

Explanatory Memorandum to The Civil Enforcement of Bus Lane and Moving Traffic Contraventions (County of Carmarthenshire) Designation Order 2018

This Explanatory Memorandum has been prepared by the Department for Economic Infrastructure and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Civil Enforcement of Bus Lane and Moving Traffic Contraventions (County of Carmarthenshire) Designation Order 2018. I am satisfied that the benefits outweigh any costs.

Ken Skates
Cabinet Secretary for Economy and Transport

15 November 2018

1. Description

The Order will enable Carmarthenshire County Council (“the Council”) to enforce bus lane and moving traffic contraventions within its County. It will apply to all public highways. Under this system non-endorsable offences such as illegal use of bus lanes and illegal queuing across yellow box junctions would become civil enforcement matters rather than having to be dealt with as criminal offences.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative Background

The powers enabling this Instrument to be made are under paragraphs 9(1) and 10(1) of Schedule 8 to the Traffic Management Act 2004. The functions of the National Assembly for Wales under the Traffic Management Act 2004 have been transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

This instrument follows the negative procedure.

4. Purpose and intended effect of the legislation

Civil traffic enforcement provides a means by which Carmarthenshire County Council can secure the expeditious and safe movement of traffic and secure wider transport strategies and objectives.

The Council has carried out sample surveys at a number of locations it intends to enforce and this has shown there to be significant levels of moving traffic contraventions taking place.

The enforcement of moving-traffic contraventions will apply to all motorists equally and therefore is not anticipated to impact negatively on any specific group of our citizens. Indeed, by improving traffic flow and road safety there should be benefits for all road user groups.

Bus lane enforcement will safeguard bus service users by avoiding potential vehicle conflict with illegal users. Effective enforcement will also benefit public transport users by securing expeditious access and exit from the bus lane.

In terms of road safety, enforcement of no stopping bans outside schools and driving bans through town centre areas will avoid potential conflict with vulnerable road users in these pedestrian sensitive areas.

The Council will enforce bus lane and moving traffic contraventions through the use of approved cameras and support systems. They intend to operate the enforcement within the current Civil Enforcement Officer staff compliment.

The processing of notices will be added to the Council's existing civil parking enforcement software. Penalty charge notices will be served by post. The penalty charge notice and associated correspondence templates will be amended to refer to bus lane and moving traffic contraventions rather than civil parking contraventions and will conform to the layouts recommend by the independent Traffic Penalty Tribunal for England and Wales (PATROL Joint Committee).

The Civil Enforcement of Road Traffic Contraventions (Guidelines on levels of Charges) (Wales) Order 2013 specifies that bus lane and moving traffic contraventions will all be subject to the higher penalty charge level. In accordance with that document, Carmarthenshire County Council applies for the following charges to apply as set out in band 2, namely: -

Higher level penalty charge = £70

Higher level penalty charge paid within 14 days = £35

Higher level penalty charge paid after service of charge certificate = £105

This corresponds with the band currently in use in Carmarthenshire for higher level parking contraventions.

This Instrument has a coming into force date of 7 December 2018 as requested by the Council. If it were to be annulled the Council would be unable to implement the power to enforce bus lane and moving traffic contraventions. They have requested these powers with the full support of the Police. Their implementation will relieve the local police from these duties thus freeing up valuable police time and resources to tackle other key areas of business relating to road safety.

5. Consultation

The Council consulted with all the relevant stakeholders in April 2018. A list of the consultees and responses is at Annex A. Full details of the consultation are included in paragraph 8 of the Regulatory Impact Assessment.

REGULATORY IMPACT ASSESSMENT

6. Options

Option 1: Do Nothing. If the legislation were not made the Council would be unable to implement the power to enforce bus lane and moving traffic contraventions in 2018. The Council has requested these powers with the full support of the Police. Their introduction will relieve the local police from these duties thus freeing up valuable police time and resources to tackle other criminal activities. There could be criticism for using police resources for parking offences when they could be better utilised dealing with other key areas of business relating to road safety.

Option 2: Implement the provisions with effect from 7 December 2018. Making the legislation would allow the Council to implement the power to enforce bus lane and moving traffic contraventions thereby freeing up the police to deal with other criminal matters. Full consultation as described below will ensure that no specific group will be discriminated against by the legislation.

7. Costs and benefits

a) Costs

Option 1 – Do Nothing

If the provisions are not implemented the costs will remain with the Dyfed-Powys Police who, due to more pressing duties, will be unable to devote sufficient resources to tackle the identified contraventions that the Council could if taking over these powers.

Option 2 – Implement the provisions from 7 December 2018

The costs of the scheme will be borne by the Council who are satisfied that the full financial impact of the scheme has been considered and provision has been made in its budget setting process. The Council has provided funding to cover the start up costs of the scheme. The results of financial analysis modelling show that there will be an operating surplus.

The Council would like to set their penalty charge at £70, discounted to £35 for early payment. Drivers receiving a penalty charge notice will be able to challenge it by making representations to the Council. Independent adjudication must be available to drivers who remain unhappy with the Council's decision. The Traffic Penalty Tribunal will provide this service.

There are no financial implications for the Welsh Government or other local authorities.

b) Benefits

We have identified the benefits for each option as follows:

Option 1 – Do Nothing

There are no benefits.

Option 2 – Implement the provisions from 7 December 2018

Enforcement of bus lane contraventions will safeguard bus users, who alight at stops located approx. mid-point on the lane, and are faced with unlawful users queuing behind stationary buses. Buses will be able to enter the bus lane and avoid potential vehicle conflict with illegal users.

Effective enforcement will benefit public transport users by securing expeditious access and exit from the bus lane.

In terms of road safety, enforcement of no stopping bans outside schools and driving bans through town centre areas will avoid potential conflict with vulnerable road users in these pedestrian sensitive areas. Enforcement of 'environmental' weight restrictions will make streets that are not suited to heavy lorry traffic safer. Enforcement of turning bans will prevent potential conflict with pedestrians and cyclists.

8. Consultation

In accordance with the relevant guidelines, before submitting their application the Council consulted with all the relevant stakeholders in April 2018. A list of the consultees and responses is at Annex A. In addition to local councillors the consultees included bus operators and motoring organisations. The Council is committed to fully informing the public of the proposed changes to the parking enforcement and they will be launching a comprehensive publicity programme prior to the proposed commencement date. This will include the use of their website, press releases and a general distribution of posters and leaflets.

On receipt of the Council's application, and in accordance with the relevant legislation, the Welsh Government consulted with the Dyfed-Powys Police and the Traffic Enforcement Centre. No objections were received.

9. Post implementation review

The effect of the Order will be monitored by way of an annual return from the Council to the Welsh Government and the Home Office. This will include the financial results of bus lane and moving traffic enforcement and any action the Council will take in respect of any deficit on the bus lane and moving traffic account.

10. Summary

The Council will bear the costs of the proposals. The powers will enable the Council to adopt a more thorough and visible enforcement of bus

lane and moving traffic contraventions. Their implementation will relieve the local police from these duties thus freeing up valuable police time and resources to tackle more pressing duties.

ANNEX A

SCHEDULE OF CONSULTATION

Organisation	Response
1st Choice Coaches	No response
Abergwili Community Council	No response
Ammanford Chamber of Trade	No response
Ammanford Town Council	No response
The AA	No response
Callacab Travel	No response
Carmarthen Chamber of Trade & Commerce	No objection
Carmarthenshire Disability Coalition Group	No response
Carmarthenshire Driving Instructors Association	No response
Carmarthen Town Council	No response
Ceredigion County Council	No response
City and County of Swansea	No response
Coracle Coaches	No response
Davies Coaches	No response
Dr Taxies Llanelli	No response
DVLA Swansea	No response
Dyfed Powys Police	Supported
First Cymru	No response
Ffoshelig Coaches	No response
Freight Transport Association	No response
Gorslas Community Council	No response
Gwynne Price Coaches	No response
Kidwelly Town Council	No response
Lewis Rhys Lewis Coaches	No response
Llanelli Chamber of Trade & Commerce	No response
Llanelli Rural Council	No response
Llanelli Town Council	No response
Llangennech Community Council	No response
Mid and West Wales Fire and Rescue Service	No response
Morris Travel	No response
Neath Port Talbot	Supported
Pembrey and Burry Port Town Council	No response
Pembrokeshire County Council	No response

Pontyberem Community Council	No response
Powys County Council	Supported
Road Haulage Association	No response
The Royal Automobile Club	No response
Traffic Enforcement Centre (TEC)	No response
Traffic Penalty Tribunal (TPT)	No response
Stadium Developments Ltd	No response
Sustrans Cymru	No response
Wales Road Casualty Reduction Partnership (GoSafe)	No response
Welsh Ambulance Services NHS Trust	No response