

COUNCIL

20TH SEPTEMBER 2017

MOVING TRAFFIC OFFENCE ENFORCEMENT POWERS

Executive Board Recommendations:

1. that the report on the Moving Traffic Offence Enforcement Powers be received;
2. An application be made to the Welsh Assembly Government for the creation of an Order to designate certain streets in Carmarthenshire as a 'Civil Enforcement Area' for bus lane and moving traffic contraventions.
3. Delegation of authority to the Director of Environment to proceed with the measures necessary to give effect to the proposals set out in this report.
4. Liaison with PATROL-UK, the statutory body providing the independent adjudication service, to determine whether any amendments to the current contractual arrangements are required and to effect any such changes. This applies equally to other statutory bodies, such as DVLA and the Traffic Enforcement Centre.
5. To approve the proposals for funding the set up costs from the Development Fund as outlined in the Financial Implications.
6. The Director of Environment to investigate the feasibility of using fixed camera devices as alternative to vehicle mounted camera devices.

Reasons:

The County Council continues to field concerns regarding parking and traffic movements at a number of sensitive sites. The concerns mainly relate to the safety of the public and loss of amenity due to vehicles being parked at these sites. The parked vehicles obstruct the free movement of pedestrians and traffic, cause congestion and pose a safety risk.

Relevant scrutiny committee to be consulted: NO

Exec Board Decision Required: YES

Council Decision Required: NO

EXECUTIVE BOARD MEMBER PORTFOLIO HOLDER:-

Councillor Hazel Evans (Environment)

Directorate: Environment

Name of Head of Service:
S.G.Pilliner

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Designations:

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EXECUTIVE SUMMARY

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MOVING TRAFFIC OFFENCE ENFORCEMENT POWERS

The County Council continues to field concerns regarding parking and traffic movements at a number of sensitive sites. The concerns mainly relate to the safety of the public and loss of amenity due to vehicles being parked at these sites. The parked vehicles obstruct the free movement of pedestrians and traffic, cause congestion and pose a safety risk.

Whilst the County Council; has implemented a Traffic Regulation Order to regulate the movement of traffic around such sites, enforcement relating to a contravention of such an Order can only effectively be undertaken by the Police. To date, due to pressure on Police Resources, it has been difficult to achieve a level of enforcement to resolve the ongoing concerns.

The sensitive sites concerned are located in Town Centres i.e. Nott Square & Guildhall Square Carmarthen, Quay Street Ammanford, various school sites and a bus lane at Trostre retail park.

Ongoing dialogue has proved constructive. Enforcement activity has increased in recent weeks, particularly at Nott Square, Carmarthen and Quay Street Ammanford. There is however a need to explore a more permanent solution if the problem is to be addressed.

Powers have been made available to local authorities in Wales which allow authorities to enforce bus lanes and certain moving traffic contraventions. The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 enables (subject to consent) local authorities to take responsibility for enforcement of bus lanes and some moving traffic contraventions. Enforcement of such offences is undertaken through the use of approved camera devices.

This report seeks approval for :

1. An application to be made to the Welsh Assembly Government for the creation of an Order to designate certain streets in Carmarthenshire as a 'Civil Enforcement Area' for bus lane and moving traffic contraventions.
2. Delegation of authority to the Director of Environment to proceed with the measures necessary to give effect to the proposals set out in this report.
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DETAILED REPORT ATTACHED

YES

1. INTRODUCTION AND BACKGROUND.

The County Council continues to field concerns regarding parking and traffic movements at a number of sensitive sites. The concerns mainly relate to the safety of the public and loss of amenity due to vehicles being parked at these sites. The parked vehicles obstruct the free movement of pedestrians and traffic, cause congestion and pose a safety risk.

Whilst the County Council; has implemented a Traffic Regulation Order to regulate the movement of traffic around such sites, enforcement relating to a contravention of such an Order can only effectively be undertaken by the Police. To date, due to pressure on Police Resources, it has been difficult to achieve a level of enforcement to resolve the ongoing concerns.

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This report provides information that acquiring these additional powers will complement the current parking enforcement powers and will provide a greater resource to assist the movement of people and goods, keep school sites safer and generally keeping traffic moving.

2. PROCESS.

The County Council must apply to the Wales Government to seek consent for use of the statutory powers. The powers applied for would cover those streets as set out in Appendix 1 of this report.

Part 6 of the Traffic management Act 2004 ('the 2004 Act') provides power to the 'appropriate national authority' (in Wales, the Welsh Ministers') to make regulations for the civil enforcement by local authorities of road traffic contraventions. The road traffic contraventions that may be subject to civil enforcement are:

1. Parking contraventions
2. Bus lane contraventions, and
3. Some moving traffic contraventions.

The Wales Government has made the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 (hereinafter called "the 2013 Regulations"), which enables (subject to consent) local authorities to assume responsibility for enforcement of bus lanes and some moving traffic contraventions.

Provisions relating to civil enforcement of parking, bus lanes and moving traffic offences have been consolidated through a package of statutory instruments. The 2013 Regulations should be read in conjunction with:

- The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013
- The Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) Removed Vehicles (Wales) Regulations 2013
- The Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013
- The Civil Enforcement of Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013.

The process of application requires the authority to explain how all associated costs will be met and to provide evidence of consultation with interested parties.

The financial model detailing the costs to obtain and operate the new enforcement technology and support systems, along with associated set up costs, is set out in Appendix 3 of this report. The level of charges applied are prescribed under see The Civil Enforcement of Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013. The 2004 Act , Road traffic Regulation Act 1984 and the 2013 Regulations makes detailed provision, amongst other things, as to the requirement to keep separate income and expenditure accounts for each type of contravention and of significance specifies how surplus income may be applied.

It is intended that a letter will be sent to specific consultees detailed in Appendix 2 indicating that the Council is considering applying for these powers and inviting comments accordingly. The Council's media and marketing team will be engaged for this project.

In parallel with the application process itself, there are a number of legal and practical activities which will need to be undertaken so that all aspects are in place before the scheme is operational.

The Wales Government has indicated that it requires a minimum of 5 months to process a formal application through its own legal administrative cycle. The Welsh Ministers are under a statutory duty to consult the appropriate Chief Police Officer before making any designation orders to create a civil enforcement area. Dyfed Powys Police will continue to have a role in the enforcement of bus lane and the full range of moving traffic offences.

3. RECOMMENDATION(S)

This report seeks approval for:

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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: S.G.Pilliner

Head of Highways and Transport

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
YES	YES	YES	YES	YES	YES	YES

1. Policy, Crime & Disorder and Equalities

The proposal is consistent with following Objectives as set out in the Joint Transport Plan for South West Wales.

- To implement measures which will protect and enhance the natural and built environment and reduce the adverse impact of transport on health and climate change.
- To improve road safety and personal security in South West Wales.

Civil traffic enforcement provides a means by which an authority can secure expeditious and safe movement of traffic and secure wider transport strategies and objectives.

An equality impact assessment of the new area of enforcement indicates no impacts. All motorists are subject to the legislation on the use of motorised vehicles, i.e. Road Traffic Act 1988, and are required to comply with traffic regulation orders governing moving-traffic offences.

The enforcement of this range of contraventions will apply to all motorists equally and therefore is not anticipated to impact negatively on any specific group of our citizens. Indeed, by improving traffic flow and road safety there should be benefits for all road user groups.

2. Legal

Effective management of the county road network is a statutory requirement. The County Council must secure the expeditious movement of traffic on its road network.

All existing moving traffic regulation Orders which the Council intends to enforce will need to be reviewed, and where necessary, may have to be converted to allow enforcement under civil powers, rather than criminal powers as applied by the Police. The moving traffic Orders have been catalogued, as set out in Appendix 1 of the report. Legal Services may be required to publish an Order listing their conversion.

3. Finance

The new enforcement scheme will need to be self-financing and that there is no net cost liability to the Council.

There are set up costs to cover the specialist vehicle acquisition, camera hardware, software, signage and publicity which are estimated to be £48,000. It is proposed that these costs be funded from the Authority's Development Fund, the balance of which being available new projects currently standing at £230k. The Fund repayments will be £12k per annum over 4 years, which will be met from the operating surplus generated.

The financial model detailing the costs to obtain and operate the new enforcement technology and support systems, along with associated set up costs, is set out in Appendix 3 of this report.

There are two aspects to the financial model to consider, namely the volume of penalty charges plus subsequent income that is likely to arise from Council enforcement and the cost of running the new enforcement operation. Surveys have been undertaken by technical officers at some of the sites likely to be the primary points of enforcement. Enforcement patrols at school keep clear areas have been undertaken for a number of years. The surveys and observations reveal the current level of contraventions. The number of contraventions will drop away once enforcement commences. This is factored in to the model.

Level of charges – the Levels of Charges Order indicate that all moving traffic contraventions will have the same penalty charge, this being either £50 or £70. Carmarthenshire County Council will apply for a £70 value as part of its formal application to Wales Government.

The financial model suggests an operating surplus which for legislative purposes will be ring fenced and only available to fund related traffic and transportation projects and costs, including the set up costs. This is in accordance with the requirements of the Traffic Management Act.

4. ICT.

Supporting software - the back office notice processing software system will need to be upgraded to accommodate penalty charge notices generated from the new area of enforcement.

The output from the approved camera system will have the ability to dovetail with the current notice processing software – this will offer immediate compatibility. It will be necessary to create a number of new standard document templates for use in the system.

5. Risk Management Issues

The camera enforcement vehicle will be stored overnight in a secure Council compound to avoid the prospect of the vehicle being targeted for vandalism.

The Council has working knowledge of parking enforcement over the last fourteen years, operational risk for this project is relatively low in terms of setting up and operating the systems.

6. Physical Assets

The specialist vehicle will be added to the authority's fleet assets.

Survey of lines and signs – this will require a survey of lines and signs on site to ensure that enforceable locations comply with the requirements of the Traffic Signs Regulations and General Directions 2016. The Council's Traffic Management section will do this work and will arrange a contract for any work to be done to bring the lines and signs into compliance.

Approved camera device - enforcement of the bus lane and moving traffic contraventions can only be undertaken by approved devices, i.e. camera and recording systems. The camera and recording device will be mounted in a camera enforcement vehicle. The vehicle will be clearly marked with Council livery and camera insignia.

A mobile camera unit can be moved from site to site so enforcement can be moved when contraventions tail off at a particular location. This will maximise the efficiency of cctv enforcement operation.

7. Staffing Implications

No additional staff resources will be needed by the Council's Parking Service to run the enforcement operation.

The camera enforcement vehicle will be operated by members of the existing civil enforcement officer team. The vehicle is capable of enforcing moving traffic contraventions, with an unassisted driver, either by being stationary or in whilst in motion (using automatic camera detection).

To ensure that the contraventions are appropriate, the camera image files will be reviewed by the civil enforcement officer who captured the images the previous day. Civil Enforcement Officers are trained and licensed to issue penalty charge notices. If the officer considers that a detected contravention is fair they will authorise the system to create a case file for a penalty charge notice to be sent out by post, as the law requires.

Contraventions arising from this new area of enforcement will be carried out using the current back office processing team members.

All job profiles in the existing civil enforcement officer team and back office processing team will need to be reviewed to include reference to civil traffic enforcement and associated responsibility for new equipment, use of new software etc. Amended job profiles will be subject to a Job Evaluation exercise.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed: S.G. Pilliner

Head of Highways and Transport

1. Scrutiny Committee - N/A

2. Local Member(s) N/A

3. Community / Town Council

Appendix 2 of this report sets out the list of specific consultees whose views should be sought about the Councils formal application to the Wales Government for legal powers to enforce bus lane contraventions and certain moving traffic offences

4. Relevant Partners

Appendix 2 of this report sets out the list of specific consultees whose views should be sought about the Councils formal application to the Wales Government for legal powers to enforce bus lane contraventions and certain moving traffic offences.

5. Staff Side Representatives and other Organisations

Staff side Representatives will be consulted through the Employee Relations Forum. Appendix 2 of this report sets out the list of specific consultees whose views should be sought about the Councils formal application to the Wales Government for legal powers to enforce bus lane contraventions and certain moving traffic offences.

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Joint Transport Plan for South West Wales		http://www.carmarthenshire.gov.wales/media/1085004/Joint-Transport-Plan-300115.pdf
Statutory Guidance to local authorities on the civil enforcement of bus lane and moving traffic contraventions		http://gov.wales/docs/det/feature/150227-stat-guide.pdf
Operational guidance to local authorities on Civil Enforcement of Parking, Bus Lane and Moving Traffic contraventions		http://gov.wales/docs/det/feature/150227-operational-guidance-la.pdf
The Civil Enforcement of Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013.		http://www.legislation.gov.uk/wsi/2013/1969/schedule/made