

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Lead Member for Economy, Transport and Environment
Date:	27 January 2022
Title:	Moving Traffic Enforcement Powers
Report From:	Director of Economy, Transport and Environment

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Purpose of this Report

1. The purpose of this report is to seek approval to progress work to enable the County Council to enforce moving traffic restrictions under new powers available to highway authorities under the Traffic Management Act 2004.

Recommendations

2. That the Executive Lead Member for Economy, Transport and Environment approves the principle of the County Council undertaking civil enforcement of moving traffic restrictions, utilising new powers available to highway authorities under Part 6 of the Traffic Management Act 2004.
3. That authority is delegated to the Director of Economy, Transport and Environment in consultation with the Chief Executive, the Head of Legal Services and the Executive Lead Member for Economy, Transport and Environment to undertake all necessary steps to prepare and submit a formal application to the Department for Transport to secure the relevant new powers.
4. That the Executive Lead Member for Economy, Transport and Environment approves the first tranche of enforcement schemes, as detailed within this report, aimed at enhancing highway safety or helping to reduce congestion of the County Council maintained highway network.
5. That the Executive Lead Member for Economy, Transport and Environment authorises development of a policy for future enforcement schemes, based on the findings of the first tranche of enforcement schemes, to be approved at a future Decision Day.

Executive Summary

6. This paper seeks approval for the commencement of work in preparation for new Central Government powers associated with the civil enforcement of moving traffic restrictions. The new powers will enable English councils with

highway authority status to apply to enforce a range of traffic restrictions similar to those already enforced within London and parts of Wales.

7. Hampshire is designated as a Civil Enforcement Area under the Traffic Management Act 2004, which enables the County Council to undertake Civil Parking Enforcement. The County Council is also an approved Local Authority to undertake bus lane enforcement and is therefore eligible to apply to the Secretary of State for a Designation Order to obtain the Part 6 powers.
8. In August 2021, the Department of Transport (DfT) issued an Advice Note to Highway Authorities setting out a number of steps that applicant authorities must have completed before a formal application for the new powers can be submitted. These steps include undertaking a minimum 6-week public consultation on the detail and location of the restrictions planned to be enforced.
9. The Advice Note also refers to the publication of 'Statutory Guidance to Local Authorities on Bus Lane and Moving Traffic Enforcement Outside London' that is expected to set out the framework by which local authorities will operate the new enforcement functions. The document was planned to be issued in draft form in the Summer of 2021 but, at the time of drafting this report, the guidance has yet to be issued.
10. Given that moving traffic enforcement will be a new function to councils outside of London and parts of Wales, it is proposed that the County Council implements a small number of initial Countywide schemes at locations where current highway restrictions are subject to regular contraventions. Sites have been chosen on the basis of the road safety record or where congestion of the network is known to occur. A list of proposed locations to be included within the first tranche of enforcement schemes, consisting of a range of different types of traffic restriction, are detailed in **Appendix A**.
11. As with other forms of civil enforcement, compliance levels with enforced restrictions will be expected to increase significantly over time once road users realise that contraventions will be penalised through fines.
12. The DfT has recently confirmed that, once the new powers have been granted, there will be an expectation that local authorities will issue warning notices, rather than fines, for all first-time contraventions during the first 6 months of enforcement. This effectively means that the County Council will need to cover the revenue costs associated with issuing the warning notices during this period.

Contextual Information

13. The new legislation will effectively enable the County Council to issue penalty charges (via the post) to the registered keeper of a vehicle that has been observed via cameras, contravening the relevant legal traffic order associated with the restriction.
14. The Department of Transport has stressed that the additional powers should only be used to address established problems and that camera enforcement of moving traffic restrictions should only be considered as a last resort once other measures have been taken and proved unsuccessful in improving driver compliance. Central Government has made it clear that the new powers should not be exploited by local authorities as a means to generate additional revenue.

15. A range of traffic restrictions can be enforced under the new regulations, these include banned turns, yellow box markings, one-way streets, access restrictions, mandatory cycle lanes and School Keep Clear markings.
16. A number of traffic contraventions are not included within the new legislation as their severity means they will remain as criminal offences. These include exceeding speed limits, overtaking on double white line systems, failing to stop at pedestrian crossings and red-light violations at traffic signals.
17. The enforcement of moving traffic restrictions is generally undertaken by means of either fixed or mobile cameras utilising Automatic Number Plate Recognition technology. The associated back office administrative functions are broadly similar to the County Council's established Civil Parking Enforcement service, delivered in partnership with NSL.
18. A range of moving traffic restrictions are currently in place across the County Council maintained highway network but not all restrictions will require or warrant enforcement action. In many instances restrictions are effectively self-enforcing and therefore do not warrant further action. In some cases there are technical issues, such as restrictions covering a wide geographic area, rendering camera enforcement impractical.

Finance

19. The enforcement of moving traffic restrictions is reliant on the use of specialist traffic enforcement cameras that utilise Automatic Number Plate Recognition technology. Market research indicates that the cost of cameras and the associated works and infrastructure are likely to be in the region of £30,000 per enforcement site. Additional annual revenue costs to operate and maintain the equipment is estimated to be in the region of £5,000 per site.
20. Capital funding for pilot schemes linked to highway safety will come from the County Council's budget allocation for casualty reduction whilst those schemes linked to easing congestion will be funded from suitable existing transport funding as appropriate.
21. Fines for moving traffic violations are expected to be set at £60 within the new regulations with a reduction to £30 if paid within 14 days.
22. As with income from civil on-street parking and bus lane enforcement, any surplus revenue generated through fines from moving traffic enforcement, should it arise, must be spent in accordance with Section 55 of the Road Traffic Regulation Act 1984. Any surplus revenue, once all associated operational and set up costs have been covered, should be prioritised towards other enforcement schemes, measures to improve public transport or other associated highway improvements.
23. The requirement to issue warning notices, rather than fines, to first-time contraventions during the first 6 months of enforcement will mean that the County Council will receive very little revenue during this period. Budget provision will therefore need to be made to cover the back-office processing and administrative costs associated with the issuing of warning notices.
24. It is intended that enforcement of moving traffic restrictions will be cost neutral over time, with the full annual costs of operating and maintaining individual

enforcement locations met from fines. An early years revenue budget may be required to meet any initial in-year deficit, for start-up and initial operating costs as sites are introduced countywide pending receipt of income from fines. Revenue costs, should there be a shortfall, will be met from existing highways maintenance resources if required.

Next Steps

25. A County Council Policy for the enforcement of moving traffic restrictions will be developed and brought to a future Executive Member Decision Day for approval. The policy will take account of the findings of the first tranche of enforcement schemes, including the results of the initial consultation, together with the proposed DfT Statutory Guidance document that is expected to set the framework by which moving traffic enforcement should be delivered.
26. 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.
27. In addition to the steps outlined within the report recommendations, the County Council must also, as part of the formal application to the Department for Transport, confirm:
 - a. That the appropriate Chief Officer of Police has been consulted.
 - b. That it has considered all objections raised during the six-week public consultation and has taken such steps that the council considers reasonable to resolve any disputes.
 - c. That it has carried out effective public communication and engagement as the council considers appropriate and that this will continue up to the start of enforcement and for a reasonable period thereafter.
 - d. That all moving traffic restrictions to be enforced will be underpinned by accurate Traffic Regulation Orders and indicated by lawful traffic signs and road markings.
 - e. That all relevant enforcement equipment has been certified by the Vehicle Certification Agency specifically for moving traffic contraventions.
28. As part of ensuring that the legal Traffic Orders are accurate and lawful, the County Council will also be expected to take the opportunity to identify and remove any signs that are either deemed obsolete or no longer necessary. This will reduce sign clutter and aid effective enforcement by ensuring drivers are presented with clear information in an uncluttered environment.
29. The Advice Note issued by the Department for Transport in August 2021 stated that, depending on the number of local authorities looking to apply for the powers, it might be necessary to make the Designation Orders in tranches. The note stated an aim to lay the first Designation Order in Parliament before the end of March 2022 (subject to the Parliamentary timetable) with subsequent being considered as they are submitted. The lack of publication of the Statutory Guidance would seem to indicate some slippage in this proposed timescale.

Consultation and Equalities

30. The DfT has advised that formal public consultation on the detail of planned civil enforcement of moving traffic contraventions will be required to be undertaken for a minimum period of six weeks in advance of a formal application for the new powers. The consultation will need to include detail on the types of restriction planned to be enforced, together with their locations.
31. The County Council must also, as part of the formal application to the Department for Transport, confirm it has considered all objections raised during the six-week public consultation and has taken such steps that the council considers reasonable to resolve any disputes.
32. The enforcement of moving traffic restrictions will be aimed at enhancing road safety and helping to ease congestion of the highway network, benefitting all road users. The measures will also help reduce delays to public transport and emergency services as well as improving air quality.
33. The decision sought in this report relates to a change of responsibility for enforcement of highway restrictions from the police to the County Council. Therefore, the decision will have a neutral impact on groups with protected characteristics.

Climate Change Impact Assessments

34. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

Climate Change Adaptation

35. A Climate Change impact assessment will be carried out for each moving traffic enforcement scheme as it is developed.

Carbon Mitigation

36. A full Carbon Mitigation impact assessment will be carried out for each moving traffic enforcement scheme as it is developed. By reducing congestion and delays caused by the contravention of traffic restrictions, the proposal to enforce such restrictions will have a positive impact on carbon reduction. Congestion or collisions caused by inconsiderate or unsafe driving results in increased vehicle emissions.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

- 2.1. The enforcement of moving traffic restrictions will be aimed at enhancing road safety and helping to ease congestion of the highway network, benefitting all road users. The measures will also help reduce delays to public transport and emergency services as well as improving air quality.
- 2.2. The decision sought in this report relates to a change of responsibility for enforcement of highway restrictions from the police to the County Council. Therefore, the decision will have a neutral impact on groups with protected characteristics.