

REPORT TO INFRASTRUCTURE SERVICES COMMITTEE – 19 AUGUST 2021

WORKPLACE PARKING LICENSING REGULATIONS AND GUIDANCE – CONSULTATION RESPONSE

1 Reason for Report/Summary

- 1.1 The purpose of the report is for the Committee to consider the draft response to Scottish Governments consultation on Workplace Parking Licensing Regulations and Guidance. The consultation seeks views that will help form the framework for Local Authorities to implement Workplace Parking Licensing schemes if they choose to use the discretionary powers provided through the Transport (Scotland) Act (2019).

2 Recommendations

The Committee is recommended to:

2.1 Consider and comment on the draft consultation response in Appendix 1; and

2.2 Delegate authority to the Director of Infrastructure Services to submit the final consultation response Scottish Government following consultation with Chair, Vice Chair and Opposition Spokesperson.

3 Purpose and Decision Making Route

- 3.1 The Scottish Government is consulting on the creation of a framework and guidance to support Local Authorities who wish to implement Workplace Parking Licensing schemes. The framework will provide consistency at a national level while also allowing for flexibility in how proposed schemes are implemented at a local level.
- 3.2 The discretionary powers to allow Local Authorities to implement Workplace Parking Licensing schemes are provided through the Transport (Scotland) Act 2019.
- 3.3 Infrastructure Services Committee considered an Aberdeenshire Council consultation response to the Transport (Scotland) Bill at the meeting of 23 August 2018 (Item 12 refers). However, Workplace Parking Licensing was not part of the public consultation and was added to the Bill at a later date.
- 3.4 A bulletin report to Infrastructure Services Committee with an update on the Transport (Scotland) Act 2019 was provided on 28 November 2019 which included details of the addition of Workplace Parking Licensing schemes.

3.5 A draft response to the consultation on the regulations and guidance of Workplace Licensing schemes is included as **Appendix 1**.

4 Discussion

4.1 The Transport (Scotland) Act 2019 provides Local Authorities with discretionary powers to implement Workplace Parking Licensing schemes where they are deemed necessary as a means to manage travel demand and promote more sustainable travel choices, reduce congestion and reducing emissions.

4.2 The discretionary powers allow Local Authorities to create schemes that are tailored to local circumstances. Local Authorities do not have to implement Workplace Parking Licensing.

4.3 A Workplace Parking Licensing scheme would require liable employers to apply for a license from the Local Authority for the number of car parking spaces provided for workplace parking purposes. A charge will be applied for the license relevant to the number of spaces included on the license. The responsibility for paying this charge lies with the occupier of the premises for example, the employer, organisation or business.

4.4 Revenues generated by Workplace Parking Licensing schemes can only be used by the Local Authority to cover the costs of the scheme or to support policies in their Local Transport Strategy.

4.5 Aspects covered in the consultation are

- What Workplace Parking Licensing scheme consultations should include;
- How consultations will be communicated and to who;
- How licensing decisions and appeals will be made;
- How enforcement will be carried out; and
- What impact assessments are required and what these should include.

4.6 Details of the consultation can be found at the link below.

<https://www.transport.gov.scot/consultation/workplace-parking-licensing-consultation-on-regulations-and-guidance>

4.7 A draft response is included as **Appendix 1**. The Committee is recommended to consider and agree or provide comment on the draft consultation response.

4.8 The Committee is also recommended to delegate the submission of the final response to the Director of Infrastructure Services following consultation with the Chair, Vice Chair and Oppositions Spokesperson prior to the deadline for responses on 6 September 2021.

5 Council Priorities, Implications and Risk

5.1 This report helps deliver the Strategic Priority Infrastructure and Resilient Communities Priorities within the Pillar of Our Environment.

5.2 The table below shows whether risks and implications apply if the recommendations are agreed.

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities and Fairer Duty Scotland			X
Children and Young People's Rights and Wellbeing			X
Climate Change and Sustainability			X
Health and Wellbeing			X
Town Centre First			X

5.3 There are no staffing or financial implications associated with the recommendation of this report.

5.4 An integrated impact assessment is not required as the Committee is being asked to consider a consultation response to an external body.

5.5 There are no risks identified in terms of the Corporate or Directorate Risk Registers.

6 Scheme of Governance

6.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

6.2 The Committee is able to consider and take a decision on this item in terms of Section F 3.2 of the [List of Committee Powers in Part 2A](#) of the Scheme of Governance as it relates to a consultation response within the Committee's policy area.

Alan Wood
Director of Infrastructure Services

Report prepared by Martin Hall, Strategy Manager
6 August 2021

Workplace Parking Licensing - Consultation on Regulations and Guidance

Consultation Questions

Question 1

Are there other elements of WPL schemes that local authorities should be required to consult on, besides those listed under the 'Consultation and Impact Assessment' section?

No

Please explain your answer, including, if appropriate, what additional elements should be required and why:

Question 2

Should the regulations specify a list of statutory consultees that local authorities are required to consult?

Yes

Please explain your answer. If yes, please detail what statutory consultees and why:

Statutory consultees should include every business or organisation who would be required to pay a charge under the proposed scheme and should be consistent with other Statutory consultee lists.

Question 3

When local authorities communicate information about new, amended, or revoked WPL schemes, what information should the notices contain? Please support your view with evidence where possible.

Notices are usually short and comply with a legal minimum in terms of information provision, however they should include similar information to that provided as part at the consultation stage on any proposed Workplace Parking Licensing Scheme.

Question 4

When local authorities communicate information about new, amended, or revoked WPL schemes, where/how should notices be published? Please support your view with evidence where possible.

Workplace Parking Licensing notices should be published in a consistent manner in the same way that all Council notices are. For example they should be published on the Council website, displayed at the workplaces where the scheme is to be implemented and advertised in the newspaper.

Notices can potentially follow a similar process to that carried out for traffic and other orders.

Question 5

Are there any circumstances where an employer besides the occupier of the premises should be responsible for the charges imposed through a WPL scheme?

No

Please explain your answer. If Yes, please describe the circumstances and entities who should be liable, supporting your view with evidence where possible.

Question 6

Should the rationale and process for a local authority's review of licensing decisions be wholly set out by the local authority?

Yes

Please explain your answer.

If there is a legal test when making the decision then a review would stem from that.

From the narrative within the consultation document it would appear that the regulations are proposing a basic process and on that basis a Local Authority can put in place their own process.

Any review can stem from the legal test for implementation of a Workplace Parking Licensing scheme, based on the reasonability of conditions or the process for implementing a Workplace Licensing Scheme not being adhered to.

Question 7

What circumstances/rationale do you consider reasonable for review or appeal of licensing decisions to take place?

See response to question 6 above.

Question 8

Do you agree with the approach to penalty charges as outlined under the 'Penalty Charges' section above?

No

Please explain your answer, supporting your view with evidence where possible.

This approach could cause confusion with other parking contraventions where Penalty Charge Notices (PCNs) are issued and consideration should be given to a different name for any penalty applied under Workplace Parking Licensing to avoid such confusion.

It is unlikely that existing front line parking enforcement teams will be carrying out the enforcement on Workplace Place Licensing schemes and therefore consideration should be given to how any contraventions are enforced and who is responsible for this enforcement.

Likewise for the operation of payment and back office for any such penalty could become confused and difficult.

Workplace Parking Licensing enforcement should follow processes for other licensing matters and not be seen as similar to on or off street car parking enforcement as it is unlikely that enforcement action will be taken on employees using car parks but on the employers who provide the car parks.

Question 9

Do you consider that there should be additional grounds for review or appeal of penalty charges besides those listed under the 'Penalty Charges' section above?

No

Please explain your answer, supporting your view with evidence where possible.

The list provided in the consultation document for grounds for review or appeal of penalty charges is comprehensive.

Question 10

Which approach to the amount of the penalty charge do you consider more appropriate?

- **A formula for the penalty charge, including a reduction in payment for payment within a certain timeframe or increase in response to delayed payment, should be set in regulations**

See below.

- **The amount of the penalty charge be determined entirely by local authorities**

See below.

Please explain your answer, including what formula you consider appropriate, supporting your view with evidence where possible.

A reasonable national formula set by regulations would be easier for Local Authorities to implement as such an approach would seem fair, clear and efficient rather than devising and consulting on their own formula.

Question 11

Do you agree with the approach outlined under 'Accounts'?

Yes

Question 12

Do think further regulation on accounts is required?

No

Please explain your answer.

The suggested approach is reasonable and proportionate.

Question 13

What positive or negative impacts do you think the WPL proposals outlined within this consultation may have on:

- **particular groups of people, with particular reference to ‘protected characteristics’ listed above charities and SCIOs**

No particular positive or negative impacts on the groups within protected characteristics. An additional charge to SCIO's and Charity Groups may have a negative impact on their activities and they may be reluctant to pass this cost on to “employees” especially if they are volunteers.

- **children and young people**

None.

- **people facing socioeconomic disadvantages**

Experience from the scheme run by Nottingham City Council suggests that many larger employers pass the parking levy costs on to their employees, often indirectly through their monthly salary (i.e. a reduction to account for the parking charge). This could have an adverse impact on people in lower-paid and more insecure employment and could affect, for example, net Living Wage amounts.

If the levy is passed onto employees then lower paid and part time employees will be impacted. Women are more likely to work part time and also be paid a lower wage, therefore women could be directly impacted. Women in a rural area that have to use a car for work are also more likely to be impacted unless there is adequate public transport.

- **people living in island communities**

No comment .

Question 14

Do you think the WPL proposals outlined within this consultation are likely to increase, reduce or maintain the costs and burdens placed on business sectors? Please be as specific as possible in your reasoning.

The proposals undoubtedly creates an additional administrative burden on businesses, proportionate to the number of their employees captured by the WPL scheme. There is either a payroll implication (with related adjustments to payroll software, at cost to the business) or a benefits in kind implication, with related reporting requirements to HMRC. Even companies that implement less sophisticated schemes (i.e. a direct charge to employees who use workplace parking) have to establish invoicing and payment mechanisms. Businesses would of course have the choice not to pass on the charge directly but absorb it within their overall overheads and see it as part of their approach to tackling climate change.

Question 15

What impacts do you think the proposals outlined in this consultation may have on the personal data and privacy of individuals?

All the local authorities need to know is how many spaces should be licenced. They do not need the personal details of who might be using these spaces so from a local authority point of view there should be no data protection implications.

It may be that a named individual appears on a licence but the local authority will deal with this in the same way as every other licence it issues – possibly requiring a Privacy Notice specifically for this setting out why they are collecting the data and what they will be using it for, which is normal practice for other licensing activities.

An employer can choose to recover the costs of the licence from the employee. The employer will need to know which employees require parking spaces and what vehicles will be parked there. It may be argued that this is additional personal information which an employer must collect about their employees. Either way that is an issue between employer and employee and does not relate to the licencing scheme. The Data Protection Impact to local authorities of the proposals are fairly limited.

Question 16

Do you think the WPL proposals outlined in this consultation are like to have an impact on the environment? If so, in what way? Please be as specific as possible in your reasoning.

On its own, Workplace Parking Licensing may not have an impact on the environment but schemes that are implemented in areas where there are genuine alternatives to car use may influence travel behaviour to more sustainable modes. The income raised can also support the development and support of transport measures that enable modal shift and tackle climate change.

Question 17

Do you have any other comments that you would like to add on the Scottish Government's WPL proposals outlined within this consultation?

No.