

Committee Name and Date of Committee Meeting

Cabinet – 14 February 2022

Report Title

Feasibility Study prior to an Application for Moving Traffic Enforcement Powers
(Traffic Management Act part 6)

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

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Ward(s) Affected

Boroughwide

Report Summary

This report outlines proposed changes to national legislation that would give local Highway Authorities the powers required to enforce moving traffic offences, such as banned turns. These powers would need to be applied for in accordance with criteria laid down by the Department for Transport.

The report then outlines the potential benefits and challenges associated with undertaking the enforcement of moving traffic offences and recommends approval be given for further work to be undertaken to scope out the potential for Rotherham Council to undertake the enforcement of moving traffic offences prior to a further report being brought back to Cabinet later in 2022 with a recommended approach to be taken based on the findings of this feasibility work.

Recommendations

That Cabinet agrees: -

1. To commence the feasibility work detailed in sections 2 and 4 of this report to evaluate the introduction of Moving Traffic Enforcement under Part 6 of the Traffic Management Act 2004.
2. That the Chief Constable of South Yorkshire Police be consulted on the principle of the Council taking on moving traffic offence enforcement.

3. That the South Yorkshire Mayoral Combined Authority be consulted regarding locations where bus lane enforcement would be beneficial to improve journey time reliability; and
4. That a report be brought back to Cabinet with the results from this feasibility work and recommendations on whether or not to progress to an application to the Department for Transport for Designation of these powers under the above regulations.

List of Appendices Included

- Appendix 1 Traffic Signs suitable for civil enforcement
- Appendix 2 Department for Transport Advice Note “Application for a Moving Traffic Designation Order Advice Note” 2nd August 2021
- Appendix 3 Department for Transport FAQ December 2021
- Appendix 4 Equalities Assessment
- Appendix 5 Carbon Impact Assessment

Background Papers

Department for Transport Advice note of August 2021 on applying for a Designation Order for civil enforcement of moving traffic contraventions. These are also attached as Appendices 1,2 & 3.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Not applicable

Council Approval Required

No

Exempt from the Press and Public

No

Feasibility Study prior to an Application for Moving Traffic Enforcement Powers (Traffic Management Act part 6)

1. Background

1.1 The Traffic Management Act 2004 (the Act) was introduced to make provision in relation to the management of road works and to make new provision in relation to the civil enforcement of traffic contraventions, such as yellow line parking restrictions.

1.2 Part 6 of the Act enables regulations to be made by the Secretary of State for Transport to give Authorities outside of London the civil enforcement powers to enforce moving traffic offences such as the contravention of banned turns and one-way streets. Appendix 1 identifies the types of traffic movements (including relevant signs) that could be enforced, and includes enforcement of:

- Yellow box junctions
- Banned turns (left, right and U-turns)
- One-way streets
- Keep left/right signs
- No-entry signs
- No motor vehicles
- Pedestrian zones

1.3

Enforcement of the above contraventions has the potential to improve road safety on the highway network by addressing incidences of dangerous driving manoeuvres, and better manage safe and appropriate access for example near schools, in residential areas or in town centres.

1.4 In separate legislation enacted in 2005 by the Department for Transport the ability to enforce bus lanes was conferred upon Councils in England. Currently Rotherham Council does not enforce the contravention of such restrictions.

1.5 At present the sole responsibility for enforcement of moving traffic offences rests with South Yorkshire Police in Rotherham.

1.6 In August 2021 the Secretary of State for Transport contacted all Highway Authorities asking them to indicate by way of an Expression of Interest (EOI) if they would wish to take on the powers conferred by part 6 of the Act. The Council submitted an Expression of Interest by the appropriate deadline at the end of September 2021.

2. Key Issues

2.1 At present the responsibility for the enforcement of moving traffic offences rests with South Yorkshire Police as a criminal enforcement body. However due to their focus on core responsibilities South Yorkshire Police together with Police services across the country may grant lesser priority to more minor moving traffic offences. The notification, adjudication, and

enforcement by civil means, under Part 6 of the Traffic Management Act 2004, provides an alternative way in dealing with such contraventions.

- 2.2 Part 6 of the Act enables regulations to be made by the Secretary of State for Transport Authorities outside of London to apply to undertake the civil enforcement of moving traffic offences. It should be noted that the Police would still retain the power to enforce contraventions where they consider the need is justified.
- 2.3 The advice from the Department for Transport (DfT) is that there will be a requirement for all authorities taking the opportunity to enforce such restrictions to have:
- Consulted the appropriate Chief Officer of Police (Chief Constable);
 - 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;
 - Considered all objections raised and have taken such steps the Council considers reasonable to resolve any disputes;
 - 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;
 - 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;
 - Ensured all the relevant equipment has been certified by the Vehicle Certification Agency specifically for moving traffic contraventions.

The guidance requires that applicants identify areas on their network where they feel camera enforcement of contraventions would be beneficial. Authorities must also demonstrate that they are satisfied all of the criteria listed above have been met before authorisation will be given.

This report seeks approval for feasibility work, after which a subsequent report will be presented to Cabinet with the findings of the feasibility work and recommendations on how to progress.

- 2.4 The ability to enforce moving traffic offences may raise public expectation that the Council will enforce all restrictions and therefore this will need to be managed. It will be necessary to determine how sites to be enforced are selected. Part of the feasibility assessment will be to determine locations where enforcement would be effective and beneficial to general road safety and congestion management.
- 2.5 The enforcement of moving traffic offences must be through approved camera technology and there will be a need to expand the capability of the authority for the processing of contraventions and penalty charges. Currently the costs associated with these tasks are unknown but there will be a need to invest in the appropriate camera enforcement equipment together with office-based processing equipment.

- 2.6 The feasibility work will identify sites which could provide potential benefits to the Council from being able to enforce moving traffic offences, such as sites where:
- There are recorded injury accidents due to drivers abusing restricted movements
 - There is congestion on the network due to drivers abusing restricted movements
 - The ability to enforce restricted movements would support initiatives such as proposals for the Clean Air Zone and the recently launched Bus Service Improvement plan which aims to improve bus journey times and reliability.
- 2.7 The Council has had the ability to enforce contraventions of bus only lanes since 2005. Currently in South Yorkshire Doncaster and Sheffield enforce bus only lanes but Rotherham and Barnsley do not. It is felt prudent to include this as part of the wider feasibility work for the enforcement of moving traffic offences. This is particularly pertinent with the aspiration to improve bus services following the pandemic and the proposed 'Bus Service Improvement Plan' being developed by the South Yorkshire Mayoral Combined Authority.

3. Options considered and recommended proposal

- 3.1 The feasibility assessment will influence a future report to be considered by Cabinet. The Council will have 2 options available: -
- Option 1 do not accept the invitation from the DfT to undertake the enforcement of moving traffic offences.
 - Option 2 accept the invitation and identify specific locations on the network where pro-active enforcement would be beneficial.

Both options would need to take into consideration public expectation and the ability of South Yorkshire Police to undertake enforcement.

4. Consultation on proposal

- 4.1 As detailed in section 2.3 the guidance issued by Government requires public consultation and stakeholder engagement prior to applications being submitted to evaluate the feasibility of adopting Moving Traffic Enforcement powers.
- 4.2 The following organisations and stakeholders are to be engaged during the feasibility study phase of this work: -
- Chief Constable of South Yorkshire Police;
 - South Yorkshire Mayoral Combined Authority regarding locations where bus lane enforcement would be beneficial
 - Local Ward Members and Cabinet Member
- 4.3 Where locations are identified prior to submission of the request to

Government the guidance requires that the Council undertakes consultation with road users and members of the public in the vicinity of those locations. As moving traffic offences are defined within Road Traffic Legislation this consultation is to focus on the approach to be taken rather than on the whether or not the need for enforcement is supported This is a requirement of the government's guidance (detailed in Appendices 2 & 3) and to ensure there isn't anything else that could be done to enable road users to be more compliant, for example by changing road layouts or traffic signs before enforcement measures are introduced.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The purpose of this report is to seek approval to scope out what is needed to be able to deliver these new powers, what the scale of the requirement is and ultimately to report further so that Members can make an informed decision before the Council makes a submission to the Department of Transport for Designation of the requisite powers. The report to be submitted later this year will identify locations where enforcement may be beneficial, and for each location it will also identify:
- the costs associated with enforcement,
 - a methodology for engaging with the public
 - a timescale for implementation

6. Financial and Procurement Advice and Implications

- 6.1 The £25,000 cost of this feasibility work will be charged to the Transportation Service's revenue account initially and managed within the Service's overall approved revenue budget. Transportation is a fee earning Service, so costs are ultimately recovered through fee charging. Where the feasibility work results in a capital project, these revenue costs can then be capitalised and funded from the Council's capital allocations.

7. Legal Advice and Implications

- 7.1 As stated in the body of the report, the Council may make a request to the Secretary of State for the power to enforce offences under the Traffic Management Act 2004 and also apply to enforce the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005. The process for making the application for approvals and the required consultation and engagement is set out in the body of the report.

8. Human Resources Advice and Implications

- 8.1 There are no human resources implications arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 There are no specific implications for children, young people and vulnerable adults arising directly from the feasibility work. However, as highway users that are more likely to travel as pedestrians, the enforcement of moving traffic offences can be considered to benefit these groups where they are exposed

to the risks of collision should enforcement not occur, enforcement of moving traffic offences benefits all road users on this basis.

10. Equalities and Human Rights Advice and Implications

- 10.1 An Equalities Assessment has been completed for this report and is attached at Appendix 4. This report relates to initial feasibility work, as part of that consultation, the Council will seek views across the community in accordance with Council policy and will seek to identify if there are any potential equality implications arising from the proposals.

11. Implications for CO2 Emissions and Climate Change

- 11.1 None at this stage as there is no specific travel to sites or other carbon emitting activity explicitly associated with the feasibility study. The report relating to this seeks approval only for feasibility work. If approved further work will include assessment of the carbon impact implications of introducing moving traffic enforcement powers.
- 11.2 A Carbon Impact Assessment has been completed for this report and is attached at Appendix 5. It identifies the key areas of further assessment that will be needed as an example should this work proceed to implementation.

12. Implications for Partners

- 12.1. Consultation with key partners is identified in sections 2.3 and 4.2 above.

13. Risks and Mitigation

- 13.1 There is a risk that without Designation of these powers, South Yorkshire Police will focus on their core responsibilities and may become less focused on the enforcement of moving traffic offences particularly if legislation becomes available for others to be able to enforce. Without the ability to enforce such restrictions it may adversely affect overall network management with the potential for more road traffic collisions, more congestion and reduced journey time reliability for public transport.

14. Accountable Officers

Andrew Butler, Senior Engineer

Andrew Moss, Interim Head of Transport Infrastructure Service

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	28/01/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	26/01/22
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	26/01/22

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