

Item 14 (Page 113 in the Agenda Pack)

PATROL AND Bus Lane Adjudication Service Joint Committee

PATROL Public Affairs Overview July 2019

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. Each section is split into:

- Background
- Update
- Next Steps

2. 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

In 2016 the then Minister, Andrew Jones, convened a roundtable discussion on pavement parking. This was attended by the Chief Adjudicator and Chair of the PATROL Advisory Board. 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.

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.

Since the meeting, it is understood that the Department for Transport will also be looking specifically to gather evidence on the effectiveness or not of current regulatory frameworks for pavement parking.

Pavement parking was an issue picked up in a number of parking annual reports. Two of the shortlisted councils (Devon County Council and Derby City Council) outlined steps they had taken to address the issue.

The Stakeholder Engagement Manager, Iain Worrall, incorporated feedback on pavement parking into the Summer 2018 workshops and this was drawn upon as part of the evidence submission to the Department for Transport. Over 50 authorities indicated an interest taking part in further discussions on this subject.

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 18th 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 2nd April 2019 which is ongoing.

Update

A briefing note has been prepared and is included at Appendix 1. The submission to the Transport Committee Inquiry is enclosed at Appendix 2.

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/transport-committee/inquiries/parliament-2017/pavement-parking-17-19/>

Next steps

To monitor the developments in the Transport Committee Inquiry.

3. New Civil Bus Lane Guidance

Background

The Secretary of State has indicated that it is his intention in the light of increasing bus lane penalties to review the Provisional Guidance published in 2005 and revised in 2008.

This Guidance is considered to be outdated and does not take account of the increased complexities in traffic regulation. Whilst the Traffic Management Act 2004 allows for Statutory Guidance, the Transport Act 2000 doesn't hence the Guidance being Provisional. Once the remaining powers of Part 6 of the Traffic Management Act 2004 are enacted, there will be Statutory Guidance for civil bus lane enforcement. In Wales there is "Statutory Guidance to Local Authorities on the Civil Enforcement of Bus Lanes and Moving Traffic Contraventions" (2014).

Update

The PATROL Local Authority Bus Lane conference held on 14th March 2019 at the London Transport Museum utilised the review of the guidance as a backdrop for its agenda which included presentations from local authorities who had reflected upon and made changes to their bus lane schemes in the light of experiences from enforcement, representations and adjudicator decisions.

The intention behind the review of the Guidance is to promote consistency and proportionality and it is hoped that authorities will embrace the spirit of Statutory Guidance in practice. The Adjudicators have been asked to provide feedback to the Department for Transport on issues arising in bus lane appeals.

Next Steps

To keep the Joint Committee updated on the progress of the new guidance.

4. Camera enforcement and cycle lanes

Background

The Department for Transport has been carrying out a cycling and walking safety review, considering how to make cycling and walking safer and more attractive modes of transport.

The Department has now concluded that review and has [announced several new policy measures](#) designed to address some of the problems that have been raised.

The enforcement of cycle lanes was a major theme emerging from the initial call for evidence; many cyclists felt that motorists who drive and park in cycle lanes have little chance of being caught, and consequently there is very little deterrence against this behaviour.

The Department has accepted these concerns, and in response, they have announced that they will make it easier for local authorities to tackle vehicles parking in cycle lanes.

The intention is to amend the 2015 regulations which largely banned the use of cameras by councils for parking enforcement in order to insert an exemption for mandatory cycle lanes. In practical terms, therefore, local authorities will be allowed to use camera devices (e.g. fixed CCTV or camera cars) to enforce parking restrictions (eg. yellow lines) in mandatory cycle lanes (i.e. cycle lanes marked by solid white lines). There will be no change to the separate moving traffic offence of driving in a mandatory cycle lane; this offence is not being decriminalised and will remain under police enforcement. It is not anticipated at this stage that there will be any further changes to camera enforcement. Evidence suggests that some local authorities are deploying red route enforcement as a result of this.

<https://www.gov.uk/government/publications/cycling-and-walking-investment-strategy>

There is no confirmed date for this legislative change however it is anticipated that there will be a further update in Spring. The government has also signalled its intention to review the Highway Code.

Next steps

Liaise with the on Department for Transport in respect of the planned changes to the regulations and Highway Code.

5. Future of Mobility: Urban Strategy

Background

The Department for Transport issued “The Future of Mobility: Urban Strategy” on 19th March 2019. A link to the document is set out below:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/786654/future-of-mobility-strategy.pdf

The document reports the intention to undertake the biggest regulatory review in a generation around new transport modes including: micro mobility; mobility as a service (MAAS), transport data including national parking standards and bus, taxi and PHV legislation.

Next steps

Monitor the roll out of the review.

6. Joint response to Law Commission / Scottish Law Commission Automated Vehicles: A joint preliminary consultation paper

Background

This consultation is seeking views on the legal implications of the introduction of road-based automated vehicles. A joint TPT/PATROL submission is included for reference at Appendix 3.

Next steps

To respond to any, follow up questions from the Law Commission.

7. Moving Traffic Powers

Objectives: To develop an evidence base in respect of moving traffic powers and the impact of their absence on local authorities in England (outside of London) drawing upon experience on enforcement and appeals from their current use in Wales.

Background

Moving Traffic Powers are currently available to local authorities in Wales but not to English authorities outside London.

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 published a report in 2017 "A country in a jam: tackling congestion in our towns and cities". PATROL has sought to engage with the Local Government Association on matters of mutual interest. The Secretary of State for Transport is expected to issue new Statutory Guidance in relation to civil bus lane enforcement in due course.

Hampshire County Council has been reviewing its local collision data.

Update

PATROL recently circulated details of a survey being coordinated by the Local Government Association on the moving traffic enforcement.

Next steps

Review any findings from the LGA survey and collate the various sources of local and national congestion, journey times, accident and contravention data.

8. Littering from Vehicles

Objectives: To provide access to independent adjudication in respect of this new area of environmental civil enforcement and liaise with local authorities to promote awareness of the

requirements of civil enforcement drawing upon experience within civil parking and bus lane enforcement.

Background

New regulations “Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 came into force on 1st April 2018. PATROL and the Traffic Penalty Tribunal responded to a consultation on littering from vehicles introduced in the Litter Strategy for England <https://www.gov.uk/government/publications/litter-strategy-for-england>, DEFRA has issued the attached implementation advice to local authorities. This also references a consultation on improved guidance on the use of enforcement powers to tackle littering and related offences which they propose to incorporate into a statutory Code of Practice on Litter and Refuse. DEFRA published a summary of responses to the consultation.

Appeals arising from these penalties will be considered by the Traffic Penalty Tribunal. Experience from London suggests that volumes of appeals will be extremely low however to date over 60 authorities outside London have expressed an interest in taking up these powers.

A survey of councils was undertaken to understand which department – Parking or Environment is leading in this area of enforcement and to appreciate the variables in terms of level of penalty charge and the option offer of discounts.

PATROL has liaised with DVLA to request access to the same driver details portal as used in civil parking enforcement rather than a single use system currently used in environment enforcement.

Appeals will be handled through FOAM. Workshops have been held with officers from parking and environmental teams in Wilmslow and London.

Update

Two further workshops have been held one in the north and one in the south for environmental teams new to the adjudication process.

A number of authorities have expressed an interest in this area of enforcement however to date only Charnwood Borough Council is issuing penalties.

Next steps

- To monitor and report on appeals arising under these new regulations.
- Liaise with DEFRA in relation to the formal guidance.

9. 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.

Background

In 2017 DEFRA consulted on its Air Quality Strategy “Improving air quality: national plan for tackling nitrogen dioxide in our towns and cities. PATROL responded to this consultation.

The five original mandated locations (Birmingham, Derby, Leeds, Nottingham and Southampton) were required to have their plans finalised, including whether this will include a charging CAZ by the end of 2018 for implementation in 2019. A further 23 local authorities were required to take steps to reduce road side emissions in 2017.

In July 2018 DEFRA directed 33 more English local authorities to carry out studies reducing nitrogen dioxide air pollution in their areas.

The Government’s latest Clean Air Strategy (Clean Air Strategy 2019) incorporates steps to improve air quality in relation to a range of sources including Transport

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf

PATROL and TPT are liaising with DEFRA and Welsh Government in relation to the introduction of charging clean air zones on subjects including:

- Considerations for the procurement of ANPR equipment.
- Single national payment portal
- The appeals process

The purpose being to share experiences from appeals in other road user charging schemes.

Table 1: Types of Charging Clean Air Zone

Clean air zone class	Vehicles Included
A	Buses, coaches and taxis & private hire (T&PH) M3 (GVW over 5000 kg and more than 8 seats in addition to the driver) M2 (GVN not exceeding 5000 kg, ref mass exceeding 2610 kg and more than 8 seats in addition to the driver)
B	Class A + Heavy Goods Vehicles (HGVs) N2 (GVW over 3500 kg and ref. mass over 2610 kg) N3 (GVW over 5000 kg)
C	Class B + Light Goods Vehicles (LGVs)
D	Class C + private cars

Of the five original authorities mandated to look into emissions, two have confirmed that they will introduce a Charging Clean Air Zone (C-CAZs): Leeds City Council and Birmingham City Council (the other three authorities being Nottingham, Derby and Southampton).

The Government has approved the Leeds and Birmingham plans:

Leeds City Council will introduce a Class B CAZ which will involve charges for buses, coaches, heavy goods vehicles, taxis and private hire vehicles (PHVs) that fail to comply with the scheme’s emission standards.

Birmingham City Council's proposal will introduce a Class D CAZ which will involve charges for the categories above plus light goods vehicles (LGVs) and cars.

In addition, a number of other authorities have indicated that they are currently considering a C-CAZ.

In November 2018 the Welsh Government published the "Supplemental plan to the UK plan for tackling roadside nitrogen dioxide concentrations 2017" which directed the councils of Cardiff and Caerphilly to undertake an assessment by 30th June 2019 to achieve nitrogen dioxide limit values within the shortest possible time.

Update

A workshop was held in Birmingham in April 2019 bringing together authorities who are planning or considering a C-CAZ to consider a range of factors impacting on their introduction. Delegates suggested it would be helpful to continue the discussions and sharing of information.

Leeds City Council and Birmingham City Council have indicated that they will not be able to introduce their C-CAZ in January 2020 as mandated in the light of the government's vehicle checking software not being available until October 2019.

Next steps

- To continue to seek update calls and meetings with DEFRA
- To monitor the take up of charging clean air zones
- To hold a follow up C-CAZ workshop in September.

10. Consultation on penalties for engine idling

Background

The Department for Transport has indicated that it will be launching a consultation in summer 2019 on penalties for engine idling in support of its Cycling and Walking Investment Strategy and Road to Zero Strategy

Next steps

To update Members on the arrangements for the consultation.

11. 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 Sir Greg's words:

"Self-regulation hasn't worked and we need to put this on a statutory footing to stop motorists being ripped off. We need to have a fairer, more transparent and consistent enforcement system. "

There has been coverage in the media of issues relating to parking on private land and on land owned by public authorities (e.g. NHS hospital parking), 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 of 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

Update

The new Act in summary

The Government has stated that the 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 Local Government Minister, Rishi Sunak will now put in place the code of practice and appeals and scrutiny mechanisms that the Act provides. It is expected that the code will be drafted later in 2019 with industry stakeholders and will provide clarity in a single set of rules for private parking with clearer processes of appeals.

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

Next steps

To update the Joint Committee on the implementation of this Act.

12. House of Commons PARC Awards (Parking Annual Reports by Councils) Reception,

16th July 2019

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

Background

The PARC Awards recognise the local authorities that have articulated and communicated on parking services; appeals and finances in their area in a compelling and well-structured way through the production of an Annual Report. The 2018 Awards Reception was kindly sponsored by Huw Merriman MP for Bexhill and Battle who is a member of the Transport Select Committee.

Huw shared some valuable insights and encouragement to local authority attendees on the importance of their mission to improve the communication of parking and other civil enforcement activities within their areas. Broadcaster and author Gyles Brandreth gave a spirited talk saying *“The quality of a society can be measured by the quality of the environment it creates for its citizens; and what you do is part and parcel of creating civilised, health places for people to live”*. Gyles’ father, Charles, wrote the landmark book *“Parking Law”*. A short video of the event has been produced.

The regional Local Authority User Groups reported elsewhere have included workshops on parking annual reports. PATROL provides a toolkit for authorities. The latest toolkit promotes a five step plan to producing a report and highlights the possibilities for a digital approach to the provision of information.



Copies of the updated toolkit have been issued to Parking Managers and Councillors in all PATROL’s member authorities. The concept of a “digital report” has been highlighted at these workshops and Knowsley Borough Council offered to explore this for their first report and share their experience with other authorities.

Huw Merriman MP has once again kindly offered to sponsor and speak at the 2019 reception on 16th July 2019.

Update

The Independent Review Group announced the shortlist for 2017/18 reports as follows:

- [Brighton & Hove City Council](#)
- [Cheshire East Council](#)
- [Devon County Council](#)
- [Durham County Council](#)
- [Newcastle City Council](#)
- [North Essex Parking Partnership](#)
- [Sedgemoor District Council](#)
- [South Lakeland District Council](#)
- [Sunderland City Council](#)

Next steps

The 2019 toolkit to support the production of annual reports will be produced in a digital format.

13. Simplifying the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007 Government Response

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.

Next steps

To liaise with the Department for Transport to establish when the order might be amended.

14. Building an evidence based picture of enforcement in England (outside London) and Wales

Objectives: Develop and enhance our evidence-base to provide an objective assessment of civil enforcement and appeals in England (outside London) and Wales.

Background

PATROL is encouraging local authorities to contribute local statistics to produce a comprehensive evidence based picture of enforcement in England (outside London) and Wales.

Next steps

A digital data submission portal is in development. A small working group to look at simplifying and digitising the collection of this information will be arranged in 2019.

15. Traffic and Parking 2019

Objectives: Share best practice with local authorities and other stakeholders.

Background

Following a successful event in 2017, Landor Links approached PATROL to be the programme partner Traffic and Parking 2019 which took place on 22nd January in Manchester. The event was well attended and positive feedback received.