

EXPLANATORY MEMORANDUM TO
THE CIVIL ENFORCEMENT OF MOVING TRAFFIC CONTRAVENTIONS
DESIGNATION ORDER 2023

2023 No. 698

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Transport and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument enables Bournemouth, Christchurch and Poole Council, Birmingham City Council, Bristol City Council, Cambridgeshire County Council, Central Bedfordshire Council, Cheshire West and Chester Borough Council, the City of Bradford Metropolitan District Council, Coventry City Council, Gloucestershire County Council, the District of Herefordshire County Council, Hertfordshire County Council, Lancashire County Council, Leeds City Council, Leicester City Council, Liverpool City Council, Manchester City Council, Medway Council, the Council of the City of Newcastle upon Tyne, North Northamptonshire Council, Nottingham City Council, Oldham Council, Peterborough City Council, Rochdale Council, Rotherham Metropolitan Borough Council, Salford City Council, Sheffield City Council, Shropshire Council, South Gloucestershire Council, Southampton City Council, the City of Stoke-on-Trent Council, Thurrock Borough Council, Trafford Council, Walsall Metropolitan Borough Council, West Berkshire District Council, West Northamptonshire Council, West Sussex County Council, Wigan Council, the Royal Borough of Windsor and Maidenhead Council, Wirral Council, and Wokingham Borough Council to enforce moving traffic contraventions within the specified area rather than the police and police traffic wardens.
- 2.2 The specified area is the part or parts of the above local authority areas already designated for the enforcement of parking contraventions (permitted parking areas, special parking areas, civil enforcement areas for parking contraventions, and special enforcement areas).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The regime for civil enforcement of moving traffic contraventions in England is set out in Part 6 of, and Schedule 8 to, the Traffic Management Act 2004 (“the 2004 Act”) together with instruments made under that Part of that Act. Those instruments are:

The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 (S.I. 2022/71);

The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 (S.I. 2022/576); and

The Traffic Management Act 2004 (Commencement No. 10 and Savings and Transitional Provisions) (England) Order 2022 (S.I. 2022/66).

- 6.2 Under Schedule 8 of the 2004 Act, the Secretary of State has, provided certain conditions are met, powers to designate a local authority’s area as a civil enforcement area for parking contraventions and/or moving traffic contraventions.

7. Policy background

What is being done and why?

- 7.1 Historically, all road traffic violations were contraventions enforced by the police. However, to enable the police service to focus its resource on other priorities, several Acts have been introduced since the 1990s decriminalising some traffic contraventions, converting them to civil contraventions, and transferring enforcement to local traffic authorities.
- 7.2 Civil enforcement of parking and bus lane contraventions has become commonplace across England, and since 2003, civil enforcement of moving traffic contraventions has operated successfully in London under the London Local Authorities and Transport for London Act 2003 (Chapter iii). However, elsewhere in England the equivalent moving traffic enforcement powers under Part 6 of the 2004 Act were not commenced until 31st May 2022 (Traffic Management Act 2004 (Commencement No 10 and Savings and Transitional Provisions) (England) Order 2022 (S.I. 2022/66)). These newly commenced powers empower this instrument.
- 7.3 Before a local authority can begin enforcing moving traffic contraventions in practice, it must first apply to the Secretary of State for an Order designating it as a civil enforcement area for moving traffic contraventions.
- 7.4 Pursuant to this instrument the following areas will be designated as a civil enforcement area for moving traffic contraventions:

- 7.4.1 parts of the area of Bournemouth, Christchurch, and Poole Council;
- 7.4.2 part of the area of Birmingham City Council;
- 7.4.3 part of the area of Bristol City Council;
- 7.4.4 part of the area of Cambridgeshire County Council;
- 7.4.5 part of the area of Central Bedfordshire Council;
- 7.4.6 part of the area of Cheshire West and Chester Borough Council;
- 7.4.7 part of the area of the City of Bradford Metropolitan District Council;
- 7.4.8 part of the area of Coventry City Council;
- 7.4.9 parts of the area of Gloucestershire County Council;
- 7.4.10 part of the area of the District of Herefordshire County Council;
- 7.4.11 parts of the area of Hertfordshire County Council;
- 7.4.12 part of the area of Lancashire County Council;
- 7.4.13 part of the area of Leeds City Council;
- 7.4.14 part of the area of Leicester City Council;
- 7.4.15 part of the area of Liverpool City Council;
- 7.4.16 part of the area of Manchester City Council;
- 7.4.17 part of the area of Medway Council;
- 7.4.18 part of the area of the Council of the City of Newcastle upon Tyne;
- 7.4.19 parts of the area of North Northamptonshire Council;
- 7.4.20 part of the area of Nottingham City Council;
- 7.4.21 part of the area of Oldham Council;
- 7.4.22 part of the area of Peterborough City Council;
- 7.4.23 part of the area of Rochdale Council;
- 7.4.24 part of the area of Rotherham Metropolitan Borough Council;
- 7.4.25 part of the area of Salford City Council;
- 7.4.26 part of the area of Sheffield City Council;
- 7.4.27 part of the area of Shropshire Council;
- 7.4.28 part of the area of South Gloucestershire Council;
- 7.4.29 part of the area of Southampton City Council;
- 7.4.30 part of the area of the City of Stoke-on-Trent Council;
- 7.4.31 part of the area of Thurrock Borough Council;
- 7.4.32 part of the area of Trafford Council;
- 7.4.33 part of the area of Walsall Metropolitan Borough Council;
- 7.4.34 part of the area of West Berkshire District Council;
- 7.4.35 parts of the area of West Northamptonshire Council;

- 7.4.36 parts of the area of West Sussex County Council;
- 7.4.37 part of the area of Wigan Council;
- 7.4.38 part of the area of the Royal Borough of Windsor and Maidenhead Council;
- 7.4.39 part of the area of Wirral Council; and
- 7.4.40 part of the area of Wokingham Borough Council.

Explanations

What did any law do before the changes to be made by this instrument?

- 7.5 In the areas set out in paragraph 7.4 above, only the police had powers to enforce against moving traffic contraventions.

Why is it being changed?

- 7.6 The Government decided to implement the moving traffic enforcement powers, recognising the dual imperative to improve air quality through reduced traffic congestions, and to encourage behavioural shift towards sustainable travel choices by keeping junctions and cycle lanes clear of obstructing vehicles to improve bus reliability and to promote cycling. This commitment was made by the (then) Prime Minister in launching the Government's broader policy to further promote active travel choices, post Covid-19, in its policy document 'Gear Change: a bold vision for cycling and walking'. That document highlights the need for local authorities to have the necessary enforcement powers to improve traffic flow. An online copy of that document can be found at [Cycling and walking plan for England - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612122/gear-change-a-bold-vision-for-cycling-and-walking.pdf). A hard copy can be requested by contacting Emily Kenning at the Department for Transport, telephone: 07977360659, and email: Emily.Kenning@dft.gov.uk.

What will it now do?

- 7.7 This instrument allows Bournemouth, Christchurch and Poole Council, Birmingham City Council, Bristol City Council, Cambridgeshire County Council, Central Bedfordshire Council, Cheshire West and Chester Borough Council, the City of Bradford Metropolitan District Council, Coventry City Council, Gloucestershire County Council, the District of Herefordshire County Council, Hertfordshire County Council, Lancashire County Council, Leeds City Council, Leicester City Council, Liverpool City Council, Manchester City Council, Medway Council, the Council of the City of Newcastle upon Tyne, North Northamptonshire Council, Nottingham City Council, Oldham Council, Peterborough City Council, Rochdale Council, Rotherham Metropolitan Borough Council, Salford City Council, Sheffield City Council, Shropshire Council, South Gloucestershire Council, Southampton City Council, the City of Stoke-on-Trent Council, Thurrock Borough Council, Trafford Council, Walsall Metropolitan Borough Council, West Berkshire District Council, West Northamptonshire Council, West Sussex County Council, Wigan Council, the Royal Borough of Windsor and Maidenhead Council, Wirral Council, and Wokingham Borough Council to enforce moving traffic contraventions as prescribed in Schedule 7

of the 2004 Act, including: ignoring no entry signs, performing banned turns, unlawful entry into box junctions, and driving in mandatory cycle lanes.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The issue of consolidation does not arise in this case.

10. Consultation outcome

10.1 The Secretary of State has a statutory obligation to consult the appropriate chief officers of police, in this case, of Dorset Police, Avon and Somerset Police, Cambridgeshire Constabulary, Bedfordshire Police, Cheshire Constabulary, West Yorkshire Police, West Midlands Police, Gloucestershire Constabulary, West Mercia Police, Hertfordshire Constabulary, Lancashire Constabulary, Leicestershire Police, Merseyside Police, Greater Manchester Police, Kent Police, Northumbria Police, Northamptonshire Police, Nottinghamshire Police, South Yorkshire Police, Hampshire Constabulary, Staffordshire Police, Essex Police, Sussex Police, and Thames Valley Police, and has done so.

10.2 The consultation took place over a two-week window. At the start of this period the Secretary of State wrote to each chief officer of police of the above police forces, setting out which roads for their area are proposed to be included in the Designation Order, which roads are proposed to be excluded from it, and asking whether or not they approved the application. The consultation was limited to the relevant chief officers of police in compliance with paragraph 10(4), Part 2 of Schedule 8 to the 2004 Act. Responses from all relevant chief officers of police were received, and no objections to any of the applications were raised.

11. Guidance

11.1 Statutory guidance was published on the Department for Transport website on 31st May 2022, and updated on 21st October 2022. The statutory guidance highlights the importance of ensuring citizens are properly consulted in advance of enforcement going live, and the need for appropriate traffic signs to be placed to ensure that the restrictions are clear to drivers. An online copy of this guidance can be found here: <https://www.gov.uk/government/publications/bus-lane-and-moving-traffic-enforcement-outside-london/traffic-management-act-2004-statutory-guidance-for-local-authorities-outside-london-on-civil-enforcement-of-bus-lane-and-moving-traffic-contravention>. A hard copy can be requested by contacting Emily Kenning at the Department for Transport, telephone: 07977360659, and email: Emily.Kenning@dft.gov.uk.

11.2 To promote compliance by helping motorists understand the seriousness of moving traffic contraventions, the statutory guidance recommends that for a period of six months following implementation of enforcement of moving traffic contraventions, at each particular camera location, local authorities outside London should issue warning notices for first-time moving traffic contraventions. The warning notices will advise that any further moving traffic contraventions would result in the issue of a Penalty Charge Notice.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it does not impose additional moving traffic controls; it simply allows the local authority to enforce existing controls instead of the police.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that each Council should keep the civil enforcement of moving traffic contraventions in their area under review.
- 14.2 The instrument does not include a statutory review clause.

15. Contact

- 15.1 Emily Kenning at the Department for Transport, telephone: 07977360659, and email: Emily.Kenning@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Anthony Ferguson, Deputy Director for Traffic and Technology, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Richard Holden MP, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.