



**Department for Communities and Local Government:  
Parking reform- tackling unfair practices  
Discussion paper and call for evidence**

**Officer Response by London Councils**

London Councils represents all 32 London boroughs and the City of London. It is a cross-party organisation that works on behalf of all of its member authorities. We develop policy, lobby Government and others, and run a range of services designed to make life better for Londoners.



## **London Councils**

### **Response to DfT Discussion Paper and Call for Evidence.**

#### **Parking Reform: Tackling Unfair Practices**

London Councils is a joint body of the 33 London local authorities formed for the purposes of collective policy development, representation and service delivery. London Councils' Transport and Environment Committee (TEC) is a joint committee of the 33 London local authorities and Transport for London. TEC has a number of statutory responsibilities particularly with respect to parking and traffic enforcement, notably:

- Determination of traffic and parking penalties
- Administrative support to the parking and traffic adjudicators

In addition TEC provides a forum for the coordination of policies and procedures and the delivery of collective services where this makes sense. Within the area of enforcement London Councils provides:

- TRACE: a Londonwide telephone/SMS service for providing information about cars that have been towed away
- A collective data link with the county court for registration of debt
- A database on persistent evaders and a payment exchange mechanism

London Councils believes that proper on and off street parking regulations are an essential element of urban transport and traffic management. Parking regulations are primarily in the motorists' interest and are needed to:

- Reduce accidents
- Reduce congestion
- Manage the use of the kerb space where demand exceeds supply

Regulations which are not effectively enforced are pointless. London Councils supports an enforcement regime which is fair, secures appropriate compliance with regulations, and is efficient and cost effective.

Turning to the questions raised by the Discussion Paper:

#### **1. Do you think there are problems with how parking on private or public land is regulated, or the behaviour of private parking companies?**

- Yes. London Councils believes that there are significant problems with the regulations around parking on private land. This has had a particular impact on some local authority housing estate land.
- There is more regulation of the private parking sector than ever before, and an established code of practice and appeals mechanism. Most operators now operate in

a responsible manner and any previously identified 'sharp practices' have been reduced significantly.

**2. If you answered Yes to Question 1, what problems do you think there are with parking on private land, or the practices of parking control companies managing parking on private or public land?**

- The introduction of the Protection of Freedoms Act 2012 (POFA) did not have the desired effect of clarifying the situation with respect to council owned housing land, and only created more confusion. Historically boroughs have enforced parking contraventions on their private land by the use of contract law and the issue of Fixed Penalty Notices (FPNs). London Councils does not believe that the POFA changed this in the majority of circumstances.
- The letter issued to Local Authorities by Robert Goodwill MP in September 2014 outlined the Government's position regarding the legalities of enforcement arrangements available for regulated and unregulated land. The letter stated that councils could not enforce under contract law, and any application for DVLA for keeper details may be refused unless the council is applying as an enforcement authority under the Traffic Management Act 2004 (TMA).
- London Councils wrote to the Department for Transport stating that legal advice that we have obtained did not concur with the view of the Minister or the Department. It is London Councils' view that the use of s.6 and s.35 of the Road Traffic Regulation Act 1984 on housing estate land is only appropriate for parking places where the parking is provided for controlling traffic (s.6) or for the purposes of relieving or preventing congestion (s.32(1)). Where a local authority provides parking places that have been designated for other local authority purposes, rather than for traffic management (e.g. for the purpose of serving residential occupiers), then the parking places may be 'relevant land' under Schedule 4 of the POFA 2012.
- Whilst London Councils believes that in the longer term, it would be beneficial for local authorities to put traffic orders on private housing estate land as control and enforcement would be easier, it is not currently the only option. Many boroughs have looked at doing this, and they have found it expensive, that it takes time, and is a potential legal minefield with regards to existing lease agreements, maintenance costs etc. London Councils do not believe that authorities should be unnecessarily restricted in their ability to enforce on their housing estate land, as parking controls would be undermined. This would have a detrimental effect on residents, and could pose a health and safety risk on estates, particularly with regard to obstructive parking preventing access for emergency vehicles.
- There is a view among some London authorities that the banning of clamping and removal from private land has led to problems on council owned housing land. Whilst this could be readdressed by introducing traffic orders and enforcing under the TMA, the difficulties of doing this have been highlighted above. It is also a factor that some estates have indicated during the consultation process that they do not want traffic order control, just a way of dealing with nuisance vehicles. The issue of FPNs using schedule 4 of the POFA is not as effective as clamping and removal was prior to its abolition, as it is more difficult to pursue the non-payment of fines due to imperfections in the legislation. Therefore the inability for local authorities to manage parking on their estates has had a detrimental effect on residents.

- Local authorities do not have the same powers to utilise ANPR technologies for both payment and enforcement purposes in off street car parks as enforcement is undertaken using the TMA 2004. Car parks operated by private parking companies using contract law can use ANPR and do so frequently. This gives them an unfair commercial advantage over councils as the use of this technology is cheaper, and enforcement against motorists that do not comply with the regulations simpler. When a motorist parks off street, the provider and under what regulations parking is enforced is not relevant and unknown. Therefore there should not be any differences in how payments can be made and enforcement undertaken, as this prejudicial against local authorities.
- London Councils believes that private off street parking should be regulated in much the same way on street parking is. This would lead to similar fine levels, and enforcement controls. This should reduce the level of campaigning and unfair practice often vexed against the sector.

**3. If you answered Yes to Question 1, what steps do you think the Government should take to rectify these problems?**

- If Government are to become involved once again, they need to be clear of their intentions, and the legislation needs to reflect these accurately, and without confusion. Previous attempts at regulation have not appreciated the realities of managing parking, and 'piecemeal' solutions have only added to the problems that local authorities face.
- Government need to fully clarify the situation with regards to the use of contract law on borough housing estate land. We will be liaising directly with Department for Communities and Local Government on this issue.
- There is a view that whilst there was a significant problem relating to the removal and clamping of vehicles on private land prior to the 2012 Act, these related to poor signage, excessive charging and unethical enforcement by private contractors on non-Council land. There was little or no evidence of Councils charging excessive fees or acting in an unethical manner when removing or clamping unauthorised vehicles on Council land, but an exception was not made to recognise this in the 2012 Act. Government should look at the possibility of reinstating clamping and removals on Council owned housing land, without requiring the creation of traffic management orders. Whilst we acknowledge that some clamping and removal operators did operate in a wholly unacceptable manner on other private land and that legislation was needed to curb this, the Government were wrong to assume that all clamping and removal operators behaved inappropriately and banning all clamping and removal was an excessive measure to deal with sharp practices. The Government could insist that the relevant charges cannot exceed those applied on street.
- London Councils believes that council managed off street parking under the TMA 2004 should be afforded the same powers regarding the use of ANPR for payments and enforcement that is afforded the private sector under contract law.
- London Councils believes that there should be a single approved operator scheme, a single code of practice, and a single appeals mechanism to allow people to challenge FPNs issued.

**4. Are you able to offer any evidence to support a case for change, or examples of best practice?**

- Please see above

**5. Do you think there are other steps the Government could take to ensure that parking supports local shops and high streets?**

- No, we believe that Government places too much importance, without evidence, on the role of both on and off street parking in the vitality of our High Streets.
- Research undertaken on behalf of London Councils, and published by The Means in 2012, examined the relevance of parking in the success of urban centres. The main findings of the report were as follows:
  - **More parking does not necessarily mean greater commercial success.** A well-managed parking scheme, where spaces 'turn over' frequently can help increase the number of visitors coming to a town centre, and thereby help business.
  - **There is no such thing as free parking.** The costs of developing and maintaining parking spaces and then enforcing proper use to ensure traffic flow have to be borne by the local authority.
  - **Shopkeepers consistently overestimate the share of their customers coming by car.** This can be by as much as 400%. In London the share of those accessing urban centres on foot or by public transport is much greater. Walking is the most important mode for accessing local town centres; public transport is the most important mode to travel to International centers (e.g. Oxford Street)
  - **Car drivers spend more on a single trip, walkers and bus users spend more over a week or a month.** Comparisons between 2011 and 2004 show that spending by public transport users and walkers has increased, spending by car users has decreased.
  - **A good mix of shops and services and a quality environment are the most important factors in attracting visitors.** If both of these are poor, then changes to parking are unlikely to make a centre more attractive.
  - **A well-managed parking scheme should have no adverse impacts on the local economy.** There is some evidence that charging for parking can help increase the number of visitors and therefore be better for town centre businesses.

London Councils believes that the role that parking has played in the decline of the high street is overstated. A range of other factors also impacts on this, as does the issue of changing shopping habits, where people shop online or visit out of town shopping centres and supermarkets.

- Every authority regularly monitors the parking provision that it has, and tailors this to the specific circumstances and requirements of an area or street. Legislation that insists authorities have to introduce certain measures may result in schemes that are not suitable – leading to a regime which in some places is needlessly restrictive and, in others, denying regulations that are desperately needed and supported - and would have a more detrimental effect on the local area, including the high street. Every location is different and local authorities are best placed to determine what is

needed locally and it would be wrong to assume that they do not. Local accountability through the democratic process has been shown to work well in this respect.

- There are increasing examples across London of local initiatives, specifically designed to facilitate parking and stimulate the local economy. These are being pursued in response to recognised local need, rather than as a blanket national instruction.
- London Councils is of the view that recent Government parking reforms surrounding the use of CCTV, and the introduction of a mandatory ten minute grace period may actually have a detrimental effect on the success of High Streets. Far from being a war on the motorist, the use of CCTV proved a vital enforcement tool and deterrent in improving compliance and reducing congestion. The limitations placed on local authorities in the use of CCTV could result in more congestion, an increased disregard for regulations, and an increase in difficulties for goods vehicle deliveries and Blue Badge holders. London Councils would not like Government to involve itself in the provision of off street parking, if unnecessary and potentially damaging regulations were the result.

**6. If you answered Yes to Q5, what steps do you think the Government should take to help support local shops and high streets, for example by encouraging the provision of free and competitively priced parking spaces?**

- London Councils answered No to question 5, but need to clarify the following.
- Authorities are advised generally to provide parking provision and set tariffs for short stay parking based on the 85 per cent occupancy rule. Charges are set to manage demand and encourage bay turnover, as this in turn maximises access. If the tariff is set too high, vehicles will not park and bays will remain empty. Such an outcome would quickly lead to pressure on the authority to cut charges and even on a strict financial model, high charges with low occupancy are not financially optimum. If the tariff is set too low for the demand, then you do not get the turnover of spaces, and congestion increases as vehicles circle searching for space. In high streets this makes the location less attractive and does not lead to any more people able to visit local shops. Research has shown that where tariffs are too low, 'searching' traffic makes up as much as 30% of traffic flow, which does not simply lead to additional and unnecessary congestion but also to extra pollution. Neither of these make the location attractive to shoppers or visitors. It is in the interest of every borough to get this balance right. Research also shows that motorists generally place a higher premium on space availability than on the parking charge. Given the right charges, a local authority can guarantee a parking space would always be available to motorists.
- Where periods of free parking are suitable for an area, local authorities will look to introduce these, and there are many examples in London where free parking spaces have been established. It would be damaging to remove the ability for authorities to decide how best to manage individual locations, and insisting that mandatory free parking periods should be introduced nationally would be damaging for high streets.

**7. Should there be an obligation for local authorities to offer the ability to pay for parking by cash within a reasonable distance of where they have parking (for example via ticket machines or via local shops)?**



- London Councils does not believe that it is the role of Government to regulate how parking is paid for. This stifles localism and inhibits innovation.
- London Councils has always advocated that there should be a range of options for paying for on and off street parking, and has encouraged that authorities consider maintaining the use of cash. This does not necessarily mean the use of pay and display machines as voucher schemes can also be effective. However, there are strong financial drivers to remove the option of paying by cash, including the continued and not insignificant theft from machines, increasing costly maintenance of the machinery and infrastructure, and the handling of cash.
- Where cashless parking schemes have been introduced (and there is little evidence that this has happened in authority run off-street car parks), the uptake has been high with no reduction in on street demand for parking spaces. The use of cash in areas where this has remained an option has fallen significantly. Cashless parking can also offer more flexibility, with pay by phone parking schemes sending reminders to subscribers when the time is due to expire, and offering the opportunity of paying for more time where this is appropriate. This actively helps the motorist and reduces the numbers receiving Penalty Charge Notices.

**8. Do you have any examples demonstrating best practice approaches in the UK or abroad?**

- N/A

**9. Do you have any best practice suggestions for councils to follow?**

- London Councils provides guidance to local authorities regularly on all parking related matters. We do not believe that this should be required by legislation. These are available on our website <http://www.londoncouncils.gov.uk/services/parking-services>