

CABINET MEETING – 7 DECEMBER 2021

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Bus Lane Enforcement

Author:

Executive Director of City Development

Purpose of Report:

To seek approval for the Council to undertake responsibility for enforcement of bus lane contraventions, including setting the level of penalty charge.

Description of Decision:

Cabinet is recommended to:

- (i) authorise the Council to consult with and take over responsibility from Northumbria Police for CCTV camera enforcement of bus lane contraventions in Sunderland, and to set the required level of penalty charge for a bus lane contravention at £60.00; and
- (ii) authorise the Executive Director of City Development, in consultation with the Leader and the Deputy Leader as Portfolio Holder, to take all necessary steps to enable the Council to commence and undertake civil bus lane enforcement in Sunderland.

Is the decision consistent with the Budget/Policy Framework? *Yes

If not, Council approval is required to change the Budget/Policy Framework

Suggested reason(s) for Decision:

The ability for the Council to directly influence driver behaviour through the enforcement of bus lane contraventions will assist with the operational performance of the highway network.

The Council currently undertakes civil enforcement for parking contraventions and therefore by undertaking the responsibility for bus lane contraventions will greatly assist with managing the highway network and ensuring the safe and expeditious movement of traffic along it.

The enforcement of bus lane restrictions is currently carried out by Northumbria Police, however other priorities mean that providing a regular presence to enforce consistently is not always possible, which can have a negative impact on the highway network.

The benefits of taking over responsibility for bus lane enforcement will mean that the Council can reduce congestion, improve air quality, while promoting the attractiveness of active travel, because the proposal aims to improve the punctuality of bus services, making it a more attractive option that the public will want to use.

In addition, If the Council commenced enforcement of bus lane contraventions, it would benefit the public in understanding who has overall responsibility for enforcement of traffic contraventions. It would also assist Northumbria Police in allowing them to concentrate their time on dealing with other matters.

Alternative options to be considered and recommended to be rejected:

Do not undertake responsibility for enforcement of bus lane contraventions. Northumbria Police would retain the powers to enforce bus lane contraventions, however none of the benefits set out in the report would be realised.

Impacts analysed;

Equality ☐ Privacy ☐ Sustainability ☐ Crime and Disorder ☐

Is the Decision consistent with the Council's co-operative values? Yes

Is this a "Key Decision" as defined in the Constitution? Yes

Is it included in the 28 day Notice of Decisions? Yes

CABINET – 7 DECEMBER 2021

BUS LANE ENFORCEMENT

Report of the Executive Director of City Development

1.0 Purpose of the Report

To seek approval for the Council to undertake responsibility for enforcement of bus lane contraventions, including setting the level of penalty charge.

2.0 Description of Decision (Recommendations)

2.1 Cabinet is recommended to:

- (i) authorise the Council to consult with and take over responsibility from Northumbria Police for CCTV camera enforcement of bus lane contraventions in Sunderland, and to set the required level of penalty charge for a bus lane contravention at £60.00; and
- (ii) authorise the Executive Director of City Development, in consultation with the Leader and the Deputy Leader as Portfolio Holder, to take all necessary steps to enable the Council to commence and undertake civil bus lane enforcement in Sunderland.

3.0 Background

- 3.1 The Traffic Management Act 2004 (hereafter '2004 Act') places a statutory duty of network management on the Council. Section 144(3) of the Transport Act 2000 (hereafter '2000 Act') authorises an authority as an approved authority for the purposes of civil penalties for bus lane contraventions, if there is an order designating the whole or any part of its area as a civil enforcement area for parking contraventions under paragraph 8(1) of Schedule 8 of the 2004 Act and that, the relevant national authority has made an order specifying it as an approved local authority for the purposes of Section 144 of the 2000 Act.
- 3.2 The Bus Lane Contraventions (Approved Local Authorities) (England) Order 2005 (as amended) (hereafter '2005 Order') on the 1st November 2005, specified the Council as an approved local authority for the purposes of civil penalties for bus lane contraventions under Section 144 of the 2000 Act. Furthermore, Sunderland was designated as a civil enforcement area for parking contraventions by virtue of paragraph 8(4) of Schedule 8 to the 2004 Act. It states that areas designated as a Permitted Parking Area and Special Parking Area under paragraphs 1(1) and 2(1) of Schedule 3 to the Road Traffic Act 1991, has the effect of an order under paragraph 8 of Schedule 8 to 2004 Act of designating those areas as a civil enforcement area for parking contraventions. Sunderland was designated as a Permitted Parking Area and Special Parking Area by the Road Traffic (Permitted Parking Area and Special Parking Area) (City of Sunderland) Order 2002, which is also referred to in the 2005 Order. Therefore, the requirements of Section 144(3) of the 2000 Act are satisfied and the Council is an approved authority for the purposes of civil enforcement of bus lane contraventions.

- 3.4 Despite the Council being an approved authority for bus lane enforcement, before it can issue a penalty charge notice for a bus lane contravention under s144 of 2000 Act, it will need to comply with some further requirements. One of those requirements is for the Council to consult with Northumbria Police regarding its intention to commence enforcement of bus lane contraventions.
- 3.5 In addition, The Bus Lane Contraventions (Penalty Charge, Adjudication, Enforcement) (England) Regulations 2005 as amended (hereafter '2005 Regulations') set out further requirements, which in summary are. setting the level of penalty charge notice for bus lane contraventions, which will require the approval of the Secretary of State. In addition, at least 15 days before a Penalty Charge Notice ('PCN') is issued, the Council must publish in at least one newspaper circulating in the area specifying the circumstances in which a PCN may be imposed, the level of charge and the date enforcement will commence. Information regarding the PCN for bus lane contraventions will need to be available to the public for free and in a form readily accessible to any member of the public. The location of the bus lanes to be enforced will also need to be publicised before enforcement commences and associated Traffic Regulation Orders checked and verified along with ensuring the appropriate signage is compliant and in accordance with The Traffic Signs Regulations and General Directions 2016. The Council would also need to join the Bus Lane Adjudication Service Joint Committee to deal with adjudication of bus lane PCNs by the appointment of persons to act as a bus lane adjudicator, proper officer and deputy proper officer, which may require a formal agreement
- 3.6 Regulation 4 of the 2005 Regulations states that a local authority shall have regard to any guidance for the time being issued by the Secretary of State in setting the level of PCN for a bus lane contravention. The level of penalty charge that can be implemented for a bus lane contravention is set out in the Department for Transport ('DfT') Provisional Guidance on Bus Lane (including Tramway) enforcement in England outside London dated February 2008 (hereafter 'The Guidance') and on the DfT website. It specifies the ranges of level of PCN that can be implemented for a bus lane contravention as £40.00, £50.00 or £60.00. It is recommended that the Council implement the standard PCN for bus lane contraventions at £60.00, which is consistent with other local authorities in the north-east. If payment is made within 14 days of a PCN being served, the charge is reduced by 50% to £30.00. If payment is made after the service of a charge certificate, the charge increases by 50% to £90.00.
- 3.7 The 2005 Regulations only authorise an approved local authority to impose a penalty charge for bus lane contraventions on the basis of a record produced by an approved device. The Bus Lanes (Approved Devices) (England) Order 2005 sets out the criteria and approvals the Council will be required to meet and obtain before it can impose a PCN for a bus lane contravention.
- 3.8 The 2005 Regulations require an approved local authority to keep an account of sums paid to them by PCNs and of the expenditure incurred in relation to enforcement of contraventions. As soon as reasonably practicable after the end of each financial year, the Council will need to forward to the Secretary of State a copy of the account for that year. At the end of each financial year, any deficit in the account will need to be made good out of the Council's general fund. Any surplus shall be applied in accordance with Regulation 36 of the 2005 Regulations.

- 3.9 The Guidance also recommends before an approved authority commences civil enforcement of bus lanes to undertake a publicity campaign to inform the public that it will be commencing bus lane enforcement and explain the objectives and reasons for that. The Guidance advises that for a limited period before issuing PCNs, that warning letters should be issued instead to explain the contravention to the public. In addition, Councils are recommended to review, monitor and report on the effectiveness of bus lane enforcement in terms of the regularity and reliability of bus services, the effects on the safe passage of traffic and congestion at each site where bus lane enforcement has occurred. If the outcome of this review is positive, it will provide evidence to continue with civil enforcement of bus lanes by the Council.
- 3.10 Historically the Council has some 'no car lanes', and enforcement of those has been the responsibility of the Northumbria Police. It is proposed to review the current 'no car lanes' and if appropriate convert those via a traffic regulation order to bus lanes to allow the Council to enforce them.
- 3.11 As Cabinet is aware from the previous report on the new moving traffic contravention powers, it is anticipated that bus lane contravention powers will at a future date be governed under the 2004 Act as opposed to the 2000 Act, although it is envisaged that the requirements above will be similar if not the same. Nevertheless, at this point in time, the Council is entitled to proceed with the proposals pursuant to the provisions of the 2000 Act as set out above in accordance with DfT advice.

4.0 Current Position

- 4.1 The powers to enforce bus lane contraventions currently resides with Northumbria Police. Northumbria Police can enforce bus lane restrictions when they have resources available.
- 4.2 It should be noted that Northumbria Police would also retain the powers to enforce bus lane contraventions and any ticket issued by Northumbria Police would take precedence. However, this is expected to be a very rare occurrence, all Local Authorities must consult with the chief officer of the local Police force and agree this change prior to commencing enforcement of bus lane contraventions.

5.0 Reasons for the Decision

- 5.1 The ability for the Council to directly influence driver behaviour through the enforcement of bus lane contraventions will assist with the operational performance of the highway network.
- 5.2 The Council currently undertakes civil enforcement for parking contraventions and therefore by undertaking the responsibility for bus lane contraventions will greatly assist with managing the highway network and ensuring the safe and expeditious movement of traffic along it.
- 5.3 The enforcement of bus lane restrictions is currently carried out by Northumbria Police, however other priorities mean that providing a regular presence to enforce consistently is not always possible, which can have a negative impact on the highway network.

- 5.4 The benefits of taking over responsibility for bus lane enforcement will mean that the Council can reduce congestion, improve air quality, while promoting the attractiveness of active travel, because the proposal aims to improve the punctuality of bus services, making it a more attractive option that the public will want to use.
- 5.5 In addition, If the Council commenced enforcement of bus lane contraventions, it would benefit the public in understanding who has overall responsibility for enforcement of traffic contraventions. It would also assist Northumbria Police in allowing them to concentrate their time on dealing with other matters.

6.0 Alternative Options

- 6.1 Do not undertake enforcement of bus lane contraventions. Northumbria Police would retain the powers to enforce bus lane restrictions, however none of the benefits set out in the report would be realised.

7.0 Impact Analysis

- 7.1 **Equality implications** - Nothing directly associated with this report
- 7.2 **Environmental Impact** – Introduction of these measures should have a positive impact on the environment by encouraging modal shift to more sustainable forms of transport, which will result in a positive impact on improving air quality.

8.0 Other Relevant Considerations / Consultations

- (i) **Financial Implications:** A detailed review of the financial implications will be completed in advance of the commencement of Civil Bus Lane Enforcement on a scheme-by-scheme basis as part of a wider Network Management Programme. The costs associated with completing the required actions and engagement necessary to develop and finalise the Council's application will be met from the existing service budget.
- (ii) **Risk Analysis** - Whilst it is envisaged the operational costs incurred as a result of undertaking enforcement of bus lane contraventions would be covered by additional income raised through penalty charges, there is no absolute guarantee. However, taking on the enforcement of bus lane contraventions will assist the council in reducing congestion, improve air quality, while promoting the attractiveness of active travel and aims to improve the punctuality of bus services, making it a more attractive option that the public will want to use.
- (iii) **Employee Implications** – A detailed review of staffing implications will be required to back-office staffing levels.
- (iv) **Legal Implications** – Before the Council could enforce bus lane contraventions it would need to ensure the required traffic regulation orders and relevant documentation are compliant and enforceable and comply with the requirements of primary and secondary legislation.

- (v) **Health & Safety Considerations – Nothing** directly associated with this report
- (vi) **Property Implications – Nothing** directly associated with this report
- (vii) **Implications for Other Services – Nothing** directly associated with this report
- (viii) **The Public / External Bodies –** The Council enforcing bus lane contraventions will assist the public in understanding the overall responsibility for traffic enforcement functions whilst also allowing Northumbria Police to concentrate its time on other matters.

The ability to address instances of bus lane contraventions through consistent enforcement action will result in a reduction in the number of contraventions that take place. This will have positive benefits for community safety.

