

From: Neil Baker, Cabinet Member for Highways & Transport
Simon Jones, Corporate Director Growth, Environment & Transport

To: Environment & Transport Cabinet Committee, 7 March 2024

Subject: Moving Traffic Enforcement Policy

Key Decision 24/00015

Classification: **Unrestricted**

Past Pathway of report: N/A

Future Pathway of report: For Cabinet Member Decision

Electoral Division: Kent wide

Summary: This report provides information on the proposed policy document supporting KCC's intention to undertake moving traffic enforcement.

Recommendations:

The Cabinet Committee is asked to consider and endorse or give recommendations to the Cabinet Member for Highways and Transport to:

- (i) Agree to the adoption and implementation of the policy on moving traffic enforcement and
- (ii) Delegate authority to the Corporate Director of Growth, Environment and Transport in consultation with the Cabinet Member for Highways & Transport ,to make revisions as appropriate to the policy and take relevant actions to implement the decision 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 KCC was granted the Designation Order by parliament on 15th July 2022, to enforce a limited number of moving traffic offences. KCC are now legally able to enforce 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

1.4 All other motoring offences are still the responsibility of the County Police Constabulary to enforce.

1.5 Enforcement will be achieved using the latest Automatic Number Plate Recognition (ANPR) camera technology, approved by the Vehicle Certification Agency. KCC now have a contract with a supplier (Marston Holdings Limited) to assist in the mobilisation of this service, following a thorough procurement process endorsed by this Cabinet Committee (RoD **22/00085**). Marston Holdings Limited will supply the cameras and associated hardware on site, the back-office computer system, and debt recovery.

2. Background

2.1 Now that Marston Holdings Limited have been selected as the supplier to assist KCC in fulfilling responsibilities to enforce moving traffic on Kent's roads, a policy is needed to provide guidance on how KCC intend to apply the Traffic Management Act Part 6 legislation to the Kent highway network.

2.2 The policy also sets out the approach to be followed by authorised officers when making decisions in respect of KCC's compliance and enforcement activities:

- a) Provide clarity and transparency on how KCC operate the Moving Traffic Enforcement (MTE) powers.
- b) Ensure enforcement is consistent and proportionate to the contraventions involved.
- c) Encourage an element of flexibility through technology and human input to ensure Penalty Charge Notices (PCNs) are not unfairly issued or pursued.
- d) Set out clearly what is expected from the public in terms of compliance.
- e) Provide clarity on the process of how new Enforcement sites can be suggested to KCC and their financial responsibilities.

2.3 The policy is attached (appendix 1).

3. Financial Implications

3.1 Warning Notices (a letter outlining the offence that has occurred, but no charge) shall be issued for a driver's first offence within a 6-month period of a site going live. Penalty Charge Notices will be issued for a driver's second offence onwards within a 6-month period of a site going live, and for a driver's first offence onwards after the initial 6-month period is over.

- 3.2 The Penalty Charge will be limited by legislation to £70, or £35 if paid within 21 days of the Penalty Charge Notice being received by the registered owner of the vehicle.
- 3.3 In line with Regulations (Section 31 The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022), any surplus (income from PCN, less direct cost of TMA enforcement, less overheads) arising from bus lane or moving traffic enforcement must be applied for all or any of the following purposes:
- the making good to the local authority's general fund of any amount charged to that fund in respect of any deficit arising from its bus lane or moving traffic enforcement, in the 4 years preceding the financial year in question.
 - for environmental improvement in the enforcement authority's area in accordance with Section 1(2) and 1(3) Pollution Prevention and Control Act 1999
 - meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services
 - for highway improvement projects in the local authority's area in accordance with Section 55, Paragraph (4A) Road Traffic Regulation Act 1984

4. Legal implications

- 4.1 The Traffic Management Act 2004 is the Act of Parliament which makes provision for and in connection with the designation of traffic officers and their duties; to make provision in relation to the management of road networks; to make provision for regulating the carrying out of works and other activities in the street.
- 4.2 Part 6 of the Act ("Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022") is intended to tackle congestion and disruption on the road network by placing a duty on local highway authorities to make sure traffic moves freely and quickly on their roads and the roads of nearby authorities.
- 4.3 Parliament has implemented the Part 6 powers for a specific list of traffic signs (included in appendix 1) for civil enforcement by Local Highways Authorities.
- 4.4 When compiling this policy, careful regard has been paid to the Statutory Guidance, "The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions" (as stipulated by section 87 of the Traffic Management Act 2004).
- 4.5 Future alterations or amendments to the policy are only likely if legislation is altered.

5. Equalities implications

- 5.1 An EqIA has been undertaken and approved. No change is required. The evidence suggests that there is no potential for discrimination and all appropriate measures have been taken to advance equality and foster good relations between the protected groups. The assessment is appended to this report. A DPIA screening has been undertaken, and no DPIA is required. No personal data will be collected, used or stored as a result of this policy document being published. Separate DPIA considerations are being undertaken for the actual implementation of the moving traffic enforcement project.

6. Other corporate implications

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

7. Governance

- 7.1 On 30th September 2022, the Environment & Transport Cabinet Committee endorsed the Cabinet Member for Highways & Transport on the proposed decision 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 extension. This policy document sets out the approach to be followed by trained KCC officers dealing with the moving traffic enforcement process.

8. Conclusions

- 8.1 KCC has been designated the powers to enforce moving traffic contraventions under civil law. A contract is now in place with Marston Holdings Limited to deliver this service. A policy is needed to provide guidance on how KCC intend to apply the Traffic Management Act Part 6 legislation to the Kent highway network and set out the approach to be followed by authorised officers when making decisions. The Cabinet Committee is asked to endorse, adopt and implement the policy on Moving Traffic Enforcement, and delegate authority for any alterations and amendments to be in consultation with the Cabinet Member for Highways & Transport.

9. Recommendation:

The Cabinet Committee is asked to consider and endorse or give recommendations to the Cabinet Member for Highways and Transport to:

- (i) Agree to the adoption and implementation of the policy on moving traffic enforcement and
- (ii) Delegate authority to the Corporate Director of Growth, Environment and Transport in consultation with the Cabinet Member for Highways & Transport, to make revisions as appropriate to the policy and take relevant actions to implement the decision as shown at Appendix A

10. Background documents and Appendices

- 10.1 Appendix A – Proposed Record of Decision
- 10.2 Appendix 1 – Moving Traffic Enforcement Policy
- 10.3 Appendix 2 - Equality Impact Assessment
- 10.4 Traffic Management Act 2004: [Traffic Management Act 2004: statutory guidance for local authorities outside London on civil enforcement of bus lane and moving traffic contraventions - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/222222/TMA2004-Statutory-Guidance-for-Local-Authorities-outside-London-on-civil-enforcement-of-bus-lane-and-moving-traffic-contraventions.pdf)

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