

Analysis of the Consultation on regulations allocating the new transport related appeals to the General Regulatory Chamber of the Scottish Tribunals

November 2022

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1. Introduction

The Scottish Government has undertaken analysis of the responses to our public consultation on the allocation of three new appeal functions to the General Regulatory Chamber of the First-tier Tribunal for Scotland. These are appeals against penalties issued for contraventions of the:

- Low Emission Zones
- Workplace Parking Licensing schemes
- Pavement Parking, Dropped Kerb and Double Parking

2. Consultation Background

The consultation was designed to gather the views of stakeholders and individuals in relation to the allocation of the three new transport related appeals to the General Regulatory Chamber and to seek views on the suite of regulations drafted to support this transfer.

Six questions were posed in total in relation to the regulations themselves, inviting any other comments on the allocation to the General Regulatory Chamber of the three new appeal functions.

The consultation period ran for 12 weeks from 22 March 2022 to 14 June 2022 and was published on the Scottish Government's [Citizen Space website](#). Interested parties could submit responses online, by email or by post.

3. Overview of Responses

The final number of responses received was 171. 168 of these were submitted online via Citizen Space. Three responses were submitted by email and where they answered the appropriate consultation questions and disclosure form, we were able to accept them as consultation responses. No postal responses were received.

Of the 171 responses, 10 were submitted by local authorities, community councils or other organisations. 161 were listed as individuals.

4. Analysis of Responses.

Whilst 171 responses to the consultation were received, respondents were not required to answer every question and typically answered the questions that interested them or they felt informed to answer. As such, the total number of respondents varies for each question. The questions were all open ended and gave respondents an opportunity to provide a written comment if they wished.

Of the 171 responses, 83 were happy for their responses to be published. A further 72 were happy for their responses to be published but did not want their name and/or organisation to be attributed to the response. Where this is the case these responses have been included in the overall analysis with the response anonymised prior to being published. Any comments or quotes made within this report have been included in a way that maintains their anonymity. 15 respondents did not give permission for their responses to be published.

The questions and analyse the responses received on an individual question basis are set out below. A sample of the responses have been provided, and the full responses will be published separately where we have permission to do so.

Q1: Do you have any comments on the draft regulations relating to the allocation of new functions for Low Emission Zone schemes, Workplace Parking Licensing schemes and the prohibition of Dropped Footway Parking, Double Parking and Pavement Parking to the First-tier Tribunal General Regulatory Chamber of the Scottish Tribunals?

68 (40%) respondents answered this question. The majority of respondents were in favour of the transport policies relative to the appeals functions in so much as they support Active Travel and emissions targets.

Twenty respondents (29.4%) expressed dissatisfaction at the timescales involved for the allocation of the functions, stating that they believed the appeals should in place sooner. This was particularly apparent in respect of the pavement parking / double parking ban.

A number of respondents made detailed comments regarding the individual transport policies, which have been passed to Transport Scotland for their information.

One respondent felt that the new functions would represent a stealth tax on motorists.

One respondent felt that the penalties imposed should be relative to income to ensure all people are penalised equally.

Q2: Do you have any comments on the informal name being proposed for use when members in this Chamber are exercising these new transport related functions as well as their current functions relating to parking and bus lane contraventions?

53 (31.18%) answered this question. Broadly, they were supportive of the informal name of the Transport Tribunal as it was clear and concise. Some respondents felt that the name was not specific enough.

Other suggestions were

- Roads Enforcement Tribunal

- Road Transport Tribunal
- Transport Appeals Tribunal
- Transport Contravention Tribunal

Several respondents raised the issue of timescales in response to this question, and a concern that the transfer itself was taking too long.

A number of respondents made detailed comments regarding the individual transport policies outwith the scope of this consultation that have however been passed to Transport Scotland for their information.

Q3: Do you have any further comments you wish to make regarding the allocation of the new transport related functions to the First-tier Tribunal General Regulatory Chamber?

45 (26.47%) respondents answered this question. A number of respondents made detailed comments regarding the individual transport policies, which have been passed to Transport Scotland for their information.

Some examples of responses here relevant to the regulations are:

“Avoiding duplication and lack of standardised approaches is a good thing. Key is a robust process that safeguards the purpose of the measures.”

“The Council is generally supportive of the approach whereby Penalty Charge Notices (PCNs) issued in relation to; LEZs, pavement parking, double parking and parking at dropped crossings align well with the current parking and bus lane notices issued by the Council. However the WPL [Workplace Parking Levy] is foremost a Licensing scheme, not necessarily a parking one (although parking is in its name), therefore consideration of such penalties may require other legislative knowledge and doesn’t correspond well with the other charges which are all issued to vehicles instead of businesses/occupiers.”

Q4: Do you have any comments on the proposed composition of the First-tier Tribunal General Regulatory Chamber when dealing with appeals relating to Low Emission Zone schemes, Workplace Parking Licensing schemes and the prohibition of Dropped Footway Parking?

51 (30%) respondents answered this question. Three respondents (6%) commented directly on the composition itself.

A sample of responses relevant to the composition of the Chamber is as follows:

“It is unclear why the panel is entirely composed of senior legal figures when makeup could include a selection of laypeople with an interest, similar to tribunals such as the Children’s Panel. For allegedly straightforward law, it seems unnecessary to invoke some of Scotland’s most senior and presumably busiest legal figures.”

“It is noted that the current members of the GRC [General Regulatory Chamber] have experience dealing with transport related appeals, and the exiting composition regulations can be easily amended to accommodate the new functions.”

“It is key that this is not seen as a once and done activity. Its success needs to be measured against specific, ambitious yet reasonable targets (not vague or meaningless). If the composition (sic) is not working/delivering the expected targets, then this should be swiftly identified, root cause(s) swiftly assessed and remedial action swiftly taken. No idling or procrastination please.”

Furthermore, a number of respondents made detailed comments regarding the individual transport policies that have been passed to Transport Scotland for their information.

Q5. Do you have comments on the proposals to apply the same Rules of Procedure in the General Regulatory Chamber as are currently used in parking and bus lane cases to the new cases heard in the General Regulatory Chamber relating to Low Emission Zone schemes, Workplace Parking Licensing schemes and the prohibition of Dropped Footway Parking, Double Parking and Pavement Parking?

50 (29.41%) respondents answered this question. In answer to this question, five respondents commented negatively on the time line proposed for the implementation of the appeals process.

A number of respondents made detailed comments regarding the individual transport policies which have been passed to Transport Scotland for their information.

A sample of responses relevant to this question include:

“It is key that this is not seen as a once(sic) and done activity. Its success needs to be measured against specific, ambitious yet reasonable targets (not vague or meaningless). If the Rules of Procedure are not working/ delivering the expected targets, then this should be swiftly identified, root cause(s) swiftly assessed and remedial action swiftly taken. No idling or procrastination please.”

“It would be beneficial to have agreement on the evidence that requires to be provided by Local Authorities regarding these, and all existing, cases to ensure consistency.”

Q6: Do you have any further comments you wish to make on the draft regulations or on any of the above matters?

153 respondents (90%) gave an answer for this question. 119 of the respondents (77.7%) commented that they objected against the timescales for implementing the timescales, in particular in respect of the pavement parking ban.

“I’m appalled that this is yet another delay to a ridiculously and unnecessarily delayed improvement to public safety. My only view is that the process must be accelerated – December 2023 is completely unacceptable.”

“The proposed timetable is far too slow. Lives are blighted and people cut down in the streets due to pavement parking every day. It cannot be beyond our capacity to introduce this whole thing on a vastly accelerated timescale.”

“Make sure any appeals mechanism is in place by 2023 at the latest and any technical changes shouldn’t delay implementation of the ban.”

“Its high time this legislation got put through. I’d like to know why the Scottish Government are dragging their heels over this, when it’s clear there is strong support for the measures.”

“Please prohibit Pavement Parking including rights of appeal ASAP preventing yet further delays. Protection of mothers with strollers, citizens using wheelchairs, and all pedestrians should be prioritised over selfish inconsiderate motorists. Continued forcing of people to be exposed to danger by walking in roadways in unacceptable and ought to be illegal.”

“I am very concerned that the proposed changes to the regulations do not further delay the ban on pavement parking. It is vital that the issue of safety and well-being of pedestrians must be seen to take precedence over the convenience of drivers, who in the vast majority of cases have no need to park on the pavement. Further delays would suggest the Government is reluctant to consider safer walking a priority.”

One of the responding councils commented that

“It would be beneficial to have agreement on the evidence that requires to be provided by Local Authorities regarding these, and all existing, cases to ensure consistency.”

5. Conclusion

From the comments and feedback received it is clear that the majority of respondents were keen for the appeals to be implemented as soon as possible. Two responses were received that were not supportive of the transfer as they did not support the underlying policies.

There were a large number of comments received in relation to the timescales of the allocation of the appeals function, more specifically in relation to the implementation of the parking appeals, currently proposed for December 2023.

All feedback received relating to the regulations will be considered in development of the regulations.

“We asked, You Said, We did”

Consultation on the allocation of the appeals in relation to Low Emission Zones, Workplace parking licensing schemes and prohibitions on pavement parking, double parking and dropped kerbs parking to the Scottish Tribunals.

1. We asked

We asked for your opinion on the Scottish Government’s proposed policy and regulations in relation to the addition of the appeals functions for the Low Emission Zones, Workplace parking licensing and the new parking prohibitions to the Scottish Tribunals. These are appeals against penalties issued for contraventions of the:

- Low Emission Zones
- Workplace Parking Licensing schemes
- Pavement Parking, Dropped Kerb and Double Parking

We sought your opinion on the regulations regarding the composition, eligibility and rules of procedure that will be used for these appeals within the Scottish Tribunals to help us develop these regulations effectively.

2. You said

Of the 171 responses, 83 were happy for your responses to be published. A further 72 of you, while happy for the responses to be published, did not want your name and/or organisation to be attributed to the response. Where this is the case these responses have been included in the overall analysis but the response has been anonymised prior to being published by Scottish Government. 15 respondents did not give permission for your responses to be published.

3. We did

We have published non-confidential responses to the consultation and an analysis of the consultation responses ([link below](#)). Work continues on the regulations and the allocation process and the feedback received from this consultation will help shape that process. Responses that contained information or comment on the underlying transport policies and not the regulations themselves have been passed to Transport Scotland.



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80525-183-5 (web only)

Published by The Scottish Government, November 2022

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1186442 (11/22)

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