

	<h2>Environment Committee</h2> <h3>11 JUNE 2015</h3>
<p style="text-align: center;"><b>Title</b></p>	<p><b>Moving Traffic Contraventions</b></p>
<p style="text-align: center;"><b>Report of</b></p>	<p><b>Commissioning Director – Environment</b></p>
<p style="text-align: center;"><b>Wards</b></p>	<p><b>All</b></p>
<p style="text-align: center;"><b>Status</b></p>	<p><b>Public</b></p>
<p style="text-align: center;"><b>Enclosures</b></p>	<p>Appendix 1 List of Moving Traffic Contravention Sites for Review</p> <p>Appendix B MTC Contravention Codes</p>
<p style="text-align: center;"><b>Officer Contact Details</b></p>	<p>Paul Millard, Project Manager, Commercial Services, 0208 359 2230 paul.millard@barnet.gov.uk Paul Bragg, Infrastructure and Parking Manager 020 8359 7305, Paul.bragg@barnet.gov.uk</p>

<p><b>Summary</b></p>
<p>Following the approval of the Parking Policy and specifically the inclusion of the enforcement of Moving Traffic Contraventions policy, the Council is required to obtain certain approvals in order that such enforcement can take place. This report identifies the approvals that are required and the process that will be followed in order to commence enforcement of Moving Traffic Contraventions from the ‘Appointed Day’ of 1 January 2016, assuming that the necessary authorisations are obtained.</p>

<p><b>Recommendations</b></p>
<p>1. That the Environment Committee notes the powers available to the Council under the London Local Authorities and Transport for London Act 2003, regarding Civil Enforcement of Moving Traffic Contraventions.</p>
<p>2. That the Environment Committee agree to make a recommendation to Full Council to approve that the enforcement responsibility is transferred from the Police to the Traffic Authority (the Council) and that the Council will use the London Local Authorities and Transport for London Act 2003 (LLA &amp; TfL Act 2003) to take on the</p>

Civil Enforcement of certain moving vehicle contraventions (Moving Traffic Contraventions, MTC) with an anticipated 'Appointed Day' of 1 January 2016.
3. That Environment Committee agree to the approval for officers to make a submission to London Councils to seek the necessary approvals from The London Councils Transport and Environment Committee (TEC) to commence MTC enforcement.
4. That Environment Committee agree to delegate authority to the Director of Commercial and Customer Services to be responsible for the exercise of the civil enforcement powers and to allocate responsibility to such officers as may be required to act on their behalf.
5. To note that a substantial public communications plan and awareness campaign will be carried out during the project This is to ensure the schemes objectives are sufficiently published and that to Barnet residents and the public are fully aware of the approved Parking Policy's aims and objectives for introducing MTC.

## 1. WHY THIS REPORT IS NEEDED

- 1.1 The London Local Authorities and Transport for London Act 2003 (LLA & TfL Act 2003) gives the power to London Authorities (as Traffic Authorities) to take on the Civil Enforcement of certain moving vehicle contraventions (Moving Traffic Contraventions) by de-criminalising the offences, thereby transferring the enforcement responsibility from the Police to the Traffic Authority i.e. the Council. The powers are primarily contained in Sections 4, 5 and 7 of the Act although a number of other sections are relevant as well.
- 1.2 The Police currently have the powers to carry out this enforcement, however it is not a current priority within available resources and hence enforcement is very rarely undertaken by them. This means that the provisions that exist in many parts of the borough which are designed to control traffic and thereby making the junctions safer and ensuring free movement of traffic are not as effective as they should be.
- 1.3 With the Council adopting these powers will enable more effective and regular Enforcement of those motorists who currently disobey the controls, and hence cause a danger to other road users and/or disrupt the free flow of traffic. This will assist in encouraging a change in behaviour and lead to improved level of compliance, increased traffic flow and road traffic accidents.
- 1.4 In order to ensure that more effective arrangements are in place it is necessary to obtain the powers under the LLA and TfL Act 2003 and Full Council resolution is required prior to submission to London Councils to gain the necessary permissions to commence enforcement. Therefore this committee is asked to progress the report in line with Barnet Councils' Governance procedures.

- 1.5 The Committee should note the full list of sites that the authority will be able to commence enforcement for moving traffic contraventions which are shown as appendix A.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The Parking Policy has been approved and this includes a proposal to introduce CCTV cameras in order to enforce Moving Traffic Contraventions (MTC).
- 2.2 The case for taking on the powers to enable the enforcement of moving traffic enforcement is twofold. Firstly, enforcement has not been carried out by the Police and this position is unlikely to change as this is not seen as a priority for the Police. Secondly, from a public safety and road scheme design perspective, there is little point in providing measures to create safer junctions and/or introduce measures to facilitate free movement of traffic if the rules to ensure that these are effective are not enforced. Drivers often fail to observe such measures and when they are aware that enforcement is not taking place this appears to become normal behaviour. As non-compliance of these measures creates road safety hazards and causes traffic movement to be restricted we would be failing in our Duty of Care to the public if we do not act to deter such behaviours.
- 2.3 The Council are expected to have provisions in place to ensure that we comply with our Network Management Duties under the Traffic Management Act 2004. This includes a duty on local authorities to secure the expeditious and safe movement of traffic on their road networks.
- 2.4 The introduction of Moving Traffic Contravention enforcement is aimed at drivers who disobey traffic regulations and who therefore pose a threat to the safety of pedestrians, cyclists and other motorists and also cause traffic congestion.
- 2.5 Illegal U-turns, banned left or right turns and driving in the wrong direction in a one-way street are all examples of the types of dangerous, irresponsible driving. Ignoring a yellow box junction and hence not allowing free movement of vehicles is an example of negatively impacting the smooth flow of traffic and hence increases congestion. In addition this has a negative impact on the Council's and the Mayor for London's broader objectives of efficient road network management with improved journey times and reduced pollution.
- 2.6 By enforcing school keep clear markings (Zig Zags) the Council will be able to actively respond to requests from schools and residents for greater compliance. Fewer cases of illegal stopping or parking on school keep clears will improve visibility around school entrances and/or crossing points. It is expected that enforcement will make a positive contribution to road safety for children around schools.

- 2.7 The penalisation of drivers who commit these types of offences, especially as they become familiar with the fixed camera sites and hence become aware that the Council is actively challenging irresponsible driving, will act as a deterrent and, as such, will lead to greater compliance.
- 2.8 All locations listed in Appendix will be will be traffic surveyed and the data will be used to identify the most appropriate sites for the CCTV cameras that will contribute to delivering the Parking Policy's aims. These are:
- Keep Traffic Moving
  - Makes Road Safer
  - Reduce Air Pollution
- 2.9 Appendix B lists the contraventions codes that have to be used by law.
- 2.10 Barnet are one of a few London Councils who have not taken up the powers to date and those that have been doing so have demonstrated that there is a significant improvement in levels of compliance following enforcement.
- 2.11 In summary, it is expected that the enforcement of MTC's will improve the road environment for those who live, work and travel through Barnet. Given the lack of Police resource to enforce MTC's, officers believe that the Council has a duty to its residents and visitors to take over the powers from the police and begin active enforcement. This has already happened in over 24 other London boroughs and they are seeing the benefits of such positive action.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Not to take over the powers from the Police and leave the situation as it is. This is not recommended as it is known that the Police will not be carrying out the enforcement function as it is not a priority for their limited resources. This means that the benefits realised by other authorities would not be achieved in Barnet.

### **4. POST DECISION IMPLEMENTATION**

- 4.1 Assuming that the necessary authorisation is obtained by Full Council a submission will be made to London Councils Transport and Environment Committee (TEC) for approval to operate within the scheme of enforcement that they administer for London. This will require making a suitable case for implementing CCTV in order to commence the enforcement of moving traffic contraventions. A recognised process is in place and officers will ensure that all necessary justification and processes are in accordance with the Committees requirements when making the submission for approval, including confirmation that we will operate in full compliance with the CCTV enforcement Code of Practice.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 The Council will work with local, regional and national partners, will strive to ensure that Barnet is the place:

- Of opportunity, where people can further their quality of life
- Where people are helped to help themselves
- Where responsibility is shared, fairly
- Where services are delivered efficiently to get value for money for the taxpayer

5.1.2 The introduction of Moving Traffic Contraventions across the borough will assist with making roads safer and improving traffic flow and will provide value for money for the tax payer as the scheme will be self-funding for which any surplus will be reinvested in to traffic development and management. This will also protect the tax payer by ensuring that the general fund does not have to subsidise cost towards parking and traffic management.

## **6 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

6.1 At this stage there are no resource implications in gaining the necessary approvals. Any future resource implications shall be reported at appropriate future stages of implementation.

6.2 Once approvals are in place there will be costs involved in procuring and installing the CCTV cameras which will be used to allow effective enforcement to take place. This will be funded from a Capital allocation of £1.4million as approved by full Council

6.3 The Parking Enforcement Contract will be used for the reviewing the CCTV images and issuing Penalty Charge Notices (PCN's). The management of the statutory process (which follows the issuing of a PCN) will be administered by Barnet Council's Parking Client Team. The Client Team will need to be increased in size to support this process and additional associated work. The income derived from the Penalty Charge Notice will be off-set against the operational costs of enforcement both of which are accounted for in the Special Parking Account.

6.4 There will also be other minor costs in configuring existing IT systems to accommodate the new CCTV installation, however these will also be off-set against the income derived from the PCN's.

## **7 Legal and Constitutional References**

7.1 The London Local Authorities and Transport for London Act 2003 introduced

provisions for civil enforcement of certain moving traffic contraventions by decriminalising the offences, thereby transferring the enforcement responsibility from the Police to the Council.

7.2 The London Councils Transport and Environment Committee are responsible for regulating the scheme in London and its approval is required to commence MTC enforcement. It also administers the Code of Practice, which sets out the operational procedures that must be adhered to by any Borough included in the scheme.

7.3 A formal resolution now needs to be taken to make legal the transfer of powers. The necessary preliminary work has been reviewed and programmed by officers and this identifies, assuming authorisation is granted, that commencement of enforcement will be on or shortly after 1 January 2016 and this is known as the 'Appointed Day'

7.4 It may be that some of the sites identified for enforcement will be on boundary roads within neighbouring boroughs. It will be necessary for neighbouring boroughs to formally resolve that the enforcement to the parts of the boundary roads which fall within their areas will be exercised by Barnet. They have the powers to make such arrangements under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000. In approving this report officers will need to be given authority to enter into necessary agreements/arrangements with neighbouring boroughs as necessary.

7.5 **Legislation governing the enforcement of traffic regulations using CCTV includes#**

- Road Traffic Regulation Act 1984
- Road Traffic Offenders Act 1988
- Road Traffic Act 1991
- London Local Authorities Act 1996
- The Road Traffic Offenders (Additional Offences and Prescribed Devices) Order 1997
- London Local Authorities Act 2000
- London Local Authorities and Transport for London Act 2003
- Traffic Management Act 2004
- The Civil Enforcement of Parking Contraventions (England) General Regulations 2007
- The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007
- The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007

7.6 **Legislation governing the operation of CCTV systems includes:**

- The data Protection Act 1998
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000

- The Freedom of Information Act 2000

- 7.7 Together these Acts allow a London Local Authority to install structures and CCTV equipment on or near a highway for the detection of contraventions of Traffic Regulation Orders and to use the information provided by them, to serve a Penalty Charge Notice (PCN) on the registered keeper of a vehicle which contravenes the Traffic Regulations.
- 7.8 All relevant Traffic Regulation Orders must be made available on request.
- 7.9 Records of the keepers of vehicles that contravene traffic regulation orders will be obtained in accordance with the Driver and Vehicle Licensing Agency (DVLA) enquiry procedure rules and data obtained will be kept confidential in accordance with the Data Protection Act 1998
- 7.10 It is a requirement of the London Councils scheme that the Council should undertake a publicity campaign to inform the public of the start date for enforcement and to explain the objectives underlying the scheme.
- 7.11 It is a further requirement that the Council should issue warning notices during the first two weeks of enforcement to allow adjustments in behaviour.

## **8 Risk Management**

- 8.1 A key benefit in using CCTV for enforcement of parking restrictions is that it will take any potential confrontation out of enforcing certain prohibitions, unlike using Civil Enforcement Officers who are often faced with verbal and physical abuse when issuing Penalty Charge Notices.
- 8.2 All data that is collected in regard to CCTV and enforcement processing will be processed fairly and lawfully and the operators of the systems deployed will ensure that appropriate security measures shall be taken against unauthorised access to, alteration, disclosure or destruction of, personal data and against accidental loss or destruction of personal data.
- 8.3 An essential and integral part of any CCTV system is a Code of Practice, which sets out the objectives of the system and the rules by which it will be operated. This Code of Practice ensures that issues such as privacy, integrity and fairness are properly dealt with. It sets a minimum standard which must be adhered to by all those authorities in London enforcing traffic regulations using CCTV cameras to ensure public confidence in the scheme.
- 8.4 The Code of Practice is designed to operate within the framework of the relevant pieces of legislation as identified in this report and to complement the Statutory and Operational Guidance produced by the Department of Transport.
- 8.5 The London Councils Transport and Environment Committee support this Code of Practice and CCTV monitoring scheme, which it regulates. Permission to operate the scheme will be granted only to London local

authorities, which commit to and take responsibility for its fair, legal and widespread implementation and its maintenance, review and improvement as appropriate within this Code of Practice.

- 8.6 Appropriate process and procedures will be put in place to ensure compliance with the above requirements, including the need for regular monitoring and reviews to ensure continuity of compliance. This recognises that there is a risk that any failures to meet these standards would lead to a potential exclusion from the scheme and hence the termination of enforcement powers.
- 8.7 It is likely that there will be public concern related to the introduction of such enforcement, including the lack of knowledge or understanding of why it is necessary.
- 8.8 It is a requirement of the London Councils scheme that the Council should undertake a publicity campaign to inform the public of the start date for enforcement and to explain the objectives underlying the scheme.
- 8.9 It is a further requirement that the Council should issue warning notices during the first two weeks of enforcement to allow adjustments in behaviour.

## **9. Equalities and Diversity**

- 9.1 The 2010 Equality Act outlines the provisions of the Public Sector Equality duty which requires public authorities to have due regard to the need to
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it
- 9.1 The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership, but to a limited extent. A full Equalities Impact Assessment will be carried out if the scheme is successful in proceeding.
- 9.2 Enforcement action will only be undertaken when sufficient evidence has been gathered to confirm that a contravention has occurred. All recipients of a Penalty Charge Notice have the right to make representations to the issuing authority and all representations received by the authority must be considered and a response issued. Should the representation lead to a rejection by the authority the registered keeper of the vehicle has the option to appeal to the Parking and Traffic Appeals Service PATAS and have their appeal considered by an independent adjudicator.



## **10. Consultation and Engagement**

- 10.1 The Parking Policy consultation included the proposal to introduce CCTV enforcement for moving traffic contraventions and this was well received by those who responded to the consultation.
- 10.2 It is a requirement of the London Councils scheme that the Council should undertake a publicity campaign to inform the public of the start date for enforcement and to explain the objectives underlying the scheme.
- 10.3 It is a further requirement that the Council should issue warning notices during the first two weeks of enforcement to allow adjustments in behaviour.

## **11. BACKGROUND PAPERS**

- 11.1 NONE