

Committee Name and Date of Committee Meeting

Delegated Officer Decision – 10 November 2022

Report Title

Traffic Management Act 2004 Application for Moving Traffic Enforcement powers – Consultation

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

No

Strategic Director Approving Submission of the Report

Paul Woodcock, Strategic Director of Regeneration and Environment

Report Author(s)

Andrew Moss, Interim Head of Transport Infrastructure
andrew.moss@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

Rotherham Metropolitan Borough Council has the opportunity to apply for new civil powers to enforce moving traffic regulations under Part 6 of the Traffic Management Act 2004 (TMA) that will allow it to enforce certain types of moving traffic restrictions. Current Government guidance requires a six-week public consultation for the sites involved prior to an application being made to Designate these powers to the Council. This report sets out proposals for that consultation and seeks approval to commence.

Recommendations

1. That approval be granted for commencement of public consultation as detailed in sections 2 and 4 of this report.

List of Appendices Included

Appendix 1 Initial Equalities Screening Assessment (Part A)
Appendix 2 Carbon Impact Assessment

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Cabinet – 14 February 2022

Council Approval Required

No

Exempt from the Press and Public

No

Traffic Management Act 2004 Application for Moving Traffic Enforcement powers – Consultation

1. Background

- 1.1 The Government has committed to make moving traffic enforcement powers available to local authorities outside London, under Part 6 of the Traffic Management Act 2004. This gives the Secretary of State regulatory powers to authorise individual Transport Authorities the ability to undertake the civil enforcement of moving traffic offences to reduce congestion and improve air quality, whilst promoting active travel by removing vehicles from areas such as cycle lanes and pedestrianised areas.
- 1.2 The aim is to create a cohesive civil enforcement regime that removes numerous inconsistencies to enable more efficient administration of the regulations contained in the Traffic Management Act 2004, Part 6.
- 1.3 In February 2022 Cabinet gave approval for feasibility work to be carried out to identify sites which could benefit from enforcement and to engage with all relevant stakeholders prior to considering submission of an application to Government for Designation of the relevant powers.

Should the Council be granted the regulatory powers by the Secretary of State to undertake the civil enforcement of moving traffic offences, South Yorkshire Police (SYP) will still retain the power to enforce contraventions where they consider the need remains appropriate.

2. Key Issues

- 2.1 Where locations are identified for inclusion in the submission to the Department for Transport (DfT), the Council must have undertaken consultation with road users and members of the public in the vicinity of those locations. This is a requirement of the Government's guidance, to ensure there isn't anything else that could be done to enable road users to be more compliant, for example by improving road layouts or traffic signs before enforcement measures are introduced.
- 2.2 As moving traffic offences are defined within Road Traffic Legislation, Government guidance requires that the Council undertakes a 6-week consultation with road users and members of the public in the vicinity of those locations. A key element of the guidance is that consultation should focus on the approach taken rather than whether or not the enforcement is supported. The aim of the consultation is to ensure there isn't anything else that the Council could have done to enable road users to be more compliant, for example, changing road layouts or improving traffic signs before enforcement measures are introduced.
- 2.3 Local authorities are advised to consider the full range of media available to them when communicating with the public, including websites, local press, and social media. The Council's communications team is supporting development of the consultation media.

2.4 Any online engagement or consultation materials should comply with the Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018 to ensure they are accessible to disabled people. Consultation work will be carried out in liaison with the Council's communications team.

2.5 Due to the limitations of time for submission of applications for Tranche 2 by 13th of January 2023 . To ensure the 6-week consultation can be undertaken within appropriate time frames, a delegated approval is required to consult on the sites identified below. Once approved, consultation will commence from Friday the 11th of November 2022 and close on or soon after 23rd December 2022. Analysis of the results of the consultation will then be considered prior to any application to Government.

2.6 Sites identified for initial application of TMA Part 6 powers

Location	Enforcement requirement
Bridgegate	Vehicle access restrictions
High Street	Vehicle access period
Clifton Lane	Banned Left Turn - from Clifton Lane into Doncaster Gate
Clifton Lane	Banned Left Turn - from Doncaster Road into Clifton Lane
Sheffield Lane	No Entry
Wood Lane	Bus Gate

2.7 The consultation process will include: -

- Advertisement to be printed in the Rotherham Advertiser and for the Council's website to have details of the project and links to a response form.
- letter drop residents and businesses within a reasonable distance of potential enforcement sites, setting out details of the project with a response form for returning.
- webpage containing details of the proposals together with a response form (the web response form will be made live after the launch of the consultation).
- Issue of an RMBC Press Notice
- Where practical, engagement will also take place with local community groups.
- Consultation with Statutory Consultees such as Emergency Responders, Trade Bodies.

2.8 When undertaking consultation, the DfT has indicated that local authorities are not required to seek the views of the public on whether they agree with the principle of moving traffic enforcement. The consultation instead is to communicate the rationale and benefits of moving traffic enforcement to help promote compliance and to provide the public with the opportunity to raise any concerns.

3. Options considered and recommended proposal

- 3.1 Option 1: Do not apply to DfT for the powers to undertake the civil enforcement of moving traffic offences and leave enforcement of this to the Police who have limited resources to deal with these issues and who cannot enforce the restriction 24/7.
- 3.2 Option 2: Carry out a borough-wide assessment process to identify all locations on the network. This is considered to be unnecessary as DfT has indicated that, once granted, authorities will not be required to apply again to government but will hold the relevant enforcement powers in perpetuity.
- 3.3 Option 3: Apply to government for the drawing down of the relevant enforcement powers which will allow RMBC parking services to implement an updated parking and moving traffic enforcement policy, and for Transport Infrastructure Service to carry out the required groundwork as specified in section 2. The aim would be for a tranche 2 submission with locations identified following the completion of the consultation process.

4. Consultation on proposal

- 4.1 The following organisations and stakeholders have been engaged with 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
- 4.2 An important factor that will need to be discussed, is that, as SYP will retain the ability to enforce restrictions, in the unlikely event that a motorist gets a Penalty Charge Notice from RMBC and a Fixed Penalty Notice from the police for the same contravention, then Police enforcement would take precedence.
- 4.3 Where locations are identified for inclusion in the application documents to DfT, the Council must have undertaken consultation with road users and members of the public in the vicinity of those locations, this is a requirement of the government's guidance, to ensure there isn't anything else that could be done to enable road users to be more compliant, for example by improving road layouts or traffic signs before enforcement measures are introduced.
- 4.4 Government guidance requires that the Council undertakes a 6-week 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. The review of the application from the DfT will focus on the approach taken to consulting with the public rather than, whether or not the enforcement is supported. This is a requirement of the government's guidance to ensure there isn't anything else that RMBC could have done to enable road users to be more compliant, for example, changing road layouts or improving traffic signs before enforcement measures are introduced.

5. Timetable and Accountability for Implementing this Decision

- 5.1 Consultation is set to take place to the 23rd December 2022. Comments and feedback from the consultation will be used to inform the content of a potential Council application to the Department for Transport.
- 5.2 If approved, in January 2023 a Delegated Officer Decision will be presented for approval that takes account of consultation feedback prior to submission of the Council's application to the Department of Transport for Designation of the requisite powers.

6. Financial and Procurement Advice and Implications

- 6.1 There are no financial implications for this consultation as feasibility costs are funded from existing Transport Infrastructure budgets. Should the legal powers being considered be granted to the Council by Government, the costs of delivering any future schemes would be funded from Capital following a request for funding for each scheme.

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.
- 7.2 The process for making the application for approvals and the required consultation and engagement is set out in the body of the report and the previous report to Cabinet. The consultation proposed in this report is an important part of the process required to be followed by the Council in order to apply for the power to enforce the relevant offences.

8. Human Resources Advice and Implications

- 8.1 There are no human resources implications arising from this report.
- 8.2 This scheme will be delivered using existing staff resources within the Transportation and Highways Design Service within Planning, Regeneration and Transportation. Specialist consultants will be used where required.

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, enforcement of moving traffic offences across the borough can be considered to benefit these groups as it should stop poor driver behaviour at certain junctions, crossings, cycle facilities, out-side schools and in pedestrian areas, which these groups of people use most frequently when moving around the borough.

10. Equalities and Human Rights Advice and Implications

- 10.1 An Equalities Assessment has been completed for this report and is attached at Appendix 1. There are no potential equality implications arising from the proposals. The scheme should in-fact improve the roads in Rotherham for all road users.

11. Implications for CO2 Emissions and Climate Change

- 11.1 If Rotherham gets the powers to enforce the moving traffic offences, this should reduce the CO2 emissions in the borough as the equipment is proposed to stop inappropriate behaviour as it is rolled out across the borough, as more sites are added to address issues such as the blocking of junction that in-turn increase pollution due to the build - up of congestion.
- 11.2 A Carbon Impact Assessment has been completed for this report and is attached at Appendix 2.

12. Implications for Partners

- 12.1. Consultation with key partners is identified in sections 2 and 4 above. A further beneficial impact of effective moving traffic enforcement will be reduced congestion and therefore delay for all vehicle types, but especially public transport and heavy goods vehicles supplying industry.

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 due to their limited resources as they cannot afford to monitor and enforce the restriction 24/7 and without the council having the ability to enforce such restrictions it may adversely affect overall network management with the potential for more road traffic collisions, congestion and reduced public transport journey time reliability.

14. Accountable Officers

Andrew Moss, Interim Head of Transport Infrastructure Service

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	Click here to enter a date.
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger (RY)	11/11/22
Head of Legal Services (Monitoring Officer)	Stuart Fletcher	11/11/22

Report Author: Andrew Moss,
Interim Head of Transport Infrastructure Service
Andrew Moss, Interim Head of Transport Infrastructure

andrew.moss@rotherham.gov.uk This report is published on the Council's [website](#).