

Cabinet Meeting Resolution

**Executive
Forward Plan
Reference**

E3348

Decriminalisation and Civil Enforcement of Moving Traffic Offences

Date of Meeting	5-May-22
The Issue	<p>Local Authorities in England can now apply to the Department of Transport (DfT) for powers to enforce moving traffic offences such as banned turns, box junctions, and driving in formal cycle lanes, offences currently only enforceable by the Police. This report seeks approval to apply to the DfT for these powers so that the council may use them to fulfil its statutory responsibilities and improve the management and safety of the road network, particularly in locations where enforcement action by officers may be deemed impractical.</p> <p>The report also outlines the council's approach to the consideration of locations for moving traffic enforcement using automatic number plate recognition enforcement cameras in line with the new regulations (under Part 6 the Traffic Management Act 2004) and Secretary of State Guidance.</p>
The decision	<ol style="list-style-type: none"> (1) To approve an application to the Department for Transport by 20 May 2022 to acquire the powers to enforce moving traffic contraventions under the Traffic Management Act 2004 (TMA2004). (2) To approve the use of moving traffic enforcement powers using ANPR cameras from 1 June 2022 or the date when the Council receives the powers from the Secretary of State, whichever is the later. (3) To support and agree to the proposed approach for the use of moving traffic enforcement at proposed and future locations. (4) To incorporate moving traffic enforcement as a scheme into the Council's capital programme for 2022/23, funded by revenue through income generation. Subject to the powers being granted to the Council by the Department for Transport. (5) To delegate authority for the consideration of future locations for moving traffic enforcement to the Director of Place Management in consultation with the Cabinet Member for Transport. (6) To note a review of bus gate signage is underway at existing restrictions to ensure there is consistency across all locations and the new regulations from 31 May 2022.
Rationale for	Currently outside of London and Wales moving traffic enforcement (MTE) of restrictions such as banned turns; one-way streets; yellow

decision

box junctions; and some access restrictions is carried out only by the Police.

The Government has confirmed its intention through the introduction of new regulations, that come into force on 31 May 2022, that MTE powers are to be made available to all local authorities in England allowing civil enforcement to be undertaken using the TMA2004. A full list of the restrictions that are included within these powers is included within Appendix 1 of the report.

Once the Council has obtained the powers from the Secretary of State it will not need to reapply to implement MTE at other locations.

The enforcement of moving traffic restrictions is not a core priority for the Police. MTE will help us meet our statutory traffic management needs, make our roads safer and reduce congestion at proposed locations which may also help to reduce carbon emissions from transport.

Locations where these powers can be applied are at the Council's discretion and the use of camera enforcement is to achieve greater compliance with the restriction and not intended for the purpose of raising revenue. Whilst most restrictions will be in place for safety reasons, it is not expected that all existing or future restrictions will have cameras installed.

Acquiring the powers to enforce moving traffic offences will enhance local decision making and allow the Council and partners to more effectively use collective resources to tackle persistent areas of contravention. The safety of all road users and specifically vulnerable people should always be a priority. In consultation with local communities moving traffic powers may provide further opportunities to achieve this aim in different ways to meet a community need.

The use of existing civil enforcement processes already in place for parking and bus lane enforcement will allow the council to undertake a more proactive approach to help motorists comply with these restrictions and ensure our approach remains transparent; accountable; proportionate; and consistent.

Civil enforcement action by the Council will be in line with our approach to bus lanes using ANPR cameras. Each recorded contravention will be subject to further human review to ensure that action taken is proportionate and not automatically generated.

Civil Enforcement also introduces a legal right of appeal (that does not involve the courts) following the issue of a Penalty Charge Notice (PCN) to motorists, this supports our educational approach to driver behaviour change. This right of appeal is not available with Police enforcement action which may also result in later prosecution.

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	<p>The introduction of new regulations, which brings the enforcement of bus lanes and bus gates within the TMA2004 provides an opportunity for the Council to review existing bus gate signs and consider the use of the signs that are more familiar to drivers. This will improve the robustness of cases defended by the Council at the Traffic Penalty Tribunal (the independent national PCN appeals service) and is also anticipated to improve compliance with drivers.</p> <p>The regulation change introduced by the Government will also see the penalty charge for a bus lane rise from £60 to £70, whilst increasing the 50% discount period from 14 to 21 days.</p>
Other options considered	<p>Not to apply for Moving Traffic Enforcement powers.</p> <p>This option has been rejected as the responsibility for enforcement of moving traffic restrictions would remain with the Police. If the council decides to adopt these powers, it does not prevent the Police from taking enforcement action themselves at any location should an officer consider it appropriate to do so. Police action takes primacy where both a Fixed Penalty Notice is issued by the Police and a Penalty Charge Notice is issued by the council for the same event.</p>

The Decision is subject to Call-In within 5 working days of publication of the decision