot impact a motorist's credit score.
- Local authorities do not use the civil enforcement scheme to manage trespassing or residential off-street provision, whereas private operators manage facilities for other land-owners.

## Consultation Response

### **Q1. Do you agree or disagree that members of APAs should be required to use a single appeals service appointed by the Secretary of State?**

Strongly agree.

#### ***Q1.1. Please explain your answer***

When using a car park, the general public do not always make the distinction between local authority and privately operated car parks. Whilst civil parking enforcement is set out in statute with associated regulations and statutory guidance, private car parking has had limited accountability to date. PATROL strongly agrees that there should be a single appeals service appointed by the Secretary of State. This will remove the potential for private parking operators to “shop around” for an appeals service that provides decisions more sympathetic to its operations. The fact that a single appeals service would be appointed by the Secretary of State, together with robust oversight by the planned Scrutiny and Standards Board, will help provide assurance to the motoring public of a ‘fresh start’, in terms of independence, consistency and fairness. Improvements to the quality of private parking provision and enforcement will also benefit local authorities, which rely on the availability of such car parks to assist in maintaining the accessibility and vibrancy of town centres.

### **Q2. Please provide any other feedback on the determination of appeals, including the funding model and features that an appeal service should offer e.g. telephone or in-person hearings, the ability to submit evidence online**

#### **Funding Model**

With approaching 9 million private parking tickets issued in 2019/20, there are sufficient economies of scale to provide for a respected and accessible appeals service. The fixed costs of running the service could be shared amongst operators in proportion to their scale of operation, i.e. the number of private parking charges each operator issues, each year. The set-up costs could be funded by an annual fee, which could be graded according to the size of the operation. Variable costs could be met based on the number of appeals.

Consideration should also be given to basing the funding model on the one that applies to the Traffic Penalty Tribunal, mainly to apply a small charge for each PCN issued. In the case of private parking, the charge could be applied to an operator’s DVLA application for the registered keeper’s details (VQ4).

Those charges could cover the fixed costs of the appeals service and the Scrutiny and Standards Board, whereas the variable costs could be based on a cost per case paid by the respondent operator. It should be the responsibility for the ATA/APA to collect the payments from their own operators and pass them on to the appeals service.

#### **Features of the appeals service**

There should be a requirement for the information about the new appeals service to be clearly explained on the private Parking Charge Notice.

Motorists should have the confidence that individuals appointed to determine their appeal are suitably qualified and trained. In appealing to the new appeals service, it should be clear to motorists that their appeal is being looked at afresh by people who apply the law and consider the facts of the case

A key requirement is for a highly accessible online system, together with appropriate access to assistance for those people unable to appeal online. The PATROL Joint Committee has invested in such a system for the Traffic Penalty Tribunal, with more than 95% of all appeals (against civil penalties issued by local authorities and charging authorities) being submitted online.

An online system should also make it straightforward for the appellant to upload evidence and set out their case. Equally, it should not be onerous for private parking operators to respond to and manage appeals. PATROL's experience is that involving authority respondents in the design of the online appeals system will ensure that they are able to use it effectively, and that it will interact with their internal processing systems.

Such a system should also incorporate ongoing messaging functionality to allow communication between the parties throughout a case. This functionality, which exists in the Traffic Penalty Tribunal system, creates the potential for most cases to be determined without the need for a hearing.

Where a hearing is desirable, the options should include telephone and video hearings. During the COVID-19 pandemic, the use of videoconferencing for professional and social purposes has been prolific, and many appellants will be familiar with this.

Transparency is key to the integrity of and respect for the appeals service. Appellants and private operators should be able to see all the evidence that will be considered as part of the case.

Communication both within the system and the appeal decision should be accessible and use plain English.

The appeals service should report on appeals by operator on an annual basis, to the Scrutiny and Standards Board. Furthermore, each operator should be required to publish the data on the number of parking charges they have issued, how many were appeals at the appeals service and how many have been subject to an application for a County Court Judgment (CCJ).

**Q3. Please provide any comments you have on the proposal to enforce the Code by combining the ATA's existing audit procedures with additional safeguards.**

Relying on the ATA's existing audit procedures would not inspire public confidence in an improved system. Additional safeguards should aim to provide clarity for the motorist, operator and appeals service. Introducing the requirement for ATA certification schemes to be assessed by the United Kingdom Accreditation Service (UKAS) is helpful.

The proposals for increasing transparency for the ATAs, in terms of the implementation of sanctions against operators who breach the Code of Practice, is vital to counter claims that the ATAs have an interest in preserving their membership.

(See above at Q2.)

**Q4. Please outline any alternative means by which the Code could be monitored and enforced. You may wish to cite evidence from other regulatory frameworks which are relevant.**

The single appeals service could be asked to report on instances arising in appeals that undermine the operation of the Code. The single appeals service should be able to cancel a Parking Charge Notice if there has been a relevant breach of the Code of Practice. Any breach of the Code of Practice should be reported to the relevant APA/ATA and a quarterly report of those referrals sent to the Scrutiny and Standards Board.

There are examples of other non-statutory regulatory frameworks, for example the Press Complaints Commission and other complaints services coming under the auspices of OFCOM. Also, the Advertising Standards Authority (ASA) and the Committee of Advertising Practice (CAP) may provide useful models for both the appeals service and the Scrutiny and Standards Board.

**Q5. Please provide any feedback you have on the proposed governance arrangements for monitoring the new Code of Practice**

The proposed Scrutiny and Standards Board will be a key plank in providing assurance to the motoring public. The PATROL Joint Committee has appointed an Advisory Board and finds that the role of independent representatives – whether relating to the experience of motorists or someone with experience of an appeals service – is very instructive. The potential functions of the Scrutiny and Standards Board set out in the consultation are generally robust.

The concept of providing feedback on standards and professionalism is to be commended. The PATROL Joint Committee and Traffic Penalty Tribunal run local authority workshops that examine common issues and aim to promote a “right first time” approach within the principles of the ‘three Es’: Engineering, Education and Enforcement. *Engineering* (e.g. signage) is vital for motorists to understand what is required of them; all forms of communication should be adopted to reinforce this and *educate* the public, while *enforcement* should be seen as a last resort.

In terms of reporting, the Scrutiny and Standards Board should extend the information to include the number of appeals upheld, refused and withdrawn, and also report by ATA. The Tribunal has recently introduced an online portal for appeal statistics, available on its website, which may be considered as an option for the new Board.

**Q6. Which parking charge system is most appropriate for private parking? a) the Three-tiered system b) Mirroring the Local Authority system**

Neither system is appropriate because parking charges, if pursued through the *Protection of Freedom Act 2012*, relate to a breach of contract or an act of trespass. The local authority system is a public regulatory scheme with a prescribed penal process and procedure. Although the private operators regard their parking charge process as fines and penalties, that is a wholly inappropriate approach.

Although the three-tier system is meant to be helpful, since under the laws of contract the Terms and Conditions (T&Cs) must be set out on the entry sign, three tiers of parking charges – depending on which T&C has been breached – would be impossible for a motorist to absorb and understand.

**Q6.1. Please explain your answer. You may, for example, wish to make reference to other deterrent frameworks (for example, for railway tickets or traffic violations)**

Civil enforcement provides for higher and lower level penalties. The proposal for having three levels for the private parking scheme may introduce unnecessary complexity for the motorist.

Clarity for the public is key. The concept of a discount for early payment is familiar to both the civil and private scheme.

There can be no true comparison with the deterrent frameworks for railway tickets or traffic violations because those are subject to legislation or bylaws issued under a Statute. Both are public schemes.

**Q7. What level of discount is appropriate: 40% as is currently offered in private parking and suggested in the three-tiered system, or 50% as is offered in Local Authority parking? a) 40% b) 50%**

50%.

**Q7.1. Please explain your answer, including whether the discount should be set at a different level**

The concept of a discount for early payment is familiar to both the civil and private scheme, and consistency with 50% would be helpful.

**Q8. How should the level of parking charges be set and how should the levels be revised in future?**

The civil enforcement scheme penalties are set by the Secretary of State, the Mayor of London, or the Welsh Government. They are underpinned by regulations and statutory guidance issued under Section 87 of the *Traffic Management Act 2004*. The primary purpose of a civil Penalty Charge Notice (PCN) is to encourage compliance with parking restrictions, and enforcement authorities are expected to adopt the lowest charge consistent with a high-level of public acceptability and compliance.

The Secretary of State's Statutory Guidance also cautions:

*"Civil parking enforcement provides a means by which an authority can effectively deliver wider transport strategies and objectives. Enforcement authorities should not view it in isolation or as a way of raising revenue."*

In the main, the current civil parking PCN charge levels continue to act as a deterrent. The table below sets out the number of PCNs issued by authorities in England (outside London) over the five-year period April 2014 to March 2019.

Period	PCNs issued
Apr 18 – Mar 19	4,733,068
Apr 17 – Mar 18	4,637,310
Apr 16 – Mar 17	4,521,724
Apr 15 – Mar 16	4,252,776
Apr 14 – Mar 15	4,193,588

Over the five-year period, the number of PCNs issued has increased by 13%; however, account needs to be taken of new local authorities commencing civil parking enforcement during the period. Between the two most recent years reported, the increase in PCNs issued was 2%.

This country wide picture reflecting a degree of stability can, however, mask significant local traffic management challenges – some of which have come to the fore during the current pandemic.

Local authorities are required to balance the parking needs of residents, businesses and visitors. This challenge becomes acute when there are high visitor numbers that outstrip the supply of parking. In these circumstances, the current PCN charge levels may not act as a deterrent.

For example, following the easing of lockdown, coastal authorities in areas of high tourism had to resort to using tow-away powers to remove abandoned vehicles, and car parks have been obstructed where the cost of a penalty charge is not regarded as excessive by drivers. Other authorities have received complaints from resident permit holders who have paid for a permit but are unable to find a parking space.

In circumstances where the cost of a PCN – particularly one paid at the 50% discount rate – is acceptable to the public, such as in tourist locations or parking associated with major sporting events, the Secretary of State may wish to provide local authorities with the option to adopt a new higher rate penalty charge of £90 (for 'higher level' contraventions), discounted to £45 in areas where there is very high parking demand. Under this new rate, 'lower level' contraventions would attract £70. Local authorities with less demand for parking could retain the current charge levels.

For local authorities outside London, penalty charge levels are determined by *The Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007*. This currently has the effect of restricting the imposition of higher level penalties on contraventions set out within the order determined over a decade ago. This means that, outside London, emerging enforcement challenges cannot be addressed with a higher level penalty.

The Secretary of State is asked to consider adopting the Welsh model of listing higher level contravention types in an Order while publishing the specific contravention codes in guidance.

Private parking is a matter of contract rather than penalty, and private parking operators are private companies, for whom profit must be a motivating factor. The robust procedures for applying for the level of charges where these are higher than the voluntary cap should be mirrored in the proposal for the higher charges in the civil scheme outlined above.

Oversight of private parking charges by the Secretary of State or the Scrutiny and Standards Board would provide assurance to the public.

**Q9. Do you agree or disagree in principle with the idea of the Appeals Charter?**

Agree.

***Q9.1. Please explain your answer***

Any initiative that provides clarity for the motorist whilst not fettering discretion, either by the operator or the appeals service, is to be welcomed.

It would be invaluable for the parking industry to publish a charter setting out how they will intend to operate the system fairly and take into account compelling reasons. This reflects the public duty to develop and publish policies.

**Q10. Do you agree or not that the examples given in the Appeals Charter are fair and appropriate?**

Agree.

***Q10.1. Please explain your answer***

The examples provided are comprehensive. With respect to the keying error, in both cases the motorist has paid the parking charge, albeit with incorrect details, and it is right that this is recognised.

**Q11. Do you agree or disagree that the parking industry should contribute towards the cost of the regulation?**

Agree.

***Q11.1. Please explain your answer***

All the appeals services in the public civil enforcement schemes, together with the governance of the local government committees overseeing the process (London, outside London, Wales, Scotland, Northern Ireland) are funded wholly from the enforcement authorities. There is no reason why the private sector should not wholly fund the processes and services associated with their industry.

**Appendix 5**

**Response to:**

Ministry of Housing, Communities & Local Government

***Parking Code Enforcement Framework consultation***

**Submitted by:**



**Traffic Penalty Tribunal**

[www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk)

**12 October 2020**

**Submission by:**

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**Contact:**

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## About the Traffic Penalty Tribunal

**The Traffic Penalty Tribunal (TPT) decides motorists' appeals against Penalty Charge Notices (PCNs), issued by local authorities and charging authorities in England (outside London) and Wales, for parking and traffic contraventions.**

This includes appeals against penalties issued by over 300 local authorities in England and Wales for parking – both on-street and off-street – bus lanes, littering from vehicles and (in Wales only) moving traffic contraventions.

The TPT Adjudicators also decide appeals against penalties from a number of road user charging schemes in England, including:

- the Dartford-Thurrock River Crossing ('Dart Charge') scheme, where the charging authority is the Secretary of State for Transport;
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- the Durham Road User Charge Zone, where the charging authority is Durham County Council; and
- from mid-2021, appeals against penalties issued by authorities introducing Clean Air Zone charging scheme contraventions in England and Wales.

Appeals to the TPT are decided by part-time Adjudicators: all wholly independent lawyers, whose appointments are subject to the consent of the Lord Chancellor. The Adjudicators are supported by administrative staff, who provide customer support to appellants and help manage appeals.

- In 2018/19, the TPT decided appeals against ~31,000 PCNs. 79% of cases resulted in appellants not having to pay the PCN.
- 97% of all appeals submitted to the Tribunal are completed fully online through an online appeals management system.
- The online appeals system and associated business processes represent a 'digital-by-design' approach to dispute resolution, which has been described as an international exemplar.
- The majority of cases are decided by Adjudicators on the basis of uploaded evidence, with Telephone and Video Hearings available if necessary, while instant messaging and Live Chat are available for communication by the parties throughout a case.
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The efficiency of the online system and transformed business processes have inevitably also brought about significant savings for local authorities and the Tribunal, in terms of operational costs.

The independent TPT is funded by a Joint Committee of 300+ local authorities and charging authorities in England (outside London) and Wales fulfilling a statutory duty to create a Joint Committee to make provision for independent adjudication. This Joint Committee is known as PATROL (Parking and Traffic Regulations Outside London).

## Consultation Response

### **Q1. Do you agree or disagree that members of APAs should be required to use a single appeals service appointed by the Secretary of State?**

Strongly agree.

#### **Q1.1. Please explain your answer**

If each ATA/APA is allowed to create its own appeals service, the public will have no trust or confidence in the legitimacy of the service or the independence of the decision makers.

If the ATA/APAs can make their own arrangements, then there is no reason why new splinter ATA/APAs will not be formed, further undermining the principles behind the *Parking (Code of Practice) Act 2019*. It is critical that the motoring public have confidence in the independence of the appeals body.

The County Courts, too, need to trust the appeal service's findings of fact and its application of the appropriate law. There is currently concern about the standard of decision making with existing private parking appeal arrangements.

The new single appeals service will be accountable to the Scrutiny and Standards Board. Furthermore, it can publish and precedent cases for the operators to take into account when dealing with representations, and to inform the public about the issues that should be subject to appeal and those issues that have been decided. This should have the positive impact of reducing spurious representations and appeals, while providing examples of good practice. This is unlikely to be achieved if each ATA/APA provides its own appeals service.

The data published by the single appeals service, common to all the operators and their ATA/APA, will provide an overview of the industry and its implementation of the new Code of Practice

Furthermore, each operator should be required to publish the data on the number of parking charges they have issued, how many were appealed at the appeals service and how many have been subject to an application for a County Court Judgment (CCJ).

### **Q2. Please provide any other feedback on the determination of appeals, including the funding model and features that an appeal service should offer e.g. telephone or in-person hearings, the ability to submit evidence online**

For the appeals service to be truly effective, it must provide genuine Alternative Dispute Resolution (ADR) to the county courts. This means that the decision makers should not be constrained from considering all the relevant matters raised in the appeal.

The position should be the same as for the Adjudicators working within the civil enforcement system, where *The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007* provide, at Regulation 10(3)(b):

the adjudicator may receive evidence of any fact which appears to him to be relevant notwithstanding that such evidence would be inadmissible in proceedings before a court of law.

Furthermore, there should be provision for the decision-maker to allow an appeal and direct the operator to cancel the Parking Charge Notice when breaches of the Code of Practice are evident. This is envisaged in the *Parking (Code of Practice) Act 2019* and appears to have been the intention of Parliament for including, at Section 6(5):

The parking code is admissible in evidence in any legal proceedings.

There is little point in considering the Code if a relevant breach cannot affect the outcome of the appeal.

## **Funding Model**

The appeals service has to be set up and funded, potentially for every parking charge issued. The fixed costs cannot be funded by a cost per case. These should be paid by the operators based on the number of Parking Charge Notices they issue, calculated by the number of enquiries they make to the DVLA (VQ4 requests).

Variable costs could be met based on a cost per case, charged to the relevant ATA/APA, which would be responsible for recovering the charge from the operator. The appeals service cannot be expected to charge the operator direct and chase the individual operators for payment.

## **Features of the appeals service**

Although ADR, an appellant lodging an appeal should have a similar service to an appellant appealing a civil Penalty Charge Notice. This should be similar to the Traffic Penalty Tribunal system, which provides:

- an accessible online appeals management system
- assistance for those unable to appeal online
- the facility to upload evidence and set out a case, with disclosure of both the party's evidence
- instant messaging and / or live chat for communication with the appeals service during a case
- provision for respondent parking operators to manage appeals online with their own dashboard, aligned with their internal processing systems
- telephone and video hearings, where necessary.

## **Q3. Please provide any comments you have on the proposal to enforce the Code by combining the ATA's existing audit procedures with additional safeguards.**

The ATA/APAs own auditing systems alone, however robust they may be, will not foster confidence in the conduct and processes of their operator or the legitimacy of some of the conduct regularly complained about.

There will need to be significant further safeguards to assure the motoring public that the operators are committed to providing a first-class service and user experience. The appeals service cancelling Parking Charge Notices where there has been a breach of the Code is an example of such a safeguard.

**Q4. Please outline any alternative means by which the Code could be monitored and enforced. You may wish to cite evidence from other regulatory frameworks which are relevant.**

Transparency and openness are fundamental to effective monitoring. Like justice, it has to be seen to be done. The requirement to publish data by the operators, their ATAs, and the appeals service is critical to the success of the *Parking (Code of Practice) Act 2019*.

Openness should also include naming the individuals on the Scrutiny and Standards Board, as well as the key personnel at the appeals service. The operators themselves should be required to name the senior and executive personnel in their companies. The ATAs should be responsible for monitoring this.

The landowner (or land agent that contracted with the operator) should be named by the operator for each appeal. While it is said that this is unacceptable, in cases where the operator is not themselves providing the car park, the motorist is entitled to know for whom the operator is acting.

The data published on the numbers of appeals that have been made associated with the landowner should be available for scrutiny. Publishing data on a regular basis will also assist landowners and their land agents to ensure they are contracting with a reliable and esteemed operator. There should also be a mechanism for complaints about the ATAs to be made to the Scrutiny and Standards Board, which in turn must have a robust complaints procedure for dealing with those complaints.

The single appeals service should be able to cancel a Parking Charge Notice if there has been a relevant breach of the Code of Practice. Any breach of the Code of Practice should be reported to the relevant APA/ATA and a quarterly report of those referrals sent to the Scrutiny and Standards Board.

On the other side of the coin, there should be an independent appeals mechanism for operators who have been 'struck off' their membership of the ATA.

There are examples of other non-statutory regulatory frameworks, for example the Press Complaints Commission and other complaints services coming under the auspices of OFCOM. The Advertising Standards Authority (ASA) and the Committee of Advertising Practice (CAP) may also provide useful models for both the appeals service and the Scrutiny and Standards Board.

**Q5. Please provide any feedback you have on the proposed governance arrangements for monitoring the new Code of Practice**

There should be a defined data set that any operator accessing the DVLA register should report on, including the following data points:

- number of VQ4 requests
- number of Parking Charge Notices issued
- number of penalties paid at the discount rate
- number of challenges received, including:
  - how many accepted
  - how many refused
  - the time taken to respond to each
- number of appeals and their outcomes (this data will also be provided by the appeals service), including:
  - how many allowed, including data on the common issues

- how many dismissed, including explanations of common misunderstandings
- examples of good practice
- the time taken to deal with appeals

The appeals service should provide an annual report to the Scrutiny and Standards Board, which in turn should report to the Secretary of State on the effectiveness of the Code, any changes that need to be made, the performance of the ATAs, and the appeals service.

**Q6. Which parking charge system is most appropriate for private parking? a) the Three-tiered system b) Mirroring the Local Authority system**

Although both proposals are well meant, neither is appropriate.

***Q6.1. Please explain your answer. You may, for example, wish to make reference to other deterrent frameworks (for example, for railway tickets or traffic violations)***

Parking charges, if pursued through the *Protection of Freedoms Act 2012*, relate to a breach of contract or an act of trespass. The civil parking enforcement scheme is a public regulatory scheme, with a prescribed penal process and procedure. Although the operators regard their parking charge process as fines and penalties, this is a wholly inappropriate approach.

The Supreme Court case of *ParkingEye Limited* [Respondent] *v Beavis* [Appellant] 4 November 2015 sets out an authoritative and invaluable framework for setting a charge that is reasonable and could not be regarded as a contractual penalty clause. Further, the Supreme Court explained the importance of the Terms and Conditions of the contract being clear and unambiguous to the driver.

It should be possible – with further work on the Code of Practice – to create a parking charge framework that reflects the spirit behind the three-tier suggestion, but that is compatible not only with the contractual regime in car parks, but also with the operators' other area of enforcement – trespass. Currently, this is ignored in the three-tier suggestion and does not arise in the local authority scheme.

**Q7. What level of discount is appropriate: 40% as is currently offered in private parking and suggested in the three-tiered system, or 50% as is offered in Local Authority parking? a) 40% b) 50%**

See Question 6 above about developing a suitable system. This system should embrace a discount, where appropriate, of 50%.

***Q7.1. Please explain your answer, including whether the discount should be set at a different level***

The concept of a discount for early payment is familiar to motorists. Reflecting on the proposed three-tier suggestion, consideration might be given to not having a discount at all for the worst parking conduct, such as trespass – where vehicles are not permitted on the land – and obstruction. This could be conveyed as a warning on the sign.

**Q8. How should the level of parking charges be set and how should the levels be revised in future?**

The Supreme Court case of *ParkingEye Limited* [Respondent] v *Beavis* [Appellant] 4 November 2015 compared the £85 parking charge in the case to the penalty charges imposed by local authorities.

The Traffic Penalty Tribunal Adjudicators have seen no evidence to suggest that the parking charges imposed by councils outside London are no longer a deterrent – quite the reverse, in fact. Appellants often raise their hardship and the administrative staff take numerous calls from anxious motorists who cannot afford to pay. Many of them have a genuine ground of appeal and are not simply complaining about the amount of the penalty.

**Q9. Do you agree or disagree in principle with the idea of the Appeals Charter?**

We agree in principle, but it needs careful consideration that cannot be provided here.

***Q9.1. Please explain your answer***

The charter needs to reflect the undoubtedly helpful spirit behind the suggestion, but must be compatible with the contractual arrangement.

For example, in a car park the principle conditions tend to be payment and how long a vehicle is parked. The keying in of a VRM is incidental to payment; failing to key in the proper number, although inconvenient, may not be material if the person has paid for the vehicle that was parked and the payment has been identified. This may not be a sufficiently significant breach of the contractual requirement to warrant the payment of any parking charge in addition to the charge for parking.

The charter would need careful drafting.

**Q10. Do you agree or not that the examples given in the Appeals Charter are fair and appropriate?**

Agree.

***Q10.1. Please explain your answer***

The Charter should certainly remind the operators that they must act fairly and give some examples of good practice. All compelling reasons are fact sensitive and must be read and considered, and it is not good practice to create an inflexible table of circumstances that will or will not be accepted.

A difficulty arises in the council schemes where the council officer has not believed the motorist or is not sure of what is suggested to have occurred. These cases can properly be dealt with by the appeals service and the operator should accept the decision maker's findings of fact.

**Q11. Do you agree or disagree that the parking industry should contribute towards the cost of the regulation?**

Agree.

***Q11.1. Please explain your answer***

There is no reason why the measures contained in the Code should be funded from the public purse. Civil enforcement and charging authorities wholly resource the appeals services, as well as the joint committee functions.

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