

**LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL
(PRIVATE)**

IN PARLIAMENT

**REPORT OF SECRETARY OF STATE FOR TRANSPORT ON THE
LONDON LOCAL AUTHORITIES AND TRANSPORT FOR LONDON BILL**

INTRODUCTION

This report replaces the report from the Secretary of State for Transport from June 2006 on the above Bill. To improve clarity, especially as the Clause numbering has changed from the last version of the Bill, this report repeats text from the June 2006 report where the Government's position has not changed.

The report indicates where the Government is minded to change its position, with an explanation. Since June 2006 the promoters of the Bill have proposed significant changes to the operation of Part 5 of the Bill. The Government is broadly content with the broad principles of what is now proposed subject to the promoters giving satisfactory assurances as to how these provisions will operate alongside the proposed Traffic Management Act (TMA) provisions in London. There is scope for confusion if this issue is not resolved. At present, the Government has also only seen initial and incomplete drafts of the revised clauses for Part 5 and no draft clauses for other provisions which are to be changed from the Bill promoters. The Government will only be able to drop its opposition once the TMA interface issue has been resolved and once it has seen and agreed final clauses.

The Government retains its objections to clauses 4-6, 10-12 and to Part 5, but, subject to seeing and agreeing the final draft Bill clauses and resolving the issue of the interface with the TMA, would wish to drop its objections to clauses 5 and 6, and Part 5.

PART 2: PARKING AND ROAD TRAFFIC

4: Parking and loading etc: waste collection vehicles

The Government's position on this clause remains unchanged.

The framework that a local authority wishes to put in place to prohibit, restrict or regulate the use of a road or any part of the width of a road by vehicular traffic of any class is done using a Traffic Regulation Order (TRO). This means that local authorities in London already have a simple and straightforward way of implementing the exemption proposed in Clause 4 for waste collection vehicles and street cleansing vehicles from parking, bus lane and other moving traffic contraventions if they so wish. The benefit of using a

TRO is that it provides for all those affected by the exemption to see and comment on the exemption before it is introduced. Local authorities must consider whether to hold a public inquiry in the light of any objections received. The process is, therefore, open to public scrutiny and comment. Clause 4 would introduce an exemption across London with no regard to the wishes of the local authority, the public or local circumstances and it is opposed by the Government. The ALG have said that it will be easier to introduce a wholesale ban with the powers proposed in Clause 4 than to use TROs. It is true that to introduce such a exemption across London would require 34 TROs but these would only need to be made once and would ensure that the exemptions were supported.

The Government also opposes Clause 4 because it wishes the legislative framework for parking to be the same throughout England, with any variations to meet local needs, such as exemptions for waste collection and street cleansing vehicles, provided through Traffic Regulation Orders. This national framework will be provided by Regulations under the Traffic Management Act 2004.

5-6 Unpaid charges on unlawful release of vehicle

The Government is minded to change its position on this clause to drop its opposition, subject to seeing and agreeing the final revised clauses.

The Government acknowledges the problem that this clause is intended to overcome (that of the difficulty in securing prosecution against an individual when a clamp has been unlawfully removed from a vehicle and the fact that costs are still likely to be incurred in such a case). The Bill promoters have indicated they will revise the clauses to remove the possibility of both criminal and civil liability.

7 Limitation on service of notice to owner: parking

The Government acknowledges the problem that this clause is intended to overcome (securing a possible loophole in payment of a Penalty Charge Notice)

The Government retains its position that it wishes to see the same legislative framework for parking in place throughout England on this matter. The Government believes that this loophole can be closed using provisions in the Traffic Management Act forthcoming secondary regulations on civil enforcement, and hence retains its opposition to this clause.

8 Limitation on service of notice to owner: road traffic contraventions.

See preamble comments on clause 7. The Government believes that this loophole can be closed using provisions in the Traffic Management Act forthcoming secondary regulations on civil enforcement, and hence retains its opposition to this clause.

10 Parking of Goods Vehicles

The Government's position on this clause remains unchanged, although we are hoping that the promoters will withdraw this clause from their final draft Bill.

The Government opposes this clause as it believes it is not reasonable to rely solely on zone entry signs to inform HGV drivers of parking restrictions extending over large areas. This is the reason for requiring repeater signs in the first place. Drivers do not retain information without reminders. They cannot be expected to assimilate CPZ restrictions when driving past entry signs (assuming that the signs are clearly visible in the first place, which they often aren't) and remember them much later, unprompted, when they reach the stretch of road where they want to park. Research carried out in eight local authorities for the DfT by TRL found that CPZ entry signs were noticed by relatively few people (23- 37%). Drivers are not being provided with adequate information about restrictions at the point where they apply.

Nor should there be any special London arrangements that contradict national signing requirements. The Government wishes to ensure that consistent approaches are taken to dealing with waiting and loading throughout the country. The DfT expects to consult later this year on an update of Chapter 3 of the Traffic Signs Manual (Regulatory Signs).

11 Obscured registration plates

The Government's opposition to this clause remains. It does not accept that this provision is necessary, for the reasons given below.

A similar power was considered during the passage of the Traffic Management Bill, but after consulting with local authorities in London it was concluded that such a power was not required because adequate powers already exist. We were told that the London Boroughs of Camden, Islington and Westminster had concluded in the light of advice they have been given that parking attendants may take steps to remove covers or lift a tarpaulin in order to obtain registration details. We understand that while parking attendants may be worried about accidentally damaging a parked motorcycle or its cover the situation is no different from that pertaining to the removal of vehicles to a pound - in both cases there is a risk of accidental damage being caused. However the Council can simply refer any claims to its insurers. So attendants should not be overly concerned as long as reasonable care is taken when removing covers. The situation is different where deliberate damage e.g. breaking a lock would be necessary in order to obtain details. Although the Council could take a policy decision to remove covers on motorbikes even if it meant breaking locks etc, it would have to be willing itself to pay for any damage caused. If there is a locked cover, or if the cover cannot be removed without causing damage, the parking attendant should consider clamping the motorcycle. Furthermore, giving civil enforcement officers a power to use force is more akin to police powers and would not sit easily with the concept of civil enforcement.

Obscuration of a vehicle registration plate is an offence by virtue of section 43 of the Vehicle Excise Registration Act 1994. A fine of up to £1,000 may be imposed on conviction. Prosecution is and should remain a matter for the police because this is a serious offence which can affect the DVLA records on which the civil enforcement of traffic contraventions depend. Advice during the passage of the Traffic Management Bill from authorities in London was that parking attendants have adequate powers to lift any covers obscuring number plates and the Government wishes the same enforcement powers to be in force throughout England. The Government has considered the argument that accepting this clause now would put the matter beyond doubt for London authorities, but consider that it could give rise to problems for enforcers elsewhere in the country.

PART 3: ROAD TRAFFIC

12. Driving on the footway: Act of 2003

The Government's opposition to this clause remains unchanged.

Riding on the footway in London, as nationwide, is an offence under Section 72, Highway Act 1835 and can already be enforced by the police as appropriate. In addition to enforcement in the normal course of their duties, the police can also undertake special exercises in particular areas where a particular problem has been identified. Short intensive campaigns can be conducted to deal with persistent offenders.

Where driving on the pavement is a particular problem locally, the Government would expect this to be picked up by the local crime and disorder audit and addressed appropriately by the local Crime and Disorder Partnership, bringing together police, local authorities and other agencies. As with other offending the Government would encourage members of the public to give evidence of specific instances of dangerous or intimidating behaviour to the local police. This will ensure that the police can target their responses effectively.

The Government is not persuaded that it should be possible to deal with driving on the footway by penalty charge notice as well as by normal police enforcement. No case has been made out as to why such a possibility would be desirable, given the powers that already exist and the enforcement action that can already be taken.

There could be confusion if the behaviour were sometimes dealt with as a criminal offence and sometimes as a civil matter. A criminal offence would be seen as more serious and it would seem unfairly discriminatory if in the same area some people engaging in a particular form of behaviour were regarded and treated as criminals whilst others were regarded and treated only as civil transgressors. Such complaints would be exacerbated if one regime were perceived as harsher than another in terms of the penalties imposed. There could also be arguments between the police and the civil authority over enforcement, and possible arguments between transgressors and civil enforcement agents that would be less likely to happen with the police.

There might be allegations that civil enforcement was just a money raiser for the authority.

There is no clear reason or case advanced for the situation in London to differ from that in the rest of the country, where the prohibition of driving on the footway is not enforced by the local authority

PART 5: NON-PAYMENT OF PENALTY CHARGES

General

The Government understands the issues that need to be tackled with regard to persistent evaders in London. It was not satisfied that the Clauses proposed in the original Bill provided adequate safeguards to innocent motorists. The Bill promoters added in clauses to tackle “unregistered” vehicles in Autumn 2006, and we were also not satisfied that these new clauses provided adequate safeguards for vehicle owners legitimately not on the DVLA vehicle license database or that they were defensible from challenge.

The Department has worked with the Bill promoters to overcome its opposition to many of the clauses, especially to ensure that and, in principle, agree to the inclusion of additional safeguards in the civil enforcement process which satisfy the original concerns. The Government understands why the Bill promoters wish to extend extent powers to address the increasing problem of persistent evasion in London.

The Government is therefore minded to change its position on these clauses to drop its opposition. However, we have only so far seen initial and incomplete drafts of these provisions and will need to see and agree final and complete clauses before the Government's opposition can be dropped. It will also be necessary to agree with the promoters how to provide for the interface between the enforcement mechanisms in Part 5 of the Bill and the enforcement provisions envisaged for the Traffic Management Act civil regime to avoid confusion with two similar but not identical regimes applying in the same set of circumstances.

[signed by Graham Hanson]

Graham Hanson
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Authorised to sign on behalf of the Secretary of State for Transport