

Report to Cabinet

21 June 2023

Subject:	Application For and Adoption Of Moving Traffic Contraventions Enforcement Powers
Cabinet Member:	Cabinet Member for Environment and Highways Councillor Danny Millard
Director:	Director of Borough Economy Alice Davey
Key Decision:	Yes [Affects all wards]
Contact Officer:	Assistant Director Highway Services, Robin Weare robin_weare@sandwell.gov.uk

1 Recommendations

- 1.1 That the Director of Borough Economy be authorised to make an application to the Department for Transport for powers to enable the enforcement of Moving Traffic Contraventions (MTCs) (listed in Appendix A) in accordance with Part 6 of the Traffic Management Act 2004 across the whole of Sandwell Council adopted road network.
- 1.2 That the Director of Borough Economy be authorised to set Penalty Charge Notices (PCNs) to be issued with Moving Traffic Enforcement (MTE) at the higher level of (£70) for moving traffic contraventions (reduced to £35 if paid within 14 days) in line with existing civil enforcement activities undertaken in the borough.
- 1.3 That the Scheme of Delegations to Officers (Executive side function) be amended to enable the Director of Borough Economy, in consultation with the relevant Cabinet Member for Environment and Highways, to make decisions on moving traffic offences as follows:



- the development and management of operational policy regarding enforcement, site selection and operation.
- approval of future enforcement sites and their operation
- to undertake the required consultation process with any unresolved objections to be heard by the Cabinet Member for Environment and Highways

1.4 That subject to 1.1 – 1.3 above, the Director of Law and Governance be authorised to amend the Scheme of Delegations to Officers (executive side function) in relation to Director of Borough Economy.

2 Reasons for Recommendations







2.1 With the exception of Bus Lane enforcement, currently only West Midlands Police have the legal authority to fine drivers for contravening moving traffic offences. Recognising that poor compliance with Traffic Regulation Orders for certain moving offenses (Appendix A) has a detrimental effect on road safety and network efficiency, Sandwell Council wish to apply to the Department for Transport for Moving Traffic Contravention enforcement powers under Part 6 of the Traffic Management Act 2004.

2.2 Acquiring these powers will allow Sandwell to be more proactive in improving road safety, air quality, congestion, and network management. In addition, having these powers will provide an effective tool to respond to resident, school, and councillors' concerns in a more positive and proactive manner, as currently all issues related to non-compliance are referred to the local police who have limited resource available for moving traffic enforcement.

2.2 If Sandwell do not to apply for Moving Traffic Contravention enforcement powers in Tranche 3, it is unlikely that there will be another opportunity to do so. The enforcement of these offences would remain the responsibility of West Midlands Police and result in inconsistencies in enforcement powers with neighbouring WMCA local authorities. Birmingham, Walsall and Coventry have already applied for these powers in Tranche 2 and Dudley, Solihull and Wolverhampton intend to apply in Tranche 3 (which has an application deadline of 25th October 2023).



3 How does this deliver objectives of the Corporate Plan?

	<p>Improving compliance through civil enforcement will increase safety near schools and in residential areas, encourage active travel, and contribute to improving residents' quality of life and air quality. It will also enable local police to focus on priority issues and reducing crime and allocate resources where they can best benefit the community.</p>
	<p>Being granted enforcement powers for moving traffic contraventions would enable enforcement action to be undertaken against drivers who contravene pedestrian zones, one-way streets and yellow box junctions. This will contribute to reduced congestion and inappropriate rat running, improved air quality, improved safety, and encouragement of active travel.</p>
	<p>Successful communities need access to jobs, services and facilities to enable them to remain healthy and vibrant. The highway network and sustainable transport measures are an important enabler of this, particularly the efficient operation of our transport networks.</p>
	<p>Both new and existing residential developments rely on good quality access and links to shops, services and leisure facilities in order for them to be successful. The ability to be able to enforce moving traffic contraventions will help facilitate this.</p>
	<p>Being granted enforcement powers for moving traffic contraventions would enable enforcement action to be undertaken against drivers who contravene restrictions such as waiting in yellow boxes and making banned turns. Improving compliance through enforcement will contribute to reduced congestion and improve journey times and journey time reliability (including for public transport) on key strategic routes.</p>
	<p>Our highways are the arteries of our communities. They connect our residents to employment, education, local services and indeed the wider world. They enable economic growth, social mobility and are vital in ensuring good health outcomes.</p>



4 Context and Key Issues

- 4.1 As the Local Traffic Authority, Sandwell Metropolitan Borough Council (SMBC) has a statutory duty to ensure (as far as is reasonably practicable with regard to policy objectives and obligations) the expeditious movement of traffic on the Authority's road network and to introduce initiatives to help reduce identified road casualties. Road users and the wider community also place a high value on keeping traffic moving safely around the Borough. The adoption of Moving Traffic Contravention (MTC) enforcement powers will enable SMBC to proactively resolve issues at key problem locations on the network and will contribute to an improved road safety and network efficiency through improved driver compliance.
- 4.2. In the summer of 2020, the Government pledged to introduce secondary legislation to enable local authorities to enforce specified moving traffic offences as defined in Part 6 of the Traffic Management Act 2004. In August 2021 the Cabinet Member for Environment agreed in principle for SMBC to express an interest in applying for the Moving Traffic Contravention enforcement powers. The DfT were subsequently informed of SMBC's expression of interest to apply on the deadline of 31st August 2021. (Appendix B).
- 4.3 All other constituent authorities of the West Midlands Combined Authority (WMCA) have also agreed in principle to apply for and adopt these enforcement powers. Birmingham, Walsall, and Coventry have already applied for the powers in Tranche 2 whilst Dudley, Solihull and Wolverhampton intend to apply in Tranche 3.
- 4.4. It is proposed that SMBC apply for a Designation Order for the enforcement of moving traffic contraventions on or before the DfT Tranche 3 deadline of 25th October 2023.
- 4.5 The implementation costs for the new MTC enforcement service are subject to the development of an associated local SMBC business case based on a West Midlands regionwide template developed by TfWM consultants, prior to an application being made in October 2023. The fundamental principle being that the MTC enforcement service must be cost neutral to the Authority and local taxpayer. The ongoing operational costs would need to be met from penalty charge income once the improved compliance levels have stabilised following the implementation of enforcement. This can take up to 12 months.



- 4.6 Initially during the first 12 months of operation the Authority intends to undertake extensive trials at 5 pre-identified locations where traffic flow data suggests that there are high incidences of contraventions being recorded, which are causing road safety or traffic management issues. Once powers have been granted, additional sites can be added after 12 months without the need to apply to the DfT again following a public consultation.
- 4.7 Initial capital costs will depend on the final scale and scope of the service, which is to be agreed as part of the future business case. It is planned that initial capital set up costs will be funded through the Integrated Transport Block budget allocations. Sandwell's planned operational strategy is to undertake enforcement using portable cameras which can be rotated around suitable identified sites
- 4.8 Annual revenue costs for the system will also depend on the number of cameras being utilised, along with back-office system requirements and staffing implications. A complete cost versus income financial assessment will be developed over the coming months and will be agreed before the implementation of any enforcement regime is put in place.
- 4.9 The DfT has determined two bands for the level of penalty charge payable for MTC, as is the case with parking contraventions. It is recommended that PCNs are set at the higher penalty charge level of £70, with a reduction to £35 if paid within 14 days. This ensures consistency with PCNs for higher-level parking contraventions. If approved this value will then be used in the business case.
- 4.10 Should the recommendation to apply for the MTC enforcement powers be approved, the required consultation process is defined in the operational guidance provided by the Department for Transport. This must include consultation with the Chief Officer of Police for the West Midlands and a minimum period of 6-weeks of public consultation which is planned to commence in July 2023.



5 Alternative Options

5.1 Business as usual (Do Nothing) is not recommended as enforcement of moving traffic contraventions would remain the sole responsibility of West Midlands Police. Due to limited police resource, ongoing effective enforcement of moving traffic contraventions is unlikely, and this has the potential to impact the safety and efficiency of the highway network at the worst identified locations.

6 Implications

Resources:	Initial capital expenditure for the purchase of enforcement cameras will be identified through the Integrated Transport Block capital allocations budget. Moving forward the operation will be cost neutral balancing contravention income with revenue resource requirements. Any surplus will be used to implement complimentary road safety and traffic management improvements to the network.
Legal and Governance:	Obtaining MTC powers requires a legal process to be followed, therefore, at this stage in the application process no legal implications for the Council are expected.
Risk:	<p>A risk register will support the development of this project, but at this early stage, no net RED risks have been identified. Moving forward in the process key risks are likely to include:</p> <ul style="list-style-type: none"> • Securing stakeholder support for moving traffic enforcement proposals, • Physical implications (including safety and visibility issues) of installing camera enforcement equipment in identified locations, <p>Operational costs, particularly during first 6 months of enforcement at each location where warning notices must be issued for first time offenders.</p>
Equality:	From initial inspection it is not believed that this decision discriminates against the protected characteristics. The requirements of the Equality Act 2010 are included in Policy to draw attention to the detail of, and the need to comply with, the Act.



Health and Wellbeing:	The principal benefits associated with enforcing moving traffic contraventions are the mitigation of unsafe, illegal, and inconsiderate driving, reducing traffic congestion, maintaining good access and improving equality and these will have a positive effect on Sandwell as a good place for local communities and visitors.
Social Value	There are no implications for social value directly arising from this report.
Climate Change:	By potentially reducing traffic congestion, this will have a positive effect and help reduce the effects of emissions on the air quality and climate of Sandwell.
Corporate Parenting	A public consultation would be undertaken to establish the views of all stakeholders and representations from all stakeholders will be set out in a future decision-making report to the Cabinet Member for Environment and Highways.

7. Appendices

Appendix A – List of all moving traffic contraventions enforceable under Part 6 of the Traffic Management Act 2004

Appendix B - August 2021 Expression of Interest Correspondence










8. Background Papers

None











Appendix A








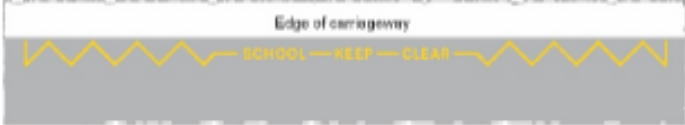
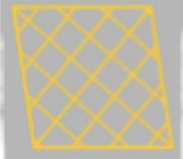
List of all Moving Traffic Contraventions Enforceable under Part 6 of the Traffic Management Act 2004

Description	TSRGD diagram number & location	Sign
Vehicular traffic must proceed in the direction indicated by the arrow	606 (Schedule 3, Part 2, item 1 and Schedule 14, Part 2, item 42)	
Vehicular traffic must turn ahead in the direction indicated by the arrow	609 (Schedule 3, Part 2, item 2)	
Vehicular traffic must keep to the left/right of the sign indicated by the arrow	610 (Schedule 3, Part 2, item 3)	
No right turn for vehicular traffic	612 (Schedule 3, Part 2, item 7 and Schedule 14, Part 2, item 43)	
No left turn for vehicular traffic	613 (Schedule 3, Part 2, item 8 and Schedule 14, Part 2, item 43)	
No U-turns for vehicular traffic	614 (Schedule 3, Part 2, item 6 and Schedule 14, Part 2, item 43)	
Priority must be given to vehicles from the opposite direction	615 (Schedule 3, Part 2, item 9)	
No entry for vehicular traffic (when the restriction or prohibition is one that may be indicated by another traffic sign subject to civil enforcement)	616 (Schedule 3, Part 2, item 10 and Schedule 14, Part 2, item 44)	
All vehicles prohibited except non-mechanically propelled vehicles being pushed by pedestrians	617 (Schedule 3, Part 2, item 11)	



Description	TSRGD diagram number & location	Sign
Entry to and waiting in a pedestrian zone restricted	618.3B (Schedule 8, Part 2, item 1)	
Entry to and waiting in a pedestrian and cycle zone restricted	618.3C (Schedule 8, Part 2, item 2)	
Motor vehicles prohibited	619 (Schedule 3, Part 2, item 12)	
Motor vehicles except solo motorcycles prohibited	619.1 (Schedule 3, Part 2, item 18)	
Solo motorcycles prohibited	619.2 (Schedule 3, Part 2, item 20)	
Goods vehicles exceeding the maximum gross weight indicated on the goods vehicle symbol prohibited	622.1A (Schedule 3, Part 2, item 13)	
One-way traffic	652 (Schedule 9, Part 4, item 5)	
Buses prohibited	952 (Schedule 3, Part 2, item 17)	






Description	TSRGD diagram number & location	Sign
Route for use by buses, pedal cycles and taxis only	953 (Schedule 3, Part 2, item 33)	
Route for use by tramcars only	953.1 (Schedule 3, Part 2, item 36)	
Route for use by pedal cycles only	955 (Schedule 3, Part 2, item 28)	
Route for use by pedal cycles and by pedestrians only	956 (Schedule 3, Part 2, item 29)	
Route comprising two ways, for use by pedal cycles only and by pedestrians only	957 (Schedule 3, Part 2, item 32)	
With-flow cycle lane	959.1 (Schedule 9, Part 4, item 9)	
Contra-flow cycle lane	960.1 (Schedule 9, Part 4, item 6)	
Part of the carriageway outside an entrance where vehicles must not stop when the marking is placed in conjunction with the prescribed upright sign which includes the symbol at Schedule 4, Part 3, item 10	1027.1 (Schedule 7, Part 4, item 10)	
Box junction markings	1043 (Schedule 9, Part 6, item 25)	



Appendix B

August 2021 Expression of Interest Correspondence

Enforcement of Moving Traffic Offences

 **Robin Weare**
To  Danny Millard
Cc  Nicholas Austin

 Reply  Reply All  Forward 

Fri 27/08/2021 09:25

 Application for a Moving Traffic Designation Order Advice Note.pdf
76 KB

Good morning Cllr Millard,

I am writing to seek your agreement to lodge an expression of interest in new enforcement powers that will be available next year. I am sorry for the short notice but a deadline of 31st August applies so I would request an answer today if possible. I have provided a briefing note as follows and can speak to you on a teams call if you need further advice.

Moving Traffic Offences – New Enforcement Powers Available in 2022

The Government has issued the attached advice note to Local Authorities in England concerning new powers to enforce moving traffic contraventions under Part 6 of the Traffic Management Act 2004. A set of Regulations giving effect to the Part 6 powers, which will be subject to Parliamentary approval, is planned to come into force before the end of 2021.

The new powers will be available to Local Authorities such as Sandwell MBC who already have Civil Enforcement Powers in place for parking contraventions. The new powers concern the enforcement of moving traffic offences such as yellow box junctions, turning bans, one way streets etc. This would add to the bus lane enforcement powers that Sandwell have already acquired and successfully operate at three locations.

Similar to bus lane enforcement a (future) recommendation to Cabinet would be made on the basis that the operating costs, enforcement costs and maintenance costs can be fully recovered from residual PCN income after drivers change their habits. Capital costs for the installation of enforcement cameras would also need to be identified. The set up costs might be available through WMCA grants. Surveys identified three such locations for bus lane enforcement where a business case could be made to proceed. There may also be some similar locations that would warrant investment in moving traffic enforcement.

Local Authorities are not able to acquire the new powers until the new regulations come into force at the end of the year. In practice the need for public consultation and Cabinet approval in advance could push a Sandwell application to a later date. At this stage, the Department for Transport has asked for expressions of interest from local authorities that may wish to take up the new powers. The reason is to help the DfT plan and deliver new powers to Councils without delay once an application is received.

The deadline for expressions of interest is 31st August (next Tuesday). Expressing an interest is not a commitment for Sandwell to proceed with an application. However, an expression of interest might help reserve our space in the queue if Cabinet subsequently approve an application.

Robin Weare.

Services Manager, Highways



Moving Traffic Offences



Robin Weare

To parking.queries@dft.gov.uk

Cc [Danny Millard](#); [Nicholas Austin](#)



31/08/2021

i You forwarded this message on 03/09/2021 09:13.

Sandwell Metropolitan Borough Council wish to express an intention to apply for enforcement powers under Part 6 of the Traffic Management Act 2004

Robin Weare.

Services Manager, Highways

