

CABINET MEETING – 16 NOVEMBER 2021

EXECUTIVE SUMMARY SHEET – PART I

Title of Report:

Moving Traffic Contraventions Enforcement

Author:

Executive Director City Development

Purpose of Report:

To seek approval for the Council to undertake the required actions to enable it to apply for the powers with a view to enforce moving traffic contraventions when those powers for councils outside of London come into force subject to any further requirements set out in the legislation.

Description of Decision:

- i. Support the principle of civil enforcement by the Council of moving traffic contraventions which are listed under Schedule 7 of the Traffic Management Act 2004 (Appendix 1) by using CCTV cameras which will capture the footage of the contravention occurring and then be processed in accordance with the Traffic Management Act 2004.
- ii. Authorise the Chief Executive, in consultation with the Deputy Leader as Portfolio Holder, to agree the Council's application on behalf of the Council and confirm the required actions have been satisfied by way of a signed letter, to enable the Council to apply for the civil enforcement powers for moving traffic contraventions under Part 6 of the Traffic Management Act 2004 once the secondary legislation is in force.

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 additional enforcement powers for moving traffic contraventions will assist with the operational performance of the highway network. This is because the Council will be able to identify problem locations on the highway network, implement and monitor appropriate restrictions and enforce those restrictions where necessary to enable the efficient movement of traffic along the highway.

The Council is designated as a civil enforcement area and currently undertakes civil enforcement for parking contraventions. If the Council acquired civil enforcement powers for moving traffic contraventions, it would benefit the public in understanding who has overall responsibility for enforcement of those traffic contraventions. It would also assist the Police in allowing them to concentrate their time on dealing with other matters.

Furthermore, if the Council has civil enforcement powers for moving traffic contraventions, it is expected to have a positive impact on reducing congestion, improving air quality, improving road safety and network performance and encourage active travel, by enforcing moving traffic contraventions to keep mandatory cycle and bus lanes free from obstructions.

In addition, by keeping junctions clear through targeted enforcement of moving traffic contraventions will improve the punctuality of bus services making travel easier for all. It will also bring benefits to lives of pedestrians including people with sensory impairments, older people, children, those looking after children, as well as carers.

Alternative options to be considered and recommended to be rejected:

Do not apply for the powers. The police would retain the powers to enforce moving traffic 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 – 16 NOVEMBER 2021

MOVING TRAFFIC CONTRAVENTIONS ENFORCEMENT

Report of the Executive Director City Development

1.0 Purpose of the Report

To seek approval for the Council to undertake the required actions to enable it to apply for the powers with a view to enforce moving traffic contraventions when those powers for councils outside of London come into force subject to any further requirements set out in the legislation.

2.0 Description of Decision (Recommendations)

2.1 Cabinet is requested to:

- i. Support the principle of civil enforcement by the Council of moving traffic contraventions which are listed under Schedule 7 of the Traffic Management Act 2004 (Appendix 1) by using CCTV cameras which will capture the footage of the contravention occurring and then be processed in accordance with the Traffic Management Act 2004.
- ii. Authorise the Chief Executive, in consultation with the Deputy Leader as Portfolio Holder, to agree the Council's application on behalf of the Council and confirm the required actions have been satisfied by way of a signed letter, to enable the Council to apply for and adopt the civil enforcement powers for moving traffic contraventions under Part 6 of the Traffic Management Act 2004 once the secondary legislation is in force.

3.0 Background

- 3.1 The Traffic Management Act 2004 (hereafter '2004 Act') places a statutory duty of network management on the Council. To enable the delivery of this duty, the Council has already been granted civil enforcement powers for parking contraventions. However, along with all other councils outside London, the Council cannot currently enforce a range of moving traffic contraventions that can have negative impacts on network management.
- 3.2 The 2004 Act places a range of duties and powers with the Council to efficiently manage its highway network. To date, the majority of the 2004 Act has been enacted through a series of statutory instruments; however, a notable exception is the ability to enforce a range of moving traffic contraventions. Clearly this hampers the Council's ability to directly deliver its statutory network management duty as moving traffic contravention powers currently reside with the Police.

- 3.3 The Department for Transport has recently issued an Advice Note to Local Authorities outside of London on applying for a Designation Order for Civil Enforcement of Moving Traffic Contraventions dated 2nd August 2021, which is appended at Appendix 2. It advises that once the required statutory instruments come into force, councils outside of London can apply for civil enforcement powers by way of a Designation Order for moving traffic contraventions under Part 6 of the 2004 Act. This will give the Council the ability to adopt the powers and therefore the means to enforce the moving traffic contraventions which are listed under Schedule 7 of the 2004 Act and appended at Appendix 1.
- 3.4 The Government plans to lay the required statutory instruments before the end of this calendar year, which are currently intended to come into force in February 2022. They will aim to lay the first Designation Order in Parliament three months after the statutory instruments come into force although this will be subject to the Parliamentary timetable. Until such time the Council will be unable to implement its scheme. The indicative timetable is set out in more detail in Appendix 3
- 3.5 When applying for a Designation Order to acquire the powers to enforce moving traffic contraventions under Part 6 of the 2004 Act, the Council will need to confirm by way of a signed letter from the Chief Executive, on behalf of the Council, that certain required actions have been undertaken. Those required actions consist of confirming the area to be designated for civil enforcement of moving traffic contraventions, along with any roads to be excluded. It will also need to be shown that the appropriate chief officer of Police has been consulted, that a minimum six-week public consultation on the types of restrictions to be enforced (including their locations) has been undertaken, and the Council has considered all objections raised and taken all necessary steps to resolve any disputes. In addition, the Council will need to have carried out effective public consultation and engagement that it considers appropriate, ensured all moving traffic restrictions to be enforced are underpinned by accurate traffic regulation orders and indicated by lawful traffic signs and road markings, and ensure all relevant equipment is certified by the Vehicle Certification Agency. Only areas that have been designated as civil enforcement areas for parking contraventions may be designated as areas for moving traffic enforcement.
- 3.6 The Department for Transport do not recommend seeking the views of the public on whether they agree with the principle of moving traffic enforcement. The public engagement is intended to communicate the rationale for, and benefits of, moving traffic enforcement to the public to promote compliance.
- 3.7 Local authorities should consider the full range of media available to them when engaging with the public, for example using local press, issuing email newsletters and social media. Publicising forthcoming enforcement schemes should continue up to the start of any proposed enforcement and for a reasonable period thereafter.
- 3.8 It should be noted that there is no requirement for newspaper advertising of proposed enforcement schemes, however the Council use this method as it considers it appropriate to do so. The consultee list is set out in Appendix 4.

- 3.9 The public should be allowed the opportunity to raise any concerns about proposed enforcement schemes. Concerns might relate to any location where contraventions could be avoided by reasonable improvements to the highway or to traffic signing. Where this is found to be the case, such improvements should be made, and appropriate monitoring carried out before enforcement action is considered. Local authorities are not required to enforce every applicable traffic sign or road marking. Instead, enforcement should only be used to target problem locations. The Advice Note on applying for a Designation Order for Civil Enforcement of Moving Traffic Contraventions advises local authorities to have regard to statutory guidance when issued to local authorities on bus lane and moving traffic enforcement outside of London, when considering its enforcement powers.
- 3.10 Appended at Appendix 1 to this report is the list of traffic signs to which the Part 6 powers apply under Schedule 7 of the Traffic Management Act 2004.

4.0 Current Position

- 4.1 The powers to enforce moving traffic contraventions currently resides with the Police outside of London. Police can enforce using these powers when they have resources available.
- 4.2 It should be noted that the Police would also retain the powers to enforce moving traffic contraventions and any ticket issued by the 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 applying for the civil enforcement powers for moving traffic contraventions.

5.0 Reasons for the Decision

- 5.1 The ability for the Council to directly influence driver behaviour through additional enforcement powers for moving traffic contraventions will assist with the operational performance of the highway network. This is because the Council will be able to identify problem locations on the highway network, implement and monitor appropriate restrictions and enforce those restrictions where necessary to enable the efficient movement of traffic along the highway.
- 5.2 The Council currently has civil enforcement powers in relation to parking contraventions. If the Council acquired civil enforcement powers for the moving traffic contraventions, it would benefit the public in understanding who has overall responsibility for enforcement of traffic contraventions. It would also assist the Police in allowing them to concentrate their time on dealing with other matters.
- 5.3 Furthermore, if the Council has civil enforcement powers for moving traffic contraventions, it is expected to have a positive impact on reducing congestion, improving air quality, improving road safety and network performance and encourage active travel, by enforcing moving traffic contraventions to keep mandatory cycle and bus lanes free from obstructions.

- 5.4 In addition, by keeping junctions clear through targeted enforcement of moving traffic contraventions will improve the punctuality of bus services making travel easier for all. It will also bring benefits to lives of pedestrians including people with sensory impairments, older people, children, those looking after children, as well as carers.

6.0 Alternative Options

- 6.1 Do not apply for the powers. The police would retain the powers to enforce moving traffic contraventions, 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.

8.0 Other Relevant Considerations / Consultations

- (i) **Financial Implications:** A detailed review of the financial implications will be completed in advance of the additional powers being enacted in line with any associated statutory guidance and will be undertaken 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 moving traffic contraventions would be covered by additional income raised through penalty charges, there is no absolute guarantee. However, taking on these new powers will allow the council to fully discharge its statutory Network Management Duty under the Traffic Management Act 2004 in line with the transfer of powers from the Police Authority to the Local Authority.
- (iii) **Employee Implications** – A detailed review of staffing implications would be necessary should the additional powers be introduced. It's envisaged that there will be a change required to back-office staffing levels.
- (iv) **Legal Implications** – Before the Council could enforce moving traffic contraventions it would need to ensure the required traffic regulation orders are compliant and enforceable and comply with the requirements of primary and secondary legislation and any associated statutory guidance that may be issued.

- (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
- (ix) **The Public / External Bodies – The Council** enforcing parking and moving traffic contraventions will assist the public in understanding the overall responsibility for traffic enforcement functions whilst also allowing the Police to concentrate its time on other matters.

The ability to address instances of moving traffic 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.

9.0 List of Appendices











9.1 Appendix 1 - List of Traffic signs subject to Moving Traffic Enforcement













Appendix 2 – DfT Advice Note on Applying for a Designation Order for Civil Enforcement of Moving Traffic Contravention



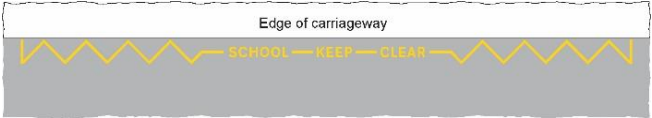

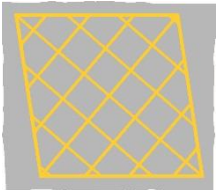
Appendix 3 – Timetable for process of applying for Enforcement Powers

Appendix 4 – List of Persons/Organisations Consulted on the Detail of the Planned Civil Enforcement of Moving Traffic

Appendix 1 - List of Traffic signs subject to Moving Traffic Enforcement

Description	TSRGD diagram number & location	
Vehicular traffic must proceed in the direction indicated by the arrow	606 (Schedule 3, Part 2, item 1 and Schedule 14, Part 2, item 42)	
Vehicular traffic must turn ahead in the direction indicated by the arrow	609 (Schedule 3, Part 2, item 2)	
Vehicular traffic must keep to the left/right of the sign indicated by the arrow	610 (Schedule 3, Part 2, item 3)	
No right turn for vehicular traffic	612 (Schedule 3, Part 2, item 7 and Schedule 14, Part 2, item 43)	
No left turn for vehicular traffic	613 (Schedule 3, Part 2, item 8 and Schedule 14, Part 2, item 43)	
No U-turns for vehicular traffic	614 (Schedule 3, Part 2, item 6 and Schedule 14, Part 2, item 43)	
Priority must be given to vehicles from the opposite direction	615 (Schedule 3, Part 2, item 9)	
No entry for vehicular traffic (when the restriction or prohibition is one that may be indicated by another traffic sign subject to civil enforcement)	616 (Schedule 3, Part 2, item 10 and Schedule 14, Part 2, item 44)	
All vehicles prohibited except non-mechanically propelled vehicles being pushed by pedestrians	617 (Schedule 3, Part 2, item 11)	
Entry to and waiting in a pedestrian zone restricted	618.3B (Schedule 8, Part 2, item 1)	

Description	TSRGD diagram number & location	
Entry to and waiting in a pedestrian and cycle zone restricted	618.3C (Schedule 8, Part 2, item 2)	
Motor vehicles prohibited	619 (Schedule 3, Part 2, item 12)	
Motor vehicles except solo motor cycles prohibited	619.1 (Schedule 3, Part 2, item 18)	
Solo motorcycles prohibited	619.2 (Schedule 3, Part 2, item 20)	
Goods vehicles exceeding the maximum gross weight indicated on the goods vehicle symbol prohibited	622.1A (Schedule 3, Part 2, item 13)	
One-way traffic	652 (Schedule 9, Part 4, item 5)	
Buses prohibited	952 (Schedule 3, Part 2, item 17)	
Route for use by buses, pedal cycles and taxis only	953 (Schedule 3, Part 2, item 33)	
Route for use by tramcars only	953.1 (Schedule 3, Part 2, item 36)	
Route for use by pedal cycles only	955 (Schedule 3, Part 2, item 28)	
Route for use by pedal cycles and by pedestrians only	956 (Schedule 3, Part 2, item 29)	
Route comprising two ways, for use by pedal cycles only and by pedestrians only	957 (Schedule 3, Part 2, item 32)	

Description	TSRGD diagram number & location	
With-flow cycle lane	959.1 (Schedule 9, Part 4, item 9)	
Contra-flow cycle lane	960.1 (Schedule 9, Part 4, item 6)	
Part of the carriageway outside an entrance where vehicles must not stop when the marking is placed in conjunction with the prescribed upright sign which includes the symbol at Schedule 4, Part 3, item 10	1027.1 (Schedule 7, Part 4, item 10)	
		
Box junction markings	1043 (Schedule 9, Part 6, item 25)	

Appendix 2

Advice Note on Applying for a Designation Order for Civil Enforcement of Moving Traffic Contraventions

1. This note applies to local authorities in England wishing to acquire powers (“the Part 6 powers”) to enforce moving traffic contraventions under Part 6 of the Traffic Management Act 2004 (“the 2004 Act”). A set of Regulations giving effect to the Part 6 powers, which will be subject to Parliamentary approval, is planned to come into force before the end of 2021. After then, local authorities would need to apply to the Secretary of State for a Designation Order to obtain the Part 6 powers. This note is intended to help local authorities prepare their applications in the meantime so the Part 6 powers can be delivered as quickly as possible once the Regulations are in force.

2. Those local authorities acquiring the Part 6 powers will need to have regard to the guidance to be set out in ‘Statutory Guidance to Local Authorities on Bus Lane and Moving Traffic Enforcement Outside London’. While this remains in draft, we plan to provide early sight of the draft over the summer via the Local Government Association.

3. Applications may be made for the whole, or part of, a local authority area by a county council, or an individual metropolitan district council. Applications may also be made by two or more metropolitan district councils acting jointly, in which case the Part 6 powers will apply to the whole of their administrative areas. Under the 2004 Act only areas within, or coextensive with, areas already designated as civil enforcement areas for parking contraventions may be designated as areas for moving traffic enforcement.

4. It will be sufficient to formally apply for designation of the Part 6 powers by means of a letter to the Secretary of State, signed by the Chief Executive. The letter must state:

a) The full name of the authority applying and the type of authority (e.g. a county council, a borough council, a district council, a unitary authority or a metropolitan district council);

b) The area to be designated; and

c) Any roads to be excluded.

5. The letter must also confirm that it has been sent with the authority of the Council, and that the Council has:

a) Consulted the appropriate Chief Officer of Police;

b) Carried out a minimum six-week public consultation on the detail of planned civil enforcement of moving traffic contraventions. Consultations should include the types of restrictions to be enforced and the location(s) in question;

c) Considered all objections raised and has taken such steps the Council considers reasonable to resolve any disputes;

d) Carried out effective public communication and engagement as the Council considers appropriate, for example using local press and social media, and that this will continue up to the start of enforcement and for a reasonable period thereafter;

e) Ensured all moving traffic restrictions to be enforced will be underpinned by accurate Traffic Regulation Orders, and indicated by lawful traffic signs and road markings;

f) Ensured all the relevant equipment has been certified by the Vehicle Certification Agency specifically for moving traffic contraventions.

6. As part of ensuring that TROs and traffic signs are accurate and lawful, applicant local authorities are encouraged to take the opportunity to identify and remove any signs that are either obsolete or no longer necessary, whether or not relating directly to the restriction being enforced. This will reduce sign clutter and aid effective enforcement by ensuring drivers are presented with clear information in an uncluttered environment.

7. Applicant local authorities are encouraged to confer with neighbouring authorities and, where relevant, combined authorities as it is important that road users benefit from a consistent approach to moving traffic enforcement.

8. Before making a Designation Order, the Secretary of State must consult the appropriate Chief Officer of Police.

9. The 2004 Act does not prescribe the list of traffic signs and road markings subject to moving traffic enforcements on a selective basis, therefore all the prescribed traffic signs and road markings will apply under the Designation Order. However, local authorities will not be duty-bound to enforce every sign or marking; instead, enforcement should only be used to target problem locations. At any location where it is considered that contraventions could be avoided by reasonable improvements to the highway or to traffic signing, such improvements should be made, and appropriate monitoring carried out before enforcement action is considered. Improvements to signing may include removal of redundant or poorly maintained signs and posts, which have the potential to confuse drivers. Local authorities are therefore encouraged to review their traffic signing in accordance with the 'Golden Rules' as set out in Chapter One of the Traffic Signs Manual.

10. To help the Department plan for the likely application caseload, we request that those intending to apply for the Part 6 powers notify the Traffic and Technology team of their **intention to apply** at: Parking.queries@dft.gov.uk by **31 August 2021**. To help the certification process, early engagement with the Vehicle Certification Agency is also encouraged, at: civil-enforcement@vca.gov.uk.

11. Depending on uptake, it might be necessary to make Designation Orders in tranches. We will aim to lay the first Designation Order in Parliament before end-March 2022 although this will be subject to the Parliamentary timetable. Subsequent applications will be considered as they are submitted.

Traffic and Technology Division
Department for Transport
2nd August 2021

Appendix 3 – Timetable for process of applying for Enforcement Powers

Stage	Responsible Party	Date	Duration	Notes
1.	Apply for Civil Parking Enforcement Powers (CPE)	Infrastructure, Planning & Transportation	—	Already in place
2.	Declare to DfT, intent to apply for Part 6 (Moving Traffic) Enforcement Powers	Infrastructure, Planning & Transportation		Declaration made 25/8/21
3.	Audit of all applicable Traffic Regulation Orders (TROs)/Signs, to ensure of enforceable standard			Partially complete (to continue in parallel with following stages). This would also include conversion TRO to change existing No-Car Lanes to Bus Lanes.
4.	Mandatory six-week minimum consultation period, on detail of planned Civil Enforcement of Moving Traffic Contraventions	Infrastructure, Planning & Transportation	6 weeks	
5.	Consideration of Objections/Representations to stage 3 above (including resolutions)	Infrastructure, Planning & Transportation /Planning & Highways Committee/Cabinet?		
6.	Regulations <i>giving effect to Part 6 Powers</i> laid before Parliament/Come into force	Department for Transport/Parliament	Before end of December 2021	
7.	Application to Secretary of State, for Designation Order (to obtain Part 6 powers)	SCC Chief Exec.	Immediately? following stage 6 above (subject to completion of 4 & 5)	
8.	First Designation Order(s) laid before Parliament	Department for Transport/Parliament	Before end of March 2022 (or 3 months after stage 3 Above) and subject to Parliamentary availability.	Each Order likely to cover many Authorities, to save Parliamentary time and administration.
9.	Further Designation Orders laid before Parliament	Department for Transport/Parliament	Following on from stage 5 above; for later applicants (subject to uptake and Parliamentary timetable)	

Appendix 4 – Consultee List

Sustrans
Northern RHA
British Driving Society
Sunderland RSB
Tyne and Wear LAF
Go Northeast
Nexus
Kingsley Coaches
Stagecoach
Arriva
Freight Transport Association
Federation of Small Businesses
Northeast Chamber of Commerce
Sunderland BID
Northumbria Police
Northeast Ambulance Service
Tyne and Wear Fire Brigade
Sunderland City Council (Internal)
Aurora
Balfour Beatty
Station Taxis
Internal Consultations

- All Councillors within Sunderland
- All MPs within Sunderland
- Any person or organisation, that can be identified as directly affected by the proposals.
- Any other person or organisation that can be identified as a consultee
- Consultation will also be publicised via social media and council publications (subject to available timescales)