

EQUALITY IMPACT ASSESSMENT RECORD

Title of legislation	The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022
Minister	Jenny Gilruth MSP – Minister for Transport
Lead official	Fred O'Hara, Head of Road Policy
Directorate: Division: Team	Roads Directorate, Transport Scotland, Road Policy Team
Is this new policy or revision to an existing policy?	The Regulations are part of the parking prohibitions contained in the Transport (Scotland) Act 2019

Screening

Policy Aim

1. The Scottish Government has been working to improve parking legislation in Scotland in order to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

2. As part of this work, The Transport (Scotland) Act 2019 introduced prohibitions on pavement parking, double parking and parking at dropped kerbs, and gives local authorities the relevant powers to enforce these new provisions. The Act also gives local authorities the power to exempt footways from the pavement parking prohibition in certain circumstances and in accordance with Ministerial directions. The Regulations are required for Scottish Ministers to make provision in connection with the making, amendment and revocation of exemption orders.

Who will it affect?

3. Local authorities, motorists and pavement users will be directly affected by the Regulations (Exemption Orders Process). Local authorities will be responsible for undertaking road assessments on their streets to identify if and where an exemption order is needed, subject to qualifying criteria set by Scottish Ministers.

4. Pavement users (e.g. pedestrians) are expected to benefit from the pavement parking ban as a whole however the Regulations will give local authorities a procedure to follow to allow pavement parking on a section of footway if they deem it necessary and if it falls in with the criteria as laid out in Ministerial Directions.

What might prevent the desired outcomes being achieved?

5. The main aim of the parking provisions is to improve the safety and accessibility for all road users through more effective management and enforcement of parking restrictions. Scottish Ministers acknowledge that a 'one size fits all' approach is not appropriate given the different layouts of towns and cities across Scotland.

6. As such, the existing legislation provides powers for local authorities to exempt sections of footway from the national ban. These new Regulations provide a procedure to follow to exempt such areas.

Stage 1: Framing

Results of framing exercise

7. An equality impact assessment was undertaken due to the regulations giving local authorities a procedure to follow to exempt appropriate areas of footway from the national pavement parking ban. However as mentioned above the parking prohibitions as a whole aim to tackle the impact of inconsiderate and obstructive parking and ensure that our roads and pavements are accessible for all.

8. During the formulation of the policy, we continued to engage with our Parking Standards Group which has a range of stakeholders, including representatives from Living Streets Scotland, COSLA, Parking industry, Guide Dogs Scotland, local authorities, Regional Transport Partnership, Cycling Scotland and Federation of Small Businesses. In addition, we carried out a 12 week public consultation which ran from 17 December 2021 to 11 March 2022. Feedback from the consultation helped inform the content of these regulations.

9. It may be worthwhile noting at this point that the power to make Exemption Orders is already in the primary legislation (Transport (Scotland) Act 2019). This consultation and the subsequent Regulations relate to the process for making an Exemption Order.

Extent/Level of EQIA required

10. Any impacts from the introduction of these regulations will arise from decisions made by local authorities following the assessments of their roads and potential for Exemption Orders. While these decisions are outside the scope of Scottish Ministers powers, this EQIA sets out some of the evidence that local authorities may wish to consider should they wish to promote an Exemption Order. In addition, information will be included in the Parking Standards Guidance document detailing that local authorities should undertake an EQIA of their own before making an Exemption Order.

11. In developing this EQIA the Scottish Government is mindful throughout of the three needs of the Public Sector Equality Duty (PSED) – to eliminate

unlawful discrimination, harassment and victimisation; to advance equality of opportunity between people who share a protected characteristic and those who do not; and to foster good relations between people who share a protected characteristic and those who do not. Where any negative impacts have been identified, we have sought to mitigate/eliminate these. We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>The parking provisions in the Transport (Scotland) Act 2019 seek to improve accessibility and safety for people of all ages. These Regulations provide a procedure for local authorities to follow to exempt appropriate areas of footway from the national pavement parking ban. Equality groups of the Parking Standards Group have previously stressed that the parking provisions will bring positive benefits to older people through improved accessibility, which in turn will enable older people to live more independent lives.</p>	<p>Parking Standards Group & Public Consultation both at Act and secondary Regulation drafting stages.</p>	<p>No significant gaps were identified in relation to the proposals within the Act.</p>
DISABILITY	<p>The parking provisions are intended to improve the safety and accessibility for all road users through more effective management and enforcement of parking restrictions. With these regulations allowing pavement parking on specific sections of</p>	<p>Parking Standards Group & Public Consultation both at Act and secondary Regulation drafting stages.</p>	<p>No significant gaps were identified in relation to the proposals within the Act.</p>

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

		footway, we have engaged with disability organisations within our Parking Standards Group and discussed the Ministerial Directions where local authorities will be required to leave a minimum of 1.5 metres of footway clear if they are exempting that section of footway.		
SEX	N/A	N/A	N/A	N/A
PREGNANCY AND MATERNITY	N/A	N/A	N/A	N/A
GENDER REASSIGNMENT	There is no data available to suggest that the proposed legislation would have any effect on individuals who have undergone gender reassignment.			
SEXUAL ORIENTATION	There is no data available to suggest that the proposed legislation would have any effect on the sexual orientation of an individual.			
RACE	N/A	N/A	N/A	N/A
RELIGION OR BELIEF	N/A	N/A	N/A	N/A
MARRIAGE AND CIVIL PARTNERSHIP	N/A	N/A	N/A	N/A

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			✓	Despite the Regulations allowing the potential for pavement parking by promoting an Exemption Order, local authorities will need to leave a minimum of 1.5 metres of pavement available to allow for the safe passage of all pavement users. We do not believe there are any aspects that are expected to impact positively or negatively on this area as the measures affect people of all ages, irrespective of protected characteristic.
Advancing equality of opportunity			✓	Despite the Regulations allowing the potential for pavement parking by promoting an Exemption Order, local authorities will need to leave a minimum of 1.5 metres of pavement available to allow for the safe passage of all pavement users. We do not believe there are any aspects that are expected to impact positively or negatively on this area as the measures affect people of all ages, irrespective of protected characteristic.
Promoting good relations among and between different age groups			✓	Despite the Regulations allowing the potential for pavement parking by promoting an Exemption Order, local authorities will need to leave a minimum of 1.5 metres of pavement available to allow for the safe passage of all pavement users. We do not believe there are any aspects that are expected to impact positively or negatively on this

					area as the measures affect people of all ages, irrespective of protected characteristic.
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Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			✓	Despite the Regulations allowing the potential for pavement parking by promoting an Exemption Order, local authorities will need to leave a minimum of 1.5 metres of pavement available to allow for the safe passage of all pavement users. We do not believe there are any aspects that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	Despite the Regulations allowing the potential for pavement parking by promoting an Exemption Order, local authorities will need to leave a minimum of 1.5 metres of pavement available to allow for the safe passage of all pavement users. We do not believe there are any aspects that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good relations among and between disabled and non-disabled people			✓	Despite the Regulations allowing the potential for pavement parking by promoting an Exemption Order, local authorities will need to leave a minimum of 1.5 metres of pavement available to allow for the safe passage of all pavement users. We do not believe there are any aspects that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good relations between men and women			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good relations			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good relations			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good relations			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good race relations			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Advancing equality of opportunity			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.
Promoting good relations			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership ²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			✓	There are no aspects of the Regulations that are expected to impact positively or negatively on this area as the measures affect all people, irrespective of protected characteristic.

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?	The Regulations have received some negative views from disability organisations however we have reassured them that if a local authority exempts part of a footway, they will need to leave 1.5 metres of clear pavement for the safe passage of all pavement users. Even with the possibility of exemptions being promoted by local authorities, the overall impact of the parking prohibitions will help to ensure our roads and pavements are accessible to all, including the elderly, children, disabled, pregnant road users and people with prams.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	No
If not justified, what mitigating action will be undertaken?	N/A

³ See EQIA – Setting the Scene for further information on the legislation.

Describing how Equality Impact analysis has shaped the policy making process

In this section, set out a narrative that describes how the equality impact analysis has shaped and informed your policy development. Include, for example:

Completing the equality impact assessment, engaging with equality groups across the spectrum and undertaking the required public consultation has helped inform the content of these regulations to ensure that the proposed legislation is fit for purpose and will make our roads and pavements accessible to all.

Monitoring and Review

Local authorities will have the powers to enforce the parking prohibitions contained in the Transport (Scotland) Act 2019 which includes the national pavement parking ban. However the Regulations supporting enforcement for these prohibitions are not likely to be in force until 2023. Transport Scotland will be progressing Regulations supporting enforcement at the same time as local authorities will be undertaking their road assessments and promoting any required Exemption Orders.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:
 - Eliminating unlawful discrimination, harassment, victimisation;
 - Removing or minimising any barriers and/or disadvantages;
 - Taking steps which assist with promoting equality and meeting people's different needs;

- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for The Pavement Parking Prohibition (Exemption Orders Procedure) (Scotland) Regulations 2022 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Stewart Leggett

Position: Director of Roads

Authorisation date: 22 September 2022