

Committee Name and Date of Committee Meeting

Cabinet – 19 December 2022

Report Title

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

In August 2021, the Department for Transport (DfT) announced the opportunity for local authorities to apply for powers to enforce moving traffic offences. In February 2022, Cabinet agreed to undertake further work, and this report provides an update on the progress of investigatory works to ascertain whether the Council wishes to apply to DfT to secure the powers.

The report outlines the requirements to undertake the enforcement of moving traffic offences and seeks approval to delegate the submission of the Council's application for powers to the Strategic Director for Regeneration & Environment, in consultation with the Cabinet Member for Transport and Environment, following completion of the current public consultation.

Recommendations

1. Subject to the current public consultation, that Cabinet authorises the Strategic Director for Regeneration & Environment, in consultation with the Cabinet Member for Transport and Environment, to submit the Council's application to the Department for Transport for powers to enforce moving traffic offences under Part 6 of the Traffic Management Act (TMA) 2004.

List of Appendices Included

- Appendix 1 TMA 2004 Part 6 2022 Advice Note Update
- Appendix 2 Equalities Assessment
- Appendix 3 Carbon Impact Assessment

Background Papers

- Cabinet meeting – 14 February 2022 Traffic Management Act part 6 – Feasibility work needed to consider the invitation from the Department for Transport to have the ability to enforce moving traffic offences under Part 6 of the Traffic Management Act 2004.
- Delegated Officer Decision – 27 May 2022 Approval for amendment to the Consolidated Traffic Order 2011 following changes to Part 6 of the Traffic Management Act 2004
- 71 RT 22 - Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions)
- 576 RT 22 - Civil Enforcement of Road Traffic Contraventions (Representations and Appeals)
- 852 AR 18 – The Public sector bodies (Websites and mobile applications) Explanatory Memorandum
- An Example Council's updated Parking and MTE policy

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Cabinet 14th February 2022

Council Approval Required

No

Exempt from the Press and Public

No

Application for Moving Traffic Enforcement Powers (Traffic Management Act part 6)

1. Background

- 1.1 In Rotherham the sole responsibility for enforcement of moving traffic offences currently rests with South Yorkshire Police (SYP).
- 1.2 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 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. The offences that these powers cover are shown in Appendix 1.
- 1.3 The regulations were laid before Parliament on 27th January 2022 and introduced on 31st May 2022. In making these powers available, the legislative opportunity has been taken to consolidate the existing civil enforcement regimes for parking restrictions, which the Council does carry out, and the civil enforcement of bus lane contraventions which it does not currently undertake.
- 1.4 The aim is to create a cohesive civil enforcement regime that removes numerous inconsistencies to enable more efficient administration of the regulations under The Traffic Management Act 2004, Part 6 (see Appendix 1).
- 1.5 Should the Council apply and be granted the regulatory powers by the Secretary of State to undertake the civil enforcement of moving traffic offences, SYP will still retain the power to enforce contraventions where they consider the need remains appropriate.

2. Key Issues

- 2.1 The responsibility for the enforcement of moving traffic offences currently rests with SYP as a criminal enforcement body. Should the Council secure Ministerial approval for the Designation of the relevant powers it would become responsible for this enforcement duty, with SYP retaining the ability to enforce.
- 2.2 The Council's Parking services would be required to develop and implement a new parking and moving traffic enforcement policy that covers the regulations introduced on 31st May 2022. The updated policy would need to consolidate the existing civil enforcement policies and processes for parking restrictions and the civil enforcement of bus lane contraventions with the new restrictions introduced in the Moving traffic offences legislation. This would need to include details of how the Council would charge the public for contraventions that are captured on camera and how the public can appeal these penalties.

2.3 A review and update of the Council's existing GDPR policy (which governs data protection) would also be required to support the introduction and use of camera enforcement throughout the borough to deliver the new parking and moving traffic enforcement policy.

2.4 As part of the application process, DfT requires all authorities who wish to enforce such restrictions to;

1. Identify areas on their network where camera enforcement of contraventions would be beneficial.

Comment: in common with other authorities' approach the Council would seek to secure legislative approval for the borough by submitting a small number of sites to the DfT.

2. Ensure all moving traffic restrictions to be enforced are underpinned by accurate Traffic Regulation Orders (TROs).

Comment: Sites selected by the Council would have their TROs reviewed for accuracy and any issues identified. Any errors or omissions will be rectified before enforcement commences.

3. Carry out a review of the associated traffic signs and road markings for each site is required to check the sites are compliant prior to enforcement.

Comment: All sites to be included in the Designation Order will be inspected, and where improvements in the signing and lining are identified these will be completed before enforcement starts.

4. Ensure all the relevant equipment has been certified by the Vehicle Certification Agency specifically for moving traffic contraventions.

Comment: DfT approved equipment will be acquired through a tendering process, and this will stipulate that equipment must be certified for moving traffic contraventions by the Vehicle Certification Agency.

This process will not begin until the Council has received the enforcement powers from the Secretary of State.

5. Consultations with key partners and the community must be undertaken in line with the Department for Transport.

Comment: This will be done as specified in section 4 and will take place at all future sites identified for application of these powers. This is a mandatory requirement of the regulations.

2.5 Sites identified for initial application of TMA Part 6 powers

With regard to point 1 of section 2.5 above, investigatory work to date has identified the following five sites as meeting the criteria set by DfT for the Designation of moving traffic enforcement powers to be granted.

Location	Enforcement requirement
Bridgeway (Town Centre)	Vehicle access restrictions
High Street (Town Centre)	Vehicle access period
Clifton Lane	Banned Left Turn - from Clifton Lane into Doncaster Gate;
	Banned Left Turn - from Doncaster Road into Clifton Lane
Sheffield Lane, Catcliffe	No Entry
Wood Lane, Brinsworth	Bus Gate

- 2.6 The enforcement of moving traffic offences requires the use of approved camera technology and software. This will be compatible with Parking Services current system; *Parking 3Sixty* from Imperial Civil Enforcement Solutions.
- 2.7 Currently the costs associated with these tasks are unknown but other authorities have specified costs of between £15,000 and £25,000 and up to £700 per month to operate and maintain, with some sites and types of restrictions needing more than one camera for effective enforcement which will increase the cost of a site further. There are also additional costs associated with dealing with representations against Parking Charge Notices (PCNs) and adjudication.
- 2.8 Further work will be required from Parking Services to ascertain how these new systems, policies and procedures will be integrated with existing operational services.
- 2.9 **Application of TMA Part 6 powers to other sites.**
If the Council applies and it is approved by the DfT and RMBC have received the enforcement powers from the Secretary of State, the roll out of enforcement to new sites will not require RMBC to seek further approval from the DfT. It should be noted the same site reviews and consultation processes will need to be followed and a review will need to be undertaken with the Department for Transport to assess the impact on local roads with regards to the powers to enforce moving traffic contraventions after five years following the legal powers (Statutory Instrument) coming into force.

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 3 submission with locations identified following the completion of the consultation process. This is the recommended option.

4. Consultation on proposal

- 4.1 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 for the locations in paragraph 2.5.
- 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 the locations referred to in section 2.6, 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.

5. Timetable and Accountability for Implementing this Decision

- 5.1 Consultation began on 11th November 2022 and will end on or soon after 23rd December 2022. Comments and feedback from the consultation will be used to inform the content of the Council's application to the Department for Transport.

- 5.2 If approved, in January 2023 a Delegated Officer Decision will be presented for consideration 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 Additional cost will be borne by the Council when it gains powers to enforce moving traffic offences. The estimated costs associated with these tasks are unknown but comparable Councils have indicated costs of between £15,000 and £25,000 and up to £700 per month to operate and maintain. The funding will be found from the matched income recoverable from enforcement activity.
- 6.2 Whilst there are no direct procurement implications arising from the recommendation to submit the Council's application, the procurement of equipment as noted at 2.7 must be undertaken in compliance with the Public Contracts Regulations 2015 (as amended) and the Council's own Financial and Procurement Procedure Rules.

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 appropriate process and the required consultation for making the application for approvals is set out in the body.

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, 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 2. There are no potential equality implications arising from the proposals. The scheme should in-fact improve the roads in Rotherham for all road users.

10.2 A detailed Part B Equalities impact assessment has been completed to highlight how the consultation will obtain views from a wide range of residents and how communication will be tailored to different protected characteristics groups.

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 3.

12. Implications for Partners

12.1 Consultation with key partners is identified in section 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

Richard Pardy, Engineer

Andrew Moss, Interim Head of Transport Infrastructure Service

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	02/12/22
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	01/12/22
Assistant Director of Legal Services	Phil Horsfield	01/12/22

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