

## **Q&A for Local Authorities on Part 6 Powers**

### **When are the regulations coming into force?**

The regulations are planned to be laid before Parliament in late-January to come into force by the end of March 2022, after which councils can apply for moving traffic enforcement powers.

### **When can local authorities apply?**

DfT will be receiving applications from Local Authorities in early February 2022. Depending on initial take-up, it is likely that Designation Orders will need to be delivered in tranches. Applications will need to be considered by DfT and the Designation Order will need to go through the usual drafting and legal checking process. Subject to these factors and the programme of parliamentary business, DfT aims to lay the first Designation Order in late-spring 2022.

### **Is there a strict requirement for full six-week public engagement or could this be shortened, or still be in train when applying?**

Ministers expect the prerequisites outlined in the August 2021 Advice Note to already have been met before any application is made. A shortened, or incomplete, engagement exercise will therefore not be acceptable.

### **When should I begin consultation?**

Although the details of the MTE powers are still to be approved by Parliament, there is no reason why authorities cannot begin preparation for consultations. However, the uncertain timescales and the possibility of their application being delayed in an initial rush of applications means that expectations will need to be carefully managed.

### **What should public engagement include?**

This should be on the detail of planned enforcement, including the types of restrictions to be enforced and the location(s) in question. This is not about seeking views on the principle of moving traffic enforcement or whether people agree with local authorities applying.

### **Are local authorities expected to advertise in the local press?**

There is no requirement for newspaper advertising.

### **Why are local authorities required to engage with the public?**

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.

### **What are the likely objections to be?**

We would anticipate valid objections to relate to road or junction layout, or the co-location of multiple restrictions, making it difficult to comply.

### **Do authorities need to list their intended enforcement sites in their application?**

Local authorities will not need to list the sites where they intend to implement Part 6 powers in their application. (They will simply have to confirm that they have followed the required process for all sites they intend to implement.)

### **Can local authorities apply for designation of the Part 6 powers and decide later where to implement them?**

No. It is expected that local authorities will have identified specific traffic signs/locations where they intend to begin camera enforcement, for which they will need to satisfy the prerequisites contained in the applications Advice Note. Once a council area has been designated, by Order, with moving traffic enforcement the powers the council will be able to enforce other traffic signs/locations within that designated area, at a future date, subject to satisfying the prerequisites in the Advice Note. They will not need to apply for a further Designation Order.

## Do local authorities have to apply if they want to add further enforcement sites after designation has been granted?

No. There will be no need to make any further applications to DfT. However, for future enforcement sites Statutory Guidance will require local authorities to take the same steps as those set out in the application process.

## Do local authorities need to audit all TROs and traffic signs (within the area for which they are applying for a Designation Order)?

No. As part of their application process, local authorities will only be expected to review those TROs and traffic signs / road markings that are directly applicable to the moving traffic restrictions they plan to enforce.

## When should local authorities issue warning notices?

Statutory guidance will state that, to promote compliance by helping motorists understand the seriousness of moving traffic contraventions, for a period of six months following implementation of enforcement of moving traffic contraventions, at each particular camera location, local authorities outside London should issue warning notices for first-time moving traffic contraventions. The warning notice should set out the six-month period and advise that any further moving traffic contravention at the same camera location would result in the issue of a PCN.

Although outside the scope of this statutory guidance, within London where moving traffic contraventions have been enforced for many years, local authorities are expected to issue warning notices for first-time contraventions of driving in mandatory cycle lanes and 'buses prohibited' contraventions (becoming civilly enforceable in London for the first time) when they occur within six months from when enforcement commences in practice.

## What else will local authorities need to do to prepare?

The forthcoming regulations will bring together the existing civil enforcement regimes for parking and bus lane contraventions alongside the new moving traffic enforcement powers. All local authorities already undertaking civil enforcement of parking contraventions (including London authorities) and bus lane contraventions will therefore need to ensure their IT systems reflect the below regulations in their PCNs and other statutory notices, with effect from 31<sup>st</sup> March 2022. PCNs and other statutory notices sent to members of the public after this date should not make reference to the old 2007 regulations.

- 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.

Local authorities will also need to be ready to amend their IT software to reflect the increased penalty levels for bus lane contraventions outside London below. **It should be noted that these penalty levels remain subject to Parliamentary approval at this stage:**

Band	Penalty charge	Penalty charge paid early	Penalty charge paid after service of charge certificate
1.	£60	£30	£90
2.	£70	£35	£105

It should also be noted that statutory response times in respect of representations and appeals against bus lane PCNs will be aligned with those existing for civil parking enforcement.

## **What will be the process to apply for bus lane enforcement powers when this comes under MTE?**

Bringing the bus lane regime under the TMA reverses a relaxation introduced by the Deregulation Act 2015, which allowed Ministers to designate bus lane powers by means of notice (in practice by sending a letter) instead of an order. This relaxation was not applied to the bus lane enabling powers in the TMA so any future designation would need to revert to order-making. However, councils that already have bus lane enforcement powers will not need to reapply under the new legislation.

## **Can MTE powers be used for experimental TROs?**

ETROs relating to any of the traffic signs in listed Schedule 7 to the TMA will be enforceable under MTE.

**On-street Parking Policy  
Traffic & Technology Division  
Department for Transport  
December 2021**