

TRAFFORD COUNCIL

Report to: Executive
Date: 23 January 2023
Report for: Decision
[Draft] Report of: Executive Member for Environmental Services

Report Title

Traffic Management Act Legislation – Moving Traffic Offences

Summary

This report seeks to gain approval from members on applying to the Secretary of State for Transport for powers to allow enforcement of moving traffic offences in accordance with Part 6 of Traffic Management Act 2004 legislation.

Recommendation(s)

The Executive is recommended:

1. To approve the submission of an application to the Secretary of State for Transport to allow the Council to utilise powers under Part 6 of Traffic Management Act legislation relative to Moving Traffic Offences.
2. To approve the use of powers that allows postal penalties to be used together with future use of approved devices for Civil Enforcement of parking as detailed in section 9 and 10 of the report.
3. To give to the Corporate Director of Place and Director of Legal & Governance and Monitoring Officer delegated authority in consultation with the Executive Member for Environment Services in relation to any amendments that may be required in the submission for the application for powers.
4. To give the Corporate Director of Place delegated authority in consultation with the Executive Member for Environmental Services the authority to propose and implement any new locations for enforcement in the future in accordance with the consultation requirements of the Act and as set out in Section 8.

Contact person for access to background papers and further information:

Name: Sharon Walls / Nicola Henry
Email: sharon.walls@trafford.gov.uk nicola.henry@trafford.gov.uk

Background Papers:

Traffic Management Act 2004 [Traffic Management Act 2004: statutory guidance for local authorities outside London on civil enforcement of bus lane and moving traffic contraventions](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271222/TMA2004-Statutory-Guidance-for-local-authorities-outside-London-on-civil-enforcement-of-bus-lane-and-moving-traffic-contraventions.pdf) - GOV.UK (www.gov.uk)

Statutory Instrument 2020 No. 548

<https://www.legislation.gov.uk/ukSI/2020/548/made>

Implications:

Relationship to Policy Framework/Corporate Priorities	Improved and safer facilities for Active Travel including cyclists and safety around schools that supports the corporate objectives of tackling climate emergency by reducing congestion resulting in cleaner air.
Relationship to GM Policy or Strategy Framework	Improved and safer facilities for road users including cyclists aligns with the Greater Manchester Transport 2040 Strategy and complements work on the Mayor's Challenge Fund and Clean Air Agenda.
Financial	The cost of enforcing parking restrictions are recoverable from funds received back in Penalty Charge Notices. Cameras will be required to enable enforcement to take place at designated locations. Purchase of cameras will be funded through the capital programme, to be approved by Council in February 2023. This report supports the Council's intentions to use the powers and evidence from existing cameras where appropriate. The income from PCN's is expected to cover the costs of the enforcement undertaken. A business case would be produced to ensure that any future proposed sites considered for implementation would be self-financing from the enforcement activity.
Legal Implications:	The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (as amended by the Civil Enforcement of Parking Contraventions (England) General (Amendment No. 2) Regulations 2015 allow for a notice of a penalty charge in respect of a parking contravention to be sent through the post on the basis of CCTV evidence alone except that a notice of a penalty charge in respect of a parking contravention on a road in a civil enforcement area must be given by a civil enforcement officer affixing it to the vehicle, subject to certain exceptions. These Regulations have been further amended to allow a notice to be sent through the post where a vehicle is stationary in a mandatory cycle lane and there are waiting and/or loading restrictions in place.

	The definition of the “Traffic Signs Regulations” have been updated to refer to the Traffic Signs Regulations and General Directions 2016
Equality/Diversity Implications	Improved enforcement allows for the needs of all road users to be better taken account of. Improvements are currently being made to the Council’s website to provide better guidance on parking for ‘Blue Badge’ holders.
Sustainability Implications	Improved congestion, reduced journey times and access to ‘cycleway’ facilitates a modal shift towards sustainable forms of transport including cycle use. Cycling has particular potential in relation to short journeys to replace journeys currently undertaken by car – having benefits for carbon reduction
Resource Implications e.g. Staffing / ICT / Assets	Existing staff resources are in place to carry out current enforcement activity. This will need to be reviewed if the rollout of moving traffic offences were to expand.
Risk Management Implications	None directly arising
Health & Wellbeing Implications	Promotion of Active Travel including cycling and reducing congestion has a clear benefit for physical and mental health and contributes to cleaner air.
Health and Safety Implications	Enforcing illegal movements of traffic will have positive health and safety benefits to road users
Carbon Reduction	Enforcing illegal parking in cycle lanes and moving traffic offences in yellow boxes will reduce idling traffic and reduce congestion that will contribute to clean air and reducing carbon.

1.0 Background

- 1.1 The Government has now committed to make the moving traffic enforcement powers, under Part 6 of the Traffic Management Act (TMA) 2004, available to local authorities outside London. The regulations giving effect to these powers were laid in Parliament on 27th January and came into effect on 31 May 2022.
- 1.2 In making these powers available, the legislative opportunity has also been taken to consolidate, under the 2004 Act, the existing civil enforcement regimes for bus lane contraventions (outside London currently under 2005 regulations made under the Transport Act 2000) together with parking contraventions (England-wide currently under 2007 regulations made under the 2004 Act).
- 1.3 These powers now enable Trafford Council as the highway authority to enforce certain moving vehicle offences such as no entry, yellow boxes, banned turns, traffic restrictions and environmental weight limits. Full details of what specific restrictions can be enforced are included in Appendix 1.
- 1.4 A Designation Order issued by the Secretary of State for Transport will apply within the existing civil enforcement area and will allow for the enforcement of moving traffic offences by the Council. Its purpose is to enable authorities to manage specific problem areas through Automatic Number Plate Recognition camera enforcement

with the fines being retained by the authority to cover the maintenance and management and enforcement costs.

- 1.5 A second tranche of applications that allow local authorities outside of London to use powers under the TMA to enforce moving traffic offences are now being accepted by the Department for Transport with a deadline for submission of 15th February 2023.

2.0 Changes in Enforcement Powers

- 2.1 The Traffic Management Act Part 6 now permits local authorities to take on civil enforcement of certain moving traffic and parking contraventions by decriminalising the offences. This in effect allows the transfer of enforcement responsibility from the Police to the Council for certain offences. It includes enforcement of yellow box junctions, and restrictions on direction of travel and turning movements. They do not include speeding offences, red light violations and cycling on the pavement which remain a matter for the Police.
- 2.2 Enforcement by CCTV cameras is the method used for moving traffic offences and has proven to improve levels of compliance with road traffic regulations, reducing congestion and improving road safety.

3.0 Implementation Programme

- 3.1 The key dates associated with implementation of the powers:-
- Key Decision published – August 2022
 - Executive Report – January 2023
 - Consideration of any objections – 2 weeks – January 2023
 - Consultation – minimum 6 weeks period – November / December / January
 - Apply for powers to DfT – deadline 15th February 2023
 - Gain DfT approval – February 2023 onward
 - Implementation of agreed sites – Summer 2023 (warning letters)
 - Review and consult with Executive Member about any extension of sites and enforcement – Early 2024
- 3.2 The programme may be subject to change subject to DfT approval.

4.0 Initial Site Selection

- 4.1 An initial long list of possible enforcement sites was identified and following discussions with TfGM, GMP and the highway and traffic team a targeted shortlist was agreed based on a set of key criteria. Sites need to be selected that meet the aims of the legislation and hence shortlisting of sites that has been used by other districts in Greater Manchester that took account of the following criteria at each site based on a series of questions has been used focusing on:-
- key routes – priority weighting is given to locations on the Key Route Network
 - traffic flows – the greater the traffic flows the greater the weighting given
 - accident data – priority was given to sites having the worst accident record to support road safety benefits
 - public transport routes – locations on a public transport route were prioritised
 - bee network routes – these locations were priorities for cyclist safety reasons

- proximity to schools – these locations were weighted more to support road safety of children

4.2 Following assessment of the initial list of suggested sites the following sites have been identified as the first trial sites.

(1) White City Circle – yellow box junctions

(2) M60 exit at Junction 7 onto the A56 / – yellow box junctions

4.3 As part of the process surveys have been carried out and the site conditions and any TROs have been checked for compliance.

5.0 Traffic Enforcement Going Forward in Trafford

5.1 The introduction of the first phase of moving traffic offences will enable the council to pro-actively enforce sites that have major concerns with regard to moving traffic offences. The identification and prioritisation of future sites will be undertaken in collaboration with the Executive Member and is proposed to take account of the criteria as identified in Section 4.1.

5.2 The Department for Transport (DfT) have confirmed that, Local Authorities taking up the new powers, must issue warning notices at each site over an initial six-month period. This applies to first offences only therefore any motorist contravening at the same site more than once within the warning notice period can receive a PCN

5.3 Enforcement will be carried through ANPR cameras and the processing of contraventions will be undertaken by the parking services team with the appropriate back-office systems and support.

5.4 Members are asked to note that following implementation of powers and enforcement of the initial 2 sites following a borough wide consultation period any further sites can be added without a further consultation process. It is likely that further sites will be added where there are issues caused by poor driver behaviour.

6.0 Future Proposals

6.1 Subject to meeting criteria and financed cameras sites that could be considered in future phases include:

1. Extending the enforcement of yellow boxes along the key route network
2. Enforcement of Bus lanes / cycle lanes on key route
3. School Streets
4. Enforcement of Parking on School Keep Clear Markings
5. One way street / left / right hand manoeuvres

6.2 It is likely that high demand for enforcement of illegal traffic movements will occur as a result of the enactment of the powers and hence a robust framework will need to be developed and agreed for any future enforcement strategies that Trafford would see as priorities.

7.0 Risks and Financial Considerations

- 7.1 There is a reputational risk that some may view this enforcement as a tax on motorists but the powers to enforce are merely transferring from the police to the Council.
- 7.2 The choice of the initial trial locations are those that cause most congestion and impact on journey times and hence the wider economy. The locations where enforcement will be carried out have been selected where it is known that adverse behaviour occurs and hence should be self-financing in terms of PCN income offset against cost of investment and operational running costs.
- 7.3 There will however, be a mandatory introductory period where warning notices will be provided to motorists so they have an opportunity to change their behaviour.
- 7.4 It is possible that the costs of enforcement is greater than the income from PCN's once drivers become compliant but analysis of other London boroughs that have implemented the powers as similar locations indicates that the risk is low.
- 7.5 The choice of future enforcement sites therefore needs to also consider the overall costs of running the site together recovery associated with the site so that the council realises the associated benefits with the scheme but is not adversely affected financially.

8.0 Consultation

- 8.1 Before applying for a Designation Order to grant Trafford Council powers under part 6 of the Traffic Management Act that will allow enforcement of Highway Moving Traffic Offences the Council must confirm to the Secretary of State that it has undertaken the following consultation as stated in their application criteria:
- a) Consulted the appropriate Chief Officer of Police; *(This has been undertaken and support gained in December 2022)*
 - b) Carried out a minimum six-week public consultation on the detail of planned civil enforcement of moving traffic contraventions (rather than whether people agree with the principle of moving traffic enforcement), including the types of restrictions to be enforced and the location(s) in question. This is intended to communicate the rationale for, and benefits of, moving traffic enforcement to residents and businesses, and allow them the opportunity to raise any concerns. There is no requirement for newspaper advertising. Local authorities should consider the full range of media available to them when communicating with the public. They should consider telling every household in the CEA when they propose changes - for example, to the operation of a scheme. *(This has been undertaken as detailed in 8.4 to 8.8)*
 - c) Considered all objections raised and has taken such steps the Council considers reasonable to resolve any disputes; *(Mitigation for the objections has been considered)*
 - 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 TROs, where applicable, and indicated by lawful traffic signs and road markings. Local authorities are not required to audit all their TROs and traffic signs; but instead those that are directly related to the moving traffic restrictions to be enforced.
- f) Ensured all the relevant equipment has been certified by the Vehicle Certification Agency (VCA) specifically for moving traffic contraventions.
- 8.2 Engagement with ward Members will be carried out as part of the consultation. There will also be engagement with other stakeholders as well as further discussions with GMP. Following on from this consultation the designation order application will be submitted, and implementation of camera infrastructure and back-office processes will begin in line with Section 3.0.
- 8.3 The Corporate Director of Place (under his delegated powers) will also be required to carry out all of the steps set out in a-f above in respect of any proposed new locations for enforcement in the future. However, it will not be necessary to seek further approval from the Secretary of State for additional enforcement locations in cases where the whole area has already been so designated.
- 8.4 Results of the public consultation identified that 57 responded to the consultation overall. 51% agreed with and supported the Trafford's application for the powers based on the benefits this would bring with 47% not supporting the application. The remaining 2% neither agreed / disagreed nor had a view.
- 8.5 Based on the locations proposed the results indicated that 52% supported the locations and 45% were not supportive. The 45% who were not supportive were unsupportive of the application as a whole. Hence there is support for the locations to be included in the application.
- 8.6 Comments that were made by 17 of the respondents relative to those that did not support the application for the enforcement powers or the locations chosen remarked that the council was penalising motorists and should remove active travel measures and believed that the council were seeking to make money from the scheme. In response to these comments there is a recognised challenge nationally that reallocation of road space for active travel is not welcomed by all however, improving flow of traffic in critical junctions by using enforcement powers being applied for will improve overall journey times in those locations.
- 8.7 Of the 18 respondents who made positive supportive comments all were welcoming the use of the powers and suggested additional sites where expansion would be welcomed and supported.
- 8.9 Greater Manchester Police Chief constable has been consulted and is fully supportive of the application for new powers.
- 9.0 Issuing Penalty Charge Notices for Parking Offences**
- 9.1 Trafford Council adopted devolved powers to undertake parking enforcement in January 2001, now known as Civil Parking Enforcement (CPE). As legislation changes have been introduced since then, local authorities have been granted permission to use approved camera devices for the enforcement of parking

contraventions in bus lanes, bus stop or bus stand clearways, outside of schools and red routes.

- 9.2 These powers were recently extended under the introduction of Statutory Instrument 2020 No. 548 in June 2020 granting the additional option of being able to issue a penalty charge notice by post when enforcing parking and loading restrictions in mandatory cycle lanes, by using evidence from an approved camera device.
- 9.3 Where Civil Enforcement Officers do have to issue a ticket in person and the recipient drives away before the PCN is issued the Council cannot issue the ticket by post. In 2008 when new parking enforcement legislation was introduced, including the option to issue postal penalties in circumstances where a driver deliberately drives away to avoid a penalty, a report was submitted to the Executive Member that made a statement agreeing that it would not adopt this role at the time. This report now seeks to reconsider the Council's use of postal (regulation 10) penalty charge notices.

10.0 Proposed Changes to Parking Offence Procedures

- 10.1 If active travel is to be successfully promoted then it is important to create a safe environment for cyclists within the highway network. Part of this process is ensuring that mandatory cycle lanes are kept clear so they are available for use. Better enforcement is a clear means of achieving this goal – and it is important that the Council employs all measures available to it.
- 10.2 The legislation changes brought in by Statutory Instrument 2020 No. 548 (as explained above) provide new powers for the improved enforcement of cycle ways.
- 10.3 This report now seeks member consideration to also amend the adopted observation periods for vehicles parked where waiting and loading restrictions are in place within a mandatory cycle lanes and other problem areas with Traffic Regulation Orders. Such areas would include yellow lines at schools and locations across the borough where infringements of the Traffic Regulation Order was being persistently abused.
- 10.4 The consideration for members is that observation times for parking infringements are to be reduced from the current 5 and 10 minute observation times to 1 minute observation times where it is clear the driver has stopped for convenience and is causing an infringement to traffic, pedestrian or cycle movements. This will ensure that clear breaches and obstructions can be tackled effectively.
- 10.5 It is also proposed that the Council moves to issue postal penalties for penalties issued both manually and by the use of approved camera devices generally. This will aid enforcement by ensuring that clear breaches can be addressed within a wider range of circumstances. It will also enable those who attempt to evade a penalty by driving away to now be brought to account.

11.0 Other Options

- 11.1 The alternative option is to not to apply for the powers and not approve the use of issuing PCN's using modern camera technology and use postal services. By not applying for the powers Trafford could be judged as not tackling its congestion and clean air problems.
- 11.2 By not adopting camera and postal processes this will hamper the overall efficiency of enforcement of parking infringements.

12.0 Reasons for the Recommendations

- 12.1 By applying for the Powers Trafford will realise a number of benefits associated with the enforcement of moving traffic offences that include:
- Improved road safety including pedestrian and cyclist safety, supporting modal shift to sustainable transport options
 - Reduced highway congestion
 - Improved journey times for public transport and emergency service vehicles
 - Improved air quality, reduction in transport related emissions contributing to carbon net zero targets
 - Reallocation and saving of police time
- 12.2 The enforcement of moving traffic offences will reduce road congestion, improve journey times for public transport and emergency service vehicles and improve air quality, through a reduction in transport related emissions contributing to carbon net zero targets.
- 12.3 Approving the use of camera and postal enforcement for parking will bring the service in line with other GM authorities and will make the service more efficient.

Key Decision (as defined in the Constitution): YES
If Key Decision, has 28-day notice been given? YES

Finance Officer Clearance (type in initials).....FF.....
Legal Officer Clearance (type in initials).....SB...

[CORPORATE] DIRECTOR'S SIGNATURE (electronic)..... 
To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.