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(MACS)**

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Dear Sharon,

## **HOW CAR PARKING IS BEST MANAGED IN SCOTLAND**

Recently the Mobility and Access Committee for Scotland (MACS) gave evidence to the Local Government and Communities Committee and submitting a consultation paper on what impact the Disabled Persons Parking Places (Scotland) Act 2009 (DPPP 2009) has had on disabled people, if any.

MACS have also been asked to give their views on the future of parking in general, exploring how parking is best managed across Scotland in the future. This area of policy and practice is extremely complex.

MACS is a Non-Departmental Government Body.

MACS remit being:

- To give Scottish Ministers advice on aspects of policy, legislation and practice affecting the travel needs of disabled people.
- To take account of the broad views and lived experiences of disabled people when giving advice.
- To encourage awareness amongst disabled people in Scotland of developments which affects their mobility, choices and opportunities.
- To work closely with SG and ensure our work programme complements the work being undertaken by the Disabled Persons Transport Advisory Committee (DPTAC), the Equality and Human Rights Commission and other organisations, voluntary and statutory.
- To promote the travel needs of disabled people with designers including transport planners and operators so that these are fully taken

into account in the development of vehicles and infrastructure and delivery of services.

- To monitor and evaluate the effectiveness of our work against the above aims and objectives in improving travel opportunities for disabled people in Scotland.

Some of the evidence given in this paper is antidotal coming from either personal experience from MACS members or from other disabled people. Where we have managed to give statistical evidence the source of the evidence has been identified.

Four specific questions are being asked and we will reply to each question separately.

The questions asked are as follows:

1. Making parking laws clearer in the future
2. What parking restrictions and exemptions should apply
3. The best approach for managing parking, and
4. The location of vehicles in today's town centers, including improved accessibility for all.

### **1. Making parking laws clearer in the future?**

MACS would suggest that there is a definite problem with parking law in Scotland given that each Local Authority has the power, in the main, to set its own bylaws with regard to parking. This has a detrimental effect on people moving about or visiting from one Local Authority to another.

Parking is especially important for many disabled people as it can be the key to their mobility and independence. Parking policy must take account of this under the 2010 Equality Act in providing reasonable adjustments.

**Duty to make reasonable adjustments** – discrimination against a disabled person occurs where there is a failure to comply with a duty to make reasonable adjustments. The duty comprises three requirements:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage compared with those who are not disabled, take reasonable steps to avoid that disadvantage.
- Take reasonable steps to remove or alter a physical feature or provide a reasonable means of avoiding such a feature where it puts a disabled person at a substantial disadvantage compared

with those who are not disabled.

- Take reasonable steps to provide an auxiliary aid where a disabled person would, but for the provision of that auxiliary aid, be put at a substantial disadvantage compared with those who are not disabled.

This is further exacerbated by the fact that the Local Authorities that have decriminalised parking each have the power to set independent systems of enforcement.

Given that there are still seven Local Authorities that have not even applied to decriminalise parking makes for an even more complex understanding of which bylaws one has to abide by in each Local Authority area.

Therefore we would suggest that it is not simply a lack of clarity from one Local Authority to another but there can, and often is, a totally different system and charging policy that is simply confusing when visiting a Local Authority area other than the one that a person lives in.

We would suggest that this is even more confusing for foreign visitors visiting Scotland when there is little standardisation of parking law.

To the best of our knowledge the last reasonably useful guidance issued was a leaflet that was available to both individuals and Parking Authorities giving advice on parking for disabled people. This was issued in May 1995. The leaflet was simply called 05/95.

[http://webarchive.nationalarchives.gov.uk/20090505152230/http://www.dft.gov.uk/adobepdf/165240/244921/244924/TAL\\_5-951](http://webarchive.nationalarchives.gov.uk/20090505152230/http://www.dft.gov.uk/adobepdf/165240/244921/244924/TAL_5-951) issued by the DfT.

However, on further research there have been a number of parking leaflets issued by the Department for Transport (DfT) that can be access at the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310065/tal.csv/preview](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310065/tal.csv/preview)

On searching only two leaflets can be found which were recently issued by Transport Scotland. These being:

Parking on Private Land, and Blue Badge Scheme.

Both of which can be accessed at <https://www.transport.gov.scot/our-approach/industry-guidance/parking/> and <https://www.transport.gov.scot/our-approach/accessible-transport/blue-badge-scheme/> respectively.

We would suggest that a comprehensive leaflet, similar to that of 05/95, should be created to give advice to disabled people, carers and Local Authorities/Parking Authorities on the most recent guidance and legislation on parking in Scotland. This leaflet should also be available in “easy read” format.

However, the question/suggestion is that given the current various pieces of legislation and guidance on parking from the DfT and Scottish Government and as the Scottish Government gain more devolved powers should they embark on a single piece of legislation that would consolidate the various pieces of legislation and guidance from both Houses to make it clearer for service users?

MACS cannot possibly advise on taking this action or indeed recommend it but we believe it is a suggestion worth consideration for the future.

What makes the above suggestions difficult is the fact that enforcement of parking across Scotland is sporadic to say the least, with each Local Authority having their own decriminalised parking system.

Feedback suggests that a 3-pronged approach would assist with parking enforcement and specifically aimed at reducing or eliminating the abuse of disabled parking bays:

1. Enforced misuse of blue badges
2. Increased monitoring of the use of disabled parking bays with enforceable penalties for abuse
3. Prioritise an education and awareness programme aimed at making abuse of disabled parking bays socially unacceptable

At the time of writing 46.9% of Local Authorities in Scotland have not yet decriminalised parking and 28.13% of Local Authorities have not even applied to decriminalise parking. This means that the only means of enforcement falls to Police Scotland and we would suggest given the competing resources in Police Scotland parking is some way down the list of priorities.

This issue will be further explored in question 3 along with the issue of off-street parking especially in private car parks.

## **2. What parking restrictions and exemptions should apply?**

MACS believes that the current restrictions of no parking on double yellow lines and in loading bays should remain but enforced more rigorously to assist in keeping traffic flowing but allowing businesses to have deliveries made from designated loading bays.

Although legally disabled people can park on double yellow lines, as long as they are not causing an obstruction, it is rather precarious to do so because the issue of 'is someone causing an obstruction'? is a judgment for the parking enforcement officer and not the disabled person which we believe is right and proper. Given the dubiety of disabled people parking on double yellow lines we would suggest that it should be illegal for anyone to park on double yellow lines. This would certainly make the issue more clear-cut for disabled people and the public in general. This would assist with the overall aim of 100% compliance with parking restrictions without any penalty charges.

When a blue badge is issued in England and Wales a cardboard clock is issued along with the badge because many on-street parking bays for disabled people have a restriction of a maximum of 2 or 3 hours.

Although some authorities in Scotland are issuing the cardboard clock there are very few 2 or 3 hour restrictions used in Scotland. We believe that this is a roads policy that we would **not** like to see taken in Scotland because it presupposes a disabled person can park their car, whether driver or passenger, get to their destination and do whatever business they need to do and get back to their vehicle within this strict time limit.

These restrictions make an assumption that the disabled person has sufficient mobility to enable them to carry out their business within the restricted time limits given.

We would strongly suggest that such assumptions should not be made and may indeed be in breach of the Equality Act 2010 because presumptions are being made that may not be attainable for some disabled people. Therefore, assumptions should not be made on the individual needs and abilities of the person.

MACS believe that the more common system in Scotland by where disabled people can park in a designated disabled parking bay for an unrestricted length of time should be kept. In keeping this present system there is less pressure and stress put on the disabled person when going about their day-to-day business, as is their right.

Where there is little or no on-street parking and no Local Authority off-street parking disabled people are often forced into private car parks where, although blue badge parking bays are still available, they are still charged at the going rate. Given that only 42% of disabled people are likely to be in employment this can put undue financial pressure on disabled people to the extent that they may have to make a choice or financial sacrifices in other areas to enable them to pay for important parking that allows them to remain

active citizens and go about their business or go to an important appointment.

MACS would suggest that all disabled parking where a blue badge needs to be displayed should be free whether Local Authority or Private.

We are acutely aware that private car park owners may not support this suggestion, however, we would submit that private car park owners should embrace free parking for disabled people in designated disabled parking bays as part of creating a fairer society.

There is an urgent need to eliminate antisocial pavement parking, which affects many people with different disabilities, often causing an obstruction or hazard, e.g. to blind people and wheelchair users. However, this issue is at present being addressed by the Scottish government in their proposed "Pavement Parking Bill" that is out for consultation at the time of writing this paper.

At present it is not legal in Scotland for a private car park owner to clamp a persons vehicle.

*It is illegal for a private company to wheel-clamp a car on private land in Scotland.*

*In exceptional cases, the police, the local authority or the Driver and Vehicle Licensing Agency - DVLA - can clamp or get cars towed away on private land.*

*The police, the local authority or the Driver and Vehicle Licensing Agency - DVLA can clamp and tow away cars or other vehicles parked illegally on roads or public land. The DVLA may act when it has the lawful authority to do so when a car is untaxed unless it is on your own property. For example, the police or the local authority can remove a car that is contravening a parking restriction, is blocking the road or has broken down.*

*Fines Enforcement Officers can organise for a car to be seized if you have not paid a number of fines.*

*Another organisation that can clamp or tow cars is the Vehicle and Operator Services Agency (VOSA). VOSA enforcement officers can do this when a car is a danger to road users. This often applies to commercial vehicles such as lorries where they are not roadworthy, they are overloaded, the driver has been driving for too many hours or has not paid a financial fine that VOSA has issued to them.*

<https://www.citizensadvice.org.uk/scotland/law-and-courts/parking-tickets/appealing-parking-tickets/when-your-car-can-be-clamped-or-towed-away-s1/>

Given that the above rules apply in Scotland to vehicle clamping in private car parks and that only designated officials can actually clamp vehicles in certain circumstances we would submit that these rules should continue, as is.

The implications of changing this for disabled people can be dire when the clamping agents or authority would not only deprive the disabled person of their vehicle but also of their right to mobility.

From time to time we hear in the media, of horror stories concerning vehicle clamping in England and Wales and there is no desire to see similar problems arising in Scotland from any changes in the current legislation. Scotland should be commended for its approach.

### **3. The best approach for managing parking?**

As previously alluded to question 1 there are difficulties in enforcing parking in Scotland because not all Local Authorities have decriminalised their parking services, or intend to. This is a major obstacle to enforcing on-street and Local Authority off-street parking and the abuse of disabled parking bays.

While we agree with, and support, the Scottish Government in decentralisation in giving more autonomy to Local Authorities they have had since 2009 to 'put their house in order' and we feel that it may take more direct action, such as legislation, so that all Local Authorities in Scotland will have their parking services decriminalised.

There are two principal problems with the system as it is at present for on-street parking:

- The first being that where parking services have not been decriminalised there is little or no enforcement to ensure that disabled parking bays are not being abused. In these circumstances the only enforcement available is via Police Scotland and giving the competing challenges to their resources it is unlikely that parking enforcement is high on the list.
- The second being that from 32 Local Authorities each has a different system of decriminalised parking enforcement, if indeed they have any decriminalised system in place. Without a single standard across the

country the only certain outcome is confusion as a result of having different levels of enforcement in different areas.

To be accurate, at present, 46.9% of councils in Scotland have no means to enforce parking, except by having to rely on police Scotland.

Over and above the Councils that have already decriminalised their parking 18.75% of Councils in Scotland have applied to decriminalise parking but as yet have not completed the process and 28.13% of councils in Scotland have no immediate plans to decriminalise their parking services.

This means that at present even if all Councils in Scotland have enforced parking bays for disabled people by means of a Road Traffic Order (RTO) the process has, in reality, only been a tick box exercise for nearly half of Councils because 46.9% of these councils cannot enforce the RTO's that they have put in place, under the DPPP (Disabled Persons Parking Places (Scotland) Act 2009, except by means of Police Scotland who have conflicting priorities of which parking is likely to be low on their list.

There are also issues surrounding enforcement of disabled parking bays at weekends and public holidays when there seems to be less enforcement officers on duty than there is through the week. The results of this lack of enforcement at weekends and public holidays is that members of the public who are not entitled to use disabled parking bays do so with the knowledge that they are much less likely to be fined for doing so.

MACS believe that there are two main issues that need to be addressed:

- a) Is legislation necessary to create an outcome by where all parking services in Scotland are of the same standard and of the same system to avoid confusion when travelling from one council/local authority area to another or indeed to visitors visiting Scotland?
- b) It is an absolute necessity to have a program of education and awareness aimed at both the users of parking bays and providers. We feel that a public education and awareness programme aimed at eliminating the abuse of non-blue badge holders using disabled parking bays needs to be prioritised.

We would suggest a general parking program of information and a specialist program to inform and educate people about parking for disabled people and the importance of disabled bays.

All information must be provided in accessible formats and leaflets must be written in simple English and easy read versions e.g. leaflet 05/95.

Off street parking is potentially a more difficult subject matter to broach given that there is a distinct lack of enforcement of disabled parking bays in off-street parking and the information in the report to Ministers of 30 September 2016 is rather vague in terms of how successful councils are in persuading private providers to allow local Councils to enforce disabled parking bays in their privately owned car parks, including and especially supermarket/store car parks.

We asked some Council their opinions for the reasons behind the refusal of private car park owners to take up this option.

Although the reasons given are purely antidotal we nevertheless believe them to be reasonably accurate. The reasons given were:

- Car park owners simply do not want to pay for disabled parking bays to be re-marked so that they comply with legislation, (TSGDR) Traffic Signs and General Direction Regulations, as compliance of the regulations is necessary to enable the enforcement of disabled parking bays.
- Car park providers, especially supermarkets and large stores, don't want to drive their customers away by fining them for the abuse of disabled parking bays. They regard disabled people as a minority of their customers and they prefer to cater for the majority, thus keeping their profits and turnover as high as possible in not causing offence to the majority of their customers.

Given that The Disabled Persons Parking Places (Scotland) Act 2009 report from Local Authorities to Ministers of 30 September 2016 shows that no Council has been successful in becoming the enforcement authority for privately owned car parks it would seem that either an education process needs to be undertaken or further legislation needs to be brought forward to enforce disabled parking properly in private car parks.

We are all used to seeing enforcement signs in private car parks, especially supermarkets and out-of-city Centre stores. However, after inquiry with some of our members and other disabled people we believe that, having never seen any actual enforcement taking place, these enforcement signs are nothing more than a tick box exercise to the owners of these car parks.

We believe that similar principles should exist for disabled people parking in hospital car parks and although some guidance was issued in 2007 by the Scottish government, <http://www.gov.scot/Publications/2007/09/27132859/6>, we, nevertheless, believe that this guidance needs to be updated given that

it is 10 years old and out of date.

<http://www.gov.scot/Publications/2007/09/27132859/6>

Disabled people are less likely to be able to afford parking charges:

*'Disabled households tend to have less overall household income than those without, and working disabled people are more likely than average to be on low hourly pay. The fact that disabled people often spend periods of their working age lives out of work increases their risk of poverty in later life.*

*Disabled people are also less likely than average to have a bank account, and people who have learning disabilities are much less likely to have one'.*

Equality and Human Rights Commission, Triennial Review 2010

[https://www.equalityhumanrights.com/sites/default/files/how\\_fair\\_is\\_britain\\_-\\_complete\\_report.pdf](https://www.equalityhumanrights.com/sites/default/files/how_fair_is_britain_-_complete_report.pdf)

*'Half of people in poverty are disabled or live with a disabled person'.*

<https://www.disabilityrightsuk.org/news/2016/august/half-people-poverty-are-disabled-or-live-disabled-person>

Given the evidence available, part of which is detailed above, we would strongly suggest that charging for parking at hospitals, and indeed all Private or 'Contracted Out' car parking should be free for disabled people at the point of delivery.

In summary, the important issues when considering car parking for disabled people the following bullet points are of significant importance:

- There is a need for a national standard of decriminalisation scheme.
- There is an urgent need to enable all Local Authorities to comply with the DPPP (Scotland) Act 2009 and introduce a nationally recognised scheme of parking decriminalisation.
- There is an urgent need for a national program of education and awareness on legislation as it applies to parking for disabled people and to the public in general. This requires complete support by Local Authorities.
- There is a need for parking enforcement to be at similar levels at weekends and public holidays during a working week.
- Parking for disabled people in designated parking bays should be free for all on street parking in Scotland.
- Some form of persuasion or indeed legislation is needed to ensure that private off-street car park owners/companies comply with legislation to properly mark out disabled parking bays as per the TSGRD (Transport Signs and General Roads Direction) and that in future all off-street parking bays are policed to ensure that abuse of bays for disabled people is at a minimum, working towards the eradication of such abuse.

- Measures should be taken to ensure that all privately owned off-street parking for disabled people is free to those displaying a blue badge.

#### **4. The location of vehicles in today's town centers, including improved accessibility for all?**

Evidence suggests that the issue of the use of Shared Space needs to be re-evaluated. At the time of writing the Transport Research Institute at Napier University is examining this issue and we await their report on the Seminar held on 25<sup>th</sup> April 2017.

MACS believes that while there is a case for restricting vehicles in our city and town centers this must be done with a considerable degree of empathy to enable parking for disabled people that display a blue badge and that areas where traffic is restricted must be designed in such a way that they are accessible for everyone.

To enable 'access for all' to be a reality it is imperative that disabled parking bays are sited close to shops, supermarkets, retail outlets, offices and places of work. If parking authorities fail to recognise the reality of the needs of disabled people it will lead to further social and economic exclusion at an ever-increasing level.

It is also essential that architects and designers recognise the importance of creating accessible parking for disabled people with regard to town/city centers and indeed other areas such as Shared Space, out-of-town shopping centers and indeed leisure and sports facilities including those in open space and the countryside.

Yours sincerely,

Road Infrastructure and Active Travel Workstream  
Mobility and Access Committee Scotland (MACS)