

**From: David Brazier, Cabinet Member for Highways & Transport**  
**Simon Jones, Corporate Director Growth, Environment & Transport**

**To: Environment & Transport Cabinet Committee - 8<sup>th</sup> September 2022**

**Subject: Moving Traffic Enforcement**

**Key decision: 22/00085**

**Classification: Unrestricted**

**Past Pathway of report:** Previously reported to ETCC 7<sup>th</sup> July 2022 (verbal update by Cabinet Member for Highways & Transport)

**Future Pathway of report:** For Cabinet Member Decision

**Electoral Division:** Kent wide

**Summary:** This report provides:

- An update on the progress made to date in securing the powers to enable KCC to enforce against moving traffic offences.
- A review of the review of public feedback and the actions taken.
- A summary of the work undertaken in the lead up to commissioning the new Moving Traffic Enforcement contract and options considered.
- Financial and legal implications of setting up and procuring this service.

**Recommendation(s):**

The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways & Transport to provide the Corporate Director of Growth, Environment and Transport with the delegated authority to enter into appropriate contractual arrangements for the provision of the Traffic Management Act 2004 Part 6 - Moving Traffic Enforcement contract, including any possible future extensions as shown at Appendix A.

## **1. Introduction**

- 1.1 As the Local Transport & Highway Authority, Kent County Council has a statutory duty to ensure the effective discharge of the 2004 Traffic Management Act (TMA), which entails a duty of care to help ensure safe passage for all road users and secure the provision of public passenger transport services within the county which would not be met without financial input from KCC.
- 1.2 Part 6 of the Traffic Management Act allows the highway network to be more effectively managed by the Highway Authority, allowing the civil enforcement of a variety of moving traffic contraventions in line with national standards. Enforcing

these regulations aims to improve road safety, pollution levels, journey time reliability and public realms in locations with low compliance.

- 1.3 Despite the 2004 Act now being 18 years old, the legislation has never been introduced to Parliament and until recently these moving traffic contraventions could only be enforced by the police under criminal law. In September 2020, the Department for Transport (DfT) announced that they would be fully enacting the remaining elements of the Traffic Management Act, which grants enforcement powers to Local Highway Authorities under civil law.
- 1.4 On 20<sup>th</sup> May 2022 KCC formally applied to the Secretary of State for these powers. The DfT has confirmed that KCC will be in the first tranche of Local Authorities to be granted these powers. The application confirmed the support of Kent Police and the undertaking of an 8-week public engagement exercise to inform the public of KCC's intention and publicise the first sites being considered for civil enforcement.
- 1.5 The Designation Order was granted by parliament on 15<sup>th</sup> July 2022. KCC are now legally able to enforce moving traffic contraventions such as:
  - Driving through a 'No Entry' sign
  - Turning left or right when instructed not to do so
  - Entering yellow box junctions when your exit is not clear
  - Driving where motor vehicles are prohibited
  - Driving on routes for buses only
- 1.6 This will be achieved using the latest Automatic Number Plate Recognition (ANPR) camera technology, approved by the Vehicle Certification Agency. When the contract is in place, KCC will be able to manage and improve the road network to deliver the key objectives of:
  - Improving road safety
  - Reducing network congestion
  - Increasing public transport reliability
  - Improving Air Quality
  - Increasing the lifespan of highway assets

## **2. Public Engagement**

- 2.1 KCC has undertaken public engagement through the Let's Talk Kent consultation website over an 8-week period between 15th March and 9th May 2022. The public engagement included the following:
  - An introduction to the proposal and background information, setting out the rationale for, and benefits of, moving traffic enforcement
  - Site specific details for each of the 7 sites that KCC is proposing to take forward in the 1<sup>st</sup> tranche, including a location plan, photos of the current layout, and an explanation of why further enforcement is required and what it will achieve
  - The list of signs the DfT has approved for civil enforcement
  - Frequently asked questions
  - A timeline showing indicative key dates and deadlines
  - A questionnaire to allow the public to express general concerns or comments in relation to any of the 1<sup>st</sup> tranche sites

- 2.2 In order to reach as wide an audience as possible adverts were placed in the local press, posters were put up in libraries and Kent Gateways, and social media messages were posted.
- 2.3 Over 23,000 people visited the website, and 682 people completed the questionnaire resulting in over 1,600 separate comments. The public engagement has shown that 65% of respondents agreed that using ANPR cameras for enforcement at these sites will be beneficial. This gives a clear message to KCC to take on enforcement powers to reduce traffic congestion in towns and cities and manage the road network.
- 2.4 The comments raised through the public engagement period have proved vital in taking appropriate steps to resolve any concerns and objections to the proposals. All seven of the 1<sup>st</sup> tranche sites have been altered in response to comments made.

### 3 Timescale

- 3.1 KCC are currently in an excellent position as the designation order has been granted. However, because the service has not yet been mobilised, we are unable to deliver to the full extent. It is therefore critical to procure the service at the earliest opportunity.
- 3.2 The following table outlines the steps required to enable enforcement of moving traffic offences from 1<sup>st</sup> April 2023:

Activity	Date
Delegated Authority granted	8 <sup>th</sup> September 2022
Procurement commences (Issue of Selection Questionnaire - SQ)	September 2022
SQ evaluation, moderation, and reporting	October 2022
Issue tender documents	October 2022
Tender document return	December 2022
Complete tender evaluation/moderation	December 2022
Negotiation period	January 2023
Evaluation	February 2023
Award Report signed	February 2023
Issue Award Letter	March 2023
Standstill period	March 2023
Contract mobilisation	March 2023
Service Commencement Date	April 2023

- 3.3 By following this timeline KCC will be one of the first Local Authorities in England to enforce moving traffic offences: vital in fulfilling the statutory obligations of the Traffic Management Act and keeping KCC at the forefront of national transport innovation.

## **4 Path to Procurement**

- 4.1 KCC have no existing contracts in place that give access to the necessary hardware (certified enforcement cameras) and processing infrastructure (back-office software) for Moving Traffic Enforcement and any resultant Penalty Charge Notices (PCN). A new service provision is therefore needed to deliver the statutory requirements of the Traffic Management Act 2004.
- 4.2 The required enforcement system can be broadly divided into three component parts:
- Hardware - Vehicle ANPR camera system
  - Back-office software for processing contraventions and issuing PCNs
  - Debt recovery (UK and Foreign registered vehicles)
- 4.3 KCC has undertaken a thorough market engagement exercise which confirmed the feasibility of two approaches to the infrastructure's procurement:
1. The end-to-end solution from a single provider.
  2. Segmenting the system components into three separate delivery packages.

The market leaders claim that the component parts are capable of interacting directly with other suppliers' equipment and systems. While this is accepted at face value, there is a considerable degree of risk related to system failures or linking issues. The boundaries of responsibility would be unclear and unmanageable for a total service, no matter how it was constructed. The procurement of the component parts of a system can be made separately, but KCC do not have the appropriately trained and technically experienced officers to link and operate these components. Once a Supplier is on board, engagement with ICT would take place to discuss the implications of a new system e.g., hosting a payment portal on kent.gov.uk, and the relevant security certificates required to ensure this can happen securely.

- 4.4 The market leaders have stated that an end-to-end service solution would be well within their capability, negating any risk to KCC of system failures. The tender process will be undertaken to commission a single service provider.
- 4.5 The anticipated value for this contract over a 5-year initial term is £4m. This exceeds the PCR threshold for Services, and it is therefore intended to use a Competitive Procedure with Negotiation. This process will enable KCC to down-select candidates based on the suitability, capacity, and capability to deliver the required Works, as well as give KCC the opportunity to negotiate tenders if required.
- 4.6 Following authorisation from the ETCC, the chosen supplier will be ready to begin enforcement on site in April 2023.

## **5 Financial Implications**

- 5.1 An initial outlay is required to cover the purchase of the enforcement system for the 1<sup>st</sup> tranche of sites, and £200k has been secured for this from the Kent Lane Rental scheme. Any future operation of enforcement is proposed to run at no cost

to KCC: the DfT have dictated that the income generated by the issuing of PCNs should cover the operational costs of the business in the first instance.

5.2 In line with strict government guidance, should there be any surplus once the operational costs have been met this will be used for highway improvement projects. This funding will only be granted to projects that that help achieve one of the following objectives:

- improve road safety
- tackle network congestion
- increase public transport reliability
- improve air quality
- increase lifespan of highway assets

5.3 A potential financial risk to KCC is if the system is subject to a failure. It is within the Supplier's interest to resolve the issue as soon as possible as any down time of the system directly impacts the supplier's revenue. There will be Key Performance Indicators (KPIs) in place with repercussions for noncompliance. If there was a back-office system failure, the system would 'hold' the capture of possible contraventions which would then appear in a queue once the system was live again. Potential power supply loss or communications issues would be dealt with by working with the relevant companies to ensure they restore any loss of service within the regulatory timescales.

5.4 The table in confideappendix 1 illustrates the costs, income and overheads associated with the service delivery. As the legislation and service is new, there has been minimal actual comparative figures to base this on, and therefore we have taken a conservative approach to ensure minimal financial risk.

## **6 Legal implications**

6.1 As the legislative powers are being transferred from criminal law to civil law KCC has sought legal counsel.

6.2 The award of any contracts will be in full compliance with all relevant procurement and governance regulations. Legal advice in consultation with the Office of General Counsel has been commissioned to review the framework procedures and the terms and conditions that will govern future schemes.

## **7 Equalities implications**

7.1 An EqIA has been undertaken and has highlighted some negative impacts, resulting in subsequent mitigation action being taken around IT during the public engagement exercise by providing information in a wide range of formats, and with an option to request text in other languages. Issues around paying online and suitable alternatives will be addressed with the Supplier. Positive impacts have also been noted, such as more reliable journey times for vulnerable groups – particularly by public transport.

## **8 Data Protection implications**

- 8.1 Ongoing detailed dialogue is in progress regarding the safeguarding of personal data under the GDPR tailored by the Data Protection Act 2018. CCTV technology is used to gather the required evidence to issue a Penalty Charge Notice to a Driver: this process is strictly regulated and specified by the DfT.

The specific CCTV image capturing technology permitted for this enforcement is also a strictly regulated market by the Driver and Vehicle Standards Agency (DVSA). While the CCTV is always on, it does not record general daily activities at each site. A recording is only started (for the purposes of PCN evidence packs) when the technology is pre-programmed to detect a vehicle performing an illegal manoeuvre.

## **9 Other corporate implications**

- 9.1 There are no implications from this project on other areas of the Council's work.

## **10 Governance**

- 10.1 The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways & Transport to provide the Corporate Director of Growth, Environment and Transport with the delegated authority to enter into appropriate contractual arrangements for the provision of the Traffic Management Act 2004 Part 6 - Moving Traffic Enforcement contract, including any possible future extensions.

## **11 Conclusions**

- 11.1 KCC has been designated the powers to enforce moving traffic contraventions under civil law. Market engagement has shown that an end-to-end package minimises the risk to KCC and fully delivers the required service on street. Procurement of the service is now required, and the Cabinet Member is asked to delegate authority to the Corporate Director of Growth, Environment and Transport to enter into the necessary legal documents to establish a contract.

## **12 Recommendation(s)**

### **Recommendation(s):**

The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Highways & Transport to provide the Corporate Director of Growth, Environment and Transport the delegated authority to enter into appropriate contractual arrangements for the provision of the Moving Traffic Enforcement contract, including any possible future extensions as shown at Appendix A.

## **13. Appendices**

- 13.1 Appendix A – Proposed Record of Decision

- 13.2 Appendix B – Equality Impact Assessment:

<https://democracy.kent.gov.uk/documents/s113353/TrafficManagementAct2004Part6EqlA.docx.pdf>

## Contact details

Report Author:  
Chris Beck  
Network Manager  
03000 413528  
christopher.beck@kent.gov.uk

Relevant Director:  
Phil Lightowler  
Director of Highways & Transport  
03000 414073  
philip.lightowler@kent.gov.uk