

**Calderdale MBC**

**Wards Affected: All**

**Cabinet: 11<sup>th</sup> March 2024**



## **Moving Traffic Enforcement Powers**

### **Report of the Directors of Regeneration and Strategy and Public Services**

#### **1. Purpose of Report**

- 1.1 To seek approval from Cabinet to submit a designation application to the Department for Transport for powers under Part 6 of the Traffic Management Act.

#### **2. Need for a decision**

To seek approval from Cabinet:-

- 2.1 To submit a designation application to the Department for Transport for powers under Part 6 of the Traffic Management Act, and
- 2.2 For the location of camera sites for both Bus Lane Enforcement and Moving Traffic Enforcement to be delegated to the Assistant Director of Strategic Infrastructure in consultation with the Cabinet Member with responsibility for Climate Action, Active Travel and Housing.

#### **3. Recommendation**

That Cabinet:-

- 3.1 Agree that the Council undertake all steps outlined in Section 5 of this report in advance of the Council applying to the Secretary of State for powers under Part 6 of the Traffic Management Act to undertake the enforcement of Highway Moving Traffic Offences.
- 3.2 Agree on completion of the steps identified within Section 5 that the Council submit a designation application to obtain the necessary Moving Traffic Enforcement Powers.
- 3.3 Delegate the decision on the location of camera sites for both Bus Lane Enforcement and Moving Traffic Enforcement to the Assistant Director of Strategic Infrastructure in consultation with the Cabinet Member with responsibility for Climate Action, Active Travel and Housing.

#### **4. Background and/or details**

- 4.1 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.

- 4.2 Enforcement by CCTV cameras has proven to improve levels of compliance with road traffic regulations, reducing congestion and pollution and improving road safety.
- 4.3 The proposals in this report would provide the Council with another enforcement tool that would support the Council's wider Transportation strategies, including Vision Zero, the Air Quality Strategy and ongoing Transportation initiatives to reduce journey times and encourage active travel.
- 4.4 The Council would like to be able to gain moving traffic enforcement powers such that key problem areas across the borough can be addressed to:
  - Reduce road traffic collisions in line with Vision Zero.
  - Make roads safer for those walking and cycling.
  - Reduce congestion.
  - Improve journey times for all vehicles including buses.
  - Improve air quality, supporting our zero-carbon target.
  - Increase safety and cleaner air around schools.
- 4.5 Undertaking moving traffic enforcement will assist the Council in carrying out their statutory duties under the Traffic Management Act (TMA). The TMA 2004 places a duty on local authorities to make sure traffic moves freely and quickly on their roads and the roads of nearby authorities.
- 4.6 In 2018, a report was considered and approved by Cabinet to obtain the necessary powers for Bus Lane Enforcement. This is a requirement of the A629 capital programme to ensure bus priority. Cabinet resolved that:
  - 4.6.1 (a) the undertaking of civil enforcement of bus lanes and access restrictions in Calderdale using Automatic Number Plate Recognition (ANPR) cameras be supported in principle.
  - 4.6.2 (b) the proposed tariff structure of Penalty Charge Notice (PCN) levels for bus lane and access restriction offences, as set out at paragraph 6.14 of the Director, Regeneration and Strategy's written report be agreed.
  - 4.6.3 (c) the Council to join the Bus Lane Adjudication Service Joint Committee (BLASJC) be approved;
  - 4.6.4 (d) it be recommended to the Council that it appoint a representative and deputy representative to the Bus Lane Adjudication Service Joint Committee to act on behalf of the Council; and
  - 4.6.5 (e) the Assistant Director of Strategic Infrastructure be given delegated authority, in consultation with the Cabinet Member with responsibility for

Climate Action, Active Travel and Housing to develop a scheme detail and implementation of the project.

- 4.7 If Moving Traffic Enforcement is approved following this report, it is the intention of the service areas to run these two processes in parallel.

## **5. Proposal**

### **Take the necessary steps to introduce moving traffic enforcement (including bus lane enforcement)**

- 5.1 To apply for a designation order to allow the Council's parking enforcement team to issue PCNs for moving traffic enforcement contraventions, the Council must first satisfy set criteria stipulated by the Department for Transport. In the application the Council must demonstrate they have: -
- carried out public engagement, for the requisite minimum six-week period, on the location(s) and type(s) of moving traffic restriction selected by the local authority as appropriate for enforcement action.
  - set out rationale for, and benefits of, moving traffic enforcement to local residents and businesses, and provided the opportunity for them to raise any concerns.
  - taken appropriate steps, as considered reasonable, to resolve all objections.
  - carried out effective public communication and engagement, using the full range of media available, as the Council considers appropriate.
  - ensured that enforcement of all moving traffic restrictions would be underpinned by accurate Traffic Regulation Orders (TROs), where applicable, and indicated by lawful traffic signs and road markings.
  - ensured all the relevant enforcement equipment has been certified by the Vehicle Certification Agency (VCA) specifically for moving traffic contraventions.
  - undertake to carry out all of the above steps in respect of any new camera location in the future.
- 5.2 The transition to enforcing moving traffic contraventions would take place over five stages. These are namely the business case stage, the feasibility stage, the design stage, the engagement stage, and the implementation stage.
- 5.3 The business case is an essential stage in the process and its preparation would allow the Council to produce a financial model which maps out indicative costs and income. This can be used to underpin any decision to invest in the necessary camera infrastructure to support the enforcement of moving traffic moving traffic restrictions.
- 5.4 During the feasibility stage consideration would be given to which sites will be included within the application and, to apply a fair assessment of sites, it is

intended that a prioritisation scoring matrix will be used. This would score sites based on a combination of factors that relate to the non-monetary benefits of enforcement such as considering collision data, traffic flows etc. This would be combined with non-compliance data to allow us to understand which sites should be focused on for enforcement initially.

- 5.5 Mobile Camera's would need to be erected to gather baseline data. The data produced from these surveys will be pivotal in identifying and confirming the issues at each location and providing baseline data that can be used to monitor future compliance.
- 5.6 Using information obtained during the feasibility stage the shortlisted locations will need to undergo a detailed review. All relevant legal orders and schedules will be checked for compliance. Any errors or anomalies within the written orders will need to be rectified. Any gaps identified within the review process such as missing TROs would also need to be actioned. At this stage any amendment or consolidation orders will be produced and advertised.
- 5.7 During the design stage site surveys at the prioritised enforcement sites would be carried out to establish the condition of lining and signing and visibility barriers such as overgrown foliage. Any remedial works identified as a result of the surveys would need to be carried out before enforcement commences.
- 5.8 The potential location of cameras would be investigated during this stage and surveys will be carried out to identify any suitable street lighting column positions. Priority would be given to utilising existing street assets where possible to reduce unnecessary street clutter.
- 5.9 Alongside this process the consultation stage would commence and engagement with elected Members and all other stakeholders and engagement with the Police will begin. A 6-week borough wide consultation would be undertaken on the sites identified for enforcement and opportunities would be given for any objections to be received and considered.
- 5.10 Following the resolution of any valid objections and consent from the Police an application would be submitted to the Department for Transport (DfT) for consideration.
- 5.11 The Council received approval from the Secretary of State to undertake bus lane enforcement in 2006. To date, no enforcement activities have been carried out and there is none of the necessary infrastructure in place to facilitate enforcement. During the transition towards moving traffic enforcement the Council intends to introduce bus lane enforcement and would follow the same consultation process as that for moving traffic.

## **6. Financial implications**

- 6.1 The proposal detailed in Section 5 outlines the necessary steps to introduce moving traffic enforcement (including bus lane enforcement), and approval is from Cabinet to submit a designation application to obtain the necessary Moving Traffic Enforcement powers.

- 6.2 Transitioning from the Council's current position of not enforcing moving traffic offences to having the necessary powers, infrastructure, and capabilities in place would require dedicated resources with an established understanding of the process.
- 6.3 Due to the lack of available internal resources, consultancy would be required to lead the Council throughout the five transitional stages. It is anticipated that the cost attached to the external consultancy would be in the region of £150k and funded from existing budgets.
- 6.4 Completion of this work would provide the Council with the necessary information to progress both its Bus Lane and Moving Traffic Enforcement schemes.
- 6.5 Cabinet is reminded at Budget Council on 26 February 2024 the proposal to generate £100k per annum from 2025/26 onwards from camera- based traffic enforcement was approved.
- 6.6 The capital and revenue costs associated with the implementation and ongoing operation of Bus Lane or Moving Traffic Enforcement schemes is unknown at this stage. Although funding of £1.3m has been approved by the West Yorkshire Combined Authority to implement Bus Lane enforcement, there is no earmarked revenue funding to operate a Bus Lane Enforcement scheme or implement and operate a Moving Traffic Enforcement scheme.

**Comments in relation to the costs that would be associated with the implementation and operation of the schemes and the relevant income streams, is set out below:-**

- 6.7 Once operational, there would be additional revenue costs and this would include staffing costs, additional back-office resources, camera maintenance and other running costs associated with the issuance of PCNs, the costs are dependent on volumes of contraventions. Initial analysis of other Local Authority enforcement schemes indicates that sufficient income is generated that would cover all operational costs. In the event of any surplus being made this would be ring fenced in accordance with the Traffic Management Act and be available:-
- To make good the general fund of any enforcement related deficit in previous 4 years
  - Implement highways improvement projects
  - Improve public passenger transport services
- 6.8 CCTV enforcement cameras would be required at each site identified for enforcement. The number and therefore resultant cost of initial cameras required will be dependent on the sites identified for enforcement and the types of restriction. Definitive costs would only be confirmed once the Council has undertaken the procurement exercise for the contracts necessary to provide the CCTV cameras. Once costs are confirmed this would be subject to the usual Council Capital approval processes. Future cameras would be funded from revenue generated from moving traffic contraventions.

- 6.9 To facilitate the camera infrastructure commando sockets would need installing on street lighting columns. These are robust outdoor sockets that would remain in situ. The cameras can be unplugged and rotated if necessary. Any sites that don't have suitable street lighting columns would require the erection of new poles. Again, at this stage the requirement or quantity is unknown.
- 6.10 Any remedial works required would be subject to maintenance costs for existing road markings and signage and additional signage including camera warning signs.
- 6.11 Any existing or new TROs would require advertising and sealing.

## **7. Legal Implications**

7.1 The following Regulations came into effect on 31 May 2022;

- The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022
- The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022

These provide a single framework for the civil enforcement by local authorities of parking and waiting restrictions, bus lane restrictions and some moving traffic offences.

Under Part 8 of the Traffic Management Act 2004 local authorities with existing civil parking enforcement powers may be granted moving traffic enforcement powers. The area covered by a moving traffic Designation Order may only be within, or co extensive with, the geographic area already designated as a civil enforcement area for parking contraventions.

- 7.2 If a decision is made to implement these proposals, it should not give rise to any legal implications as the Council only seeks approval for designation of the moving traffic enforcement powers within the existing civil enforcement area.
- 7.3 The surplus income from any PCN payments received from bus lane or any moving traffic enforcement must only be used in accordance with regulation 31 of The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022].
- 7.4 The Bus Lane Contraventions (Approved Local Authorities) (England) (Amendment) (No. 4) Order 2006 provides for the enforcement of bus lanes within the borough of Calderdale.

## **8. Human Resources and Organisation Development Implications**

- 8.1 No applicable implications.

## **9. Consultation**

- 9.1 At this stage no consultation has taken place. Before applying for a Designation Order, to grant the Council powers under part 6 of the Traffic Management Act to

undertake the enforcement of Highway Moving Traffic Offences, the Council must confirm to the Secretary of State that it 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 (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.
- 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.

## **10. Environment, Health, and Economic Implications**

- 10.1 The proposal seeks to support public transport by reducing bus journey times and reduce congestion which will potentially have a positive impact on air quality at the enforcement locations by reducing traffic infringements.

## **11. Equality and Diversity**

- 11.1 No EQIA has been carried out at this stage. However, no negative impacts are anticipated because of this proposal. Positive impacts are identified in terms of reducing road traffic collisions, congestion, promoting active and public transport travel, improving air quality, and supporting local transport policies.
- 11.2 It is important to note that sites for Part 6 enforcement will be selected and enforced against the existing Traffic Regulation Orders and maintain the existing exemptions (where they apply) for those with a right of access/exemption. It is only the style of enforcement is changing, not the restriction itself. Therefore, there are not considered to be any new implications because of this decision.

## **12. Summary and Recommendations**

That Cabinet:

- 12.1 Agree that the Council undertake all steps outlined in Section 5 of this report in advance of the Council applying to the Secretary of State for powers under Part 6 of the Traffic Management Act to undertake the enforcement of Highway Moving Traffic Offences.

- 12.2 Agree on completion of the steps identified within Section 5 that the Council submit a designation application to obtain the necessary Moving Traffic Enforcement Powers.
- 12.3 Delegate the decision on the location of camera sites for both Bus Lane Enforcement and Moving Traffic Enforcement to the Assistant Director of Strategic Infrastructure in consultation with the Cabinet Member with responsibility for Climate Action, Active Travel and Housing.

**For further information on this report, contact:**

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**The documents used in the preparation of this report are:**

1. The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022
2. The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022
3. The Traffic Management Act 2004 (TMA) Part 6

**The documents are available for inspection by emailing  
[mary.farrar@calderdale.gov.uk](mailto:mary.farrar@calderdale.gov.uk)**