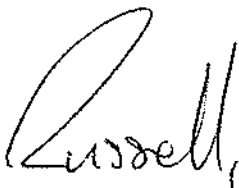




Ein cyf/Our ref MA-P/KS/1303/18

Russell George AM  
Chair  
Economy, Infrastructure and Skills Committee

16 April 2018

Dear 

At the Economy, Infrastructure and Skills Committee on 21 March I agreed to write to the Committee setting out the position on parking.

It is recognised that the legal position on parking in the UK is complex; regulated by a variety of primary and secondary legislation, including the Highways Act 1835, Town Police Clauses Act 1847, Road Traffic Regulation Act 1984 and the Road Traffic Acts 1988 and 1991.

The Scotland Act 2016 devolved certain executive functions on parking matters to the Scottish Ministers, and parking is also devolved in Northern Ireland.

Legislative Competence in respect of on-street parking control in Wales is reserved to the UK Government by virtue of schedule 7A to the Government of Wales Act 2006 (GOWA) under which road traffic offences and the regulation of the use of motor vehicles on roads are reserved matters.

The parking of vehicles off street, on private land, is covered by consumer protection legislation which is also reserved to the UK Government under Schedule 7A of GOWA.

The Welsh Ministers do however have powers to designate certain road traffic offences as civil contraventions that may be enforced by a local authority.

Part 6 of the Traffic Management Act 2004 fundamentally changed the enforcement framework for on-street parking controls in the UK, from being exclusively a police matter, to providing local authorities with the power to take responsibility for the enforcement of parking under the civil law, also known as decriminalised parking enforcement (DPE).

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Local Authorities have powers under Section 1 of the Road Traffic Regulation Act 1984 to make provision prohibiting, restricting or regulating the use of specific roads (which includes the pavement) in their area, via the use of Traffic Regulation Orders (TROs). A TRO is a legal instrument used by road authorities to give effect to traffic management measures on roads within their areas (e.g. yellow lines) which are enforceable when the appropriate road signs or markings are displayed. The restrictions can be applied for various reasons and could cover particular hotspots or larger areas. They can have effect at all times or during specific periods, and certain classes of traffic may be exempt from the TRO.

By virtue of section 9(2) of the Active Travel (Wales) Act 2013, the Welsh Ministers and local authorities must have regard to the needs of walkers and cyclists when exercising functions under Part 1 of the Road Traffic Regulation Act 1984 (including the function of making TROs).

Where a TRO contains a parking prohibition which extends to the entire road (including the pavement), it is an offence to park on the pavement. In addition, driving on a pavement with the intention to park is an offence under 72 of the Highways Act 1835.

In most areas of Wales, parking offences have been decriminalised as local authorities have been granted DPE powers. Powers granted by DPE to deal with parking offences include:

- The issue of a Penalty Charge Notice (PCN) - a parking penalty which can be paid or contested by appeal (see below)
- The immobilisation of the vehicle - usually by clamping - until a release fee is paid
- The removal of the vehicle from the street

Out of 22 Welsh local authorities, 17 now have DPE powers while the remaining local authorities are actively working towards DPE .

With DPE in place, the local authority retains the income generated from parking penalties to finance parking enforcement and certain other activities such as local transport measures.

Appeals against local authority decisions on PCNs can be made to the Traffic Penalty Tribunal (TPT) in England and Wales. The TPT is an independent body, although it is funded through a fee per PCN issued. Appeals against their decisions can generally be made only on points of law, through judicial review.

While stationary traffic offences cease to be part of the criminal law in areas with DPE, the enforcement of other parking offences such as obstructive or dangerous parking and moving traffic violations continues to remain with the Police. Fixed penalties from the issue of parking tickets by the Police are collected by Fixed Penalty Offices (each of which is part of a local Magistrates' Court in each county) and passed directly to central government.

Local authorities have a duty under section 3 of the Refuse Disposal (Amenity) Act 1978 to remove abandoned motor vehicles in their area. The power to remove vehicles is given to the police by sections 99-102 of the Road Traffic Regulation Act 1984, as amended, and by the Removal and Disposal of Vehicles Regulations 1986 (SI 1986/183), as amended, made

under section 99 and 101 of the 1984 Act. The powers under section 99 include the removal of vehicles which are parked illegally as well as vehicles which are causing an obstruction or danger or are abandoned or broken down.

*Yours ever,*

*Ken*

**Ken Skates AC/AM**

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth  
Cabinet Secretary for Economy and Transport

