

Brighton & Hove City Council

Environment, Transport & Sustainability Committee

Agenda Item 31

Subject: Moving Traffic Offences

Date of meeting: 20th September 2022

Report of: Executive Director Economy, Environment & Culture

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 It is now possible to apply for powers to enforce Moving Traffic Offences as the government has provided the powers by enacting part 6 of the 2004 Traffic Management Act (TMA). This specific part of the TMA was not brought into force and the Local Government Association conducted a survey where 90% of Local Authorities expressed interest in applying for the powers. The government then pledged to commit to the provision of the powers, which it did on 31st May 2022.
- 1.2 This report seeks to set out the specific powers that would be of benefit to the authority and why the initial sites have been chosen. It also seeks approval to conduct the necessary consultation as set out in the Statutory Guidance and to formally apply for the powers.

2. Recommendations

- 2.1 That Committee approve that a consultation, as set out in the statutory guidance, is conducted indicating the powers that will be sought and the rationale for the application.
- 2.2 That the authority is delegated to the Executive Director for Economy, Environment & Culture to consider the consultation responses and apply for the powers if they consider it appropriate.

3. Context and background information

- 3.1 Currently the Police have the responsibility for enforcing traffic restrictions and due to the need to prioritise focus on threats to life and limb, this results in traffic issues falling behind the wide range of other pressures.

3.2 The 2004 Traffic Management Act while including the specific part of the act (part 6) to devolve a range of powers to Local Authorities to enforce using technology did not enact the secondary legislation to enable this to happen.

3.3 From the 31st of May 2022 it is now possible for Local Authorities to apply for the powers including:-

- incorrectly driving into a bus lane (currently enforcement of bus lanes is carried out under the regulations in the Transport Act 2000)
- stopping in a yellow box junction
- banned right or left turns
- illegal U-turns
- going the wrong way in a one-way street
- ignoring a [Traffic Regulation Order](#) (TRO)

3.4 Statutory guidance has been released that sets out how the powers can be applied.

In detail:-

- The LA will have consulted the Chief Officer of Police
 - Carried out a minimum 6 week public consultation on the detail of planned civil enforcement of moving traffic contraventions (rather than whether people agree with the principle of moving traffic enforcement), including the types of restrictions to be enforced and the location(s) in question
 - Considered all objections raised and has 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
 - Any additional enforcement locations in the future will have to follow the same steps with consultation, consult the Chief Police Officer and consider any objections raised. However, it will not be necessary to seek further approval from the Secretary of State for additional enforcement locations
 - Local authorities are not required to enforce every sign or marking; instead, enforcement should only be used to target problem locations. At any location where it is considered that contraventions could be avoided by reasonable improvements to the highway or to traffic signing, such improvements should be made, and appropriate monitoring carried out before enforcement action is considered
 - Charge levels are set in the legislation and the public must know the levels that will be set
- 3.5 Once the powers are provided new technology will have to be procured and a full review of the resources needed to ensure that it is possible to issue the penalty charges, carry out reviews, and deal with any appeals.
- 3.6 This means that it is expected that actual enforcement would not commence with the first stage of issuing warnings as set out in the guidance until the Autumn of 2024.

- 3.7 Any roll out would focus on strategic routes and safety issues in the first instance as a trial. This will allow the council to reduce congestion and improve safety on these key routes. It will also enable an assessment of the income produced to ensure that the service is not put at risk of not generating sufficient income to pay for the service. It is acknowledged that implementing enforcement at school streets is challenging as many exceptions are allowed in the traffic orders so actually managing who has access is time consuming and challenging. At school streets a list has to be held that will allow those who can enter the ability to do so, but this is very time consuming and resource intensive managing the white list (the list of vehicles that are able to enter the street legally).
- 3.8 School streets are a priority for encouraging active travel and making roads outside schools safe for children.

4. Analysis and consideration of alternative options

- 4.1 The powers will be sought for the following sites in the initial phase.

Offence	Locations	Rationale
Banned turning movement	Lewes Road Junction with Upper Lewes Road – Brighton (existing CCTV camera) Ditchling Road junction with Union Road – Brighton (existing CCTV camera) Ditchling Road junction with Preston Drove – Brighton (existing CCTV camera)	All these junctions suffer from vehicles travelling through pedestrian crossing facilities when they are not allowed. The vehicles ignore the signing and ignore the banned movement. All the sites have been reviewed and have had signing changed, but the data shows it is still occurring. Enforcement would enable this problem to be tackled.
Yellow Box Junctions	Old Shoreham Road junction with New England Road – Brighton (existing CCTV camera)	This junction suffers from vehicles ignoring the road marking leading to increased delays.
Traffic prohibitions	Church Street junction with Mount Zion Place – Brighton (New ANPR camera) Hampton Place junction with Hampton Street - Brighton (New ANPR camera) East Street Brighton (existing CCTV camera)	All these sites have had signing reviews, but still suffer from vehicles ignoring the prohibitions. The council receives many complaints. The data indicates the extent of the problem.

School Streets	Downs Junior school Hove Junior school (School Road site) Queen's Park Primary school Brunswick Primary school Westdene Primary school St Luke's Primary school (all new ANPR cameras that will be moved and installed at each site for a period to be determined. Likely to be managed using 2 cameras)	Many schools in the city suffer from vehicles rat running to avoid congested routes when children are starting their day. Many schools are located on residential streets and many of these vehicles could keep to the main routes in the city. Signing on its own has proven to be ineffective at most sites and while stewards (volunteers or school staff) operating bollards or gates does resolve the problem, it does rely on the good will of the community long term. There can be challenges with this due to numbers of volunteers/staff required to safely operate a road closure twice a day during the school term and a natural churn in volunteers therefore requiring ongoing recruitment by the school. Enforcement using cameras would provide an effective deterrent to the problem and are widely used by London authorities to deliver School Streets.
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4.2 Not applying for the powers increases the safety risk for pedestrians using the various junctions and school streets and increases congestion at sites where delays occur due to poor driver behaviour.

4.3 The Police treat traffic offences as a low priority focusing on risks to life and limb so many traffic restrictions are ignored.

5. Community engagement and consultation

5.1 A consultation in accordance with the statutory guidance will be carried out on the specific powers applied for and the initial sites selected.

6. Conclusion

6.1 The Police do not have sufficient resources to tackle the problems of traffic restriction abuse and it undermines the effectiveness of putting in restrictions that often protect pedestrians and cyclists.

6.2 The powers do provide a method of enforcement to finally tackle some of the issues faced by many people in the city.

7. Financial implications

7.1 The cost of the consultation can be covered from existing revenue budgets.

7.2 If the consultation results in an application to introduce the powers, it is anticipated that the income generated from the introduction of these measures would fully pay for both implementation and ongoing revenue to support the service for moving traffic offences. The traffic restrictions would be enforced using technology and any penalty charges issued would be

retained by the council to support the service Focus will be on strategic routes and safety measures in the first instance to understand how much income is achieved before moving onto School streets where it is likely the cost of enforcing exceeds the income generated as demonstrated by London Boroughs who have implemented camera enforcement. Existing CCTV cameras will be used where possible and ANPR cameras can be procured for the sites identified in the report. The use of technology will allow full assessment of potential income and therefore the implications for the revenue budget. It is estimated that the revenue budget implications will be neutral. The initial procurement will be funded through a spend to save approach.

Name of finance officer consulted: Jill Scarfield Date consulted (23/08/22):

8. Legal implications

- 8.1 The powers that enable local authorities outside London to apply to enforce moving traffic offences were introduced under The Traffic Management Act 2004 (Commencement No. 10 and Savings and Transitional Provisions) (England) Order 2022, which brought into force the relevant provisions of the Traffic Management Act 2004 as from 31 May 2022.
- 8.2 Section 87 of the 2004 Act provides for statutory guidance to be published regarding the civil enforcement of traffic contraventions and states that local authorities must have regard to the guidance when exercising that function. Statutory Guidance regarding moving traffic offences was published on 31 May last and this requires the consultation, to which this report refers, to be carried out

Name of lawyer consulted: Hilary Woodward Date consulted (18/08/22):

9. Equalities implications

- 9.1 Any traffic restrictions with exceptions for anyone with a disability would have to have a system included to allow them access as they do now.

10. Sustainability implications

- 10.1 None

