

## **Explanatory Memorandum to The Civil Enforcement of Bus Lane and Moving Traffic Contraventions (City and County of Cardiff) Designation Order 2014**

This Explanatory Memorandum has been prepared by the Department for Economy, Science and Transport 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 (City and County of Cardiff) Designation Order 2014. I am satisfied that the benefits outweigh any costs.

**Edwina Hart**  
**Minister for Economy, Science and Transport**

8 October 2014

## **1. Description**

The Order will enable Cardiff Council (“the Council”) to enforce bus lane and moving traffic contraventions within its County. It will apply to all public highways except those listed in Annex A below. 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**

Since Cardiff Council acquired powers to enforce civil parking restrictions back in 2010 there is evidence that illegal parking is reducing and bus journey times on some measured routes is improving.

In order to continue this positive trend and to further support the Council’s policy of encouraging a shift towards public transport and cycling the Council have decided that the enforcement of bus lanes should come under their control. Enforcement of bus lanes will assist buses to reach the front of the bus lanes where, currently, illegal users will be queuing such that the advantage to buses of using the bus lane is eroded. Increased enforcement will, therefore, benefit public transport users by increasing access to traffic signal green time.

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. They have found that a growing number of motorists are not obeying the rules for yellow box junctions and are queuing across junctions illegally. This is interfering with the movement of cross-traffic and causes unnecessary delay to all traffic and public transport particularly. Furthermore, in terms of safety, enforcement of turning bans will prevent potential conflict with

pedestrians who might be crossing the road on a green man signal, for example. The Council have, therefore, decided that such contraventions need to be enforced by them in order to free up traffic flow during times of traffic congestion.

The Council will enforce bus lane and moving traffic contraventions through the use of approved cameras and operating software. They intend to appoint additional Civil Enforcement Officers to operate the camera file review suite and to decide whether potential contraventions should be deleted or progressed to penalty charge notice.

The processing of notices will be added to the Council's existing parking enforcement software. In effect, enforcement of the moving traffic contraventions will be similar to vehicle drive-aways under the parking system whereby penalty charge notices are served by post. The templates will be amended to refer to bus lane and moving traffic contraventions rather than parking contraventions and will conform to the wording and layouts recommended by the Traffic Penalty Tribunal (PATROL-UK 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 the Council intends to apply the following charges as set out in band 2, namely:

Higher level penalty charge = £70

Higher level penalty charge paid early = £35

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

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

This Instrument has a coming into force date of 10 November 2014 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 November 2013. A list of the consultees and responses is at Annex B. 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 2014. 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 10 November 2014.** 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 South Wales 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 10 November 2014**

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 a surplus by the second year of operation.

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 10 November 2014**

Since Cardiff Council acquired powers to enforce civil parking restrictions back in 2010 there is evidence that illegal parking is reducing and bus journey times on some measured routes is improving.

Bringing bus lane and moving traffic enforcement under the control of the Council should mean that this positive trend will continue. It should also support the Council's policy of encouraging a shift towards public transport and cycling.

Enforcement of bus lanes will assist buses to reach the front of the bus lanes where, currently, illegal users will be queuing such that the advantage to buses of using the bus lane is eroded. Increased enforcement will, therefore, benefit public transport users by increasing access to traffic signal green time.

Sample surveys at a number of locations have shown that a growing number of motorists are not aware of the rules for yellow box junctions and are queuing across junctions illegally. The enforcement of such contraventions will help to remove unnecessary delays to all traffic and public transport particularly. Furthermore, in terms of safety, enforcement of turning bans will prevent potential conflict with pedestrians who might be crossing the road on a green man signal, for example.

The nature of this scheme should mean that the local authority can devote their resources to bus lane and moving traffic enforcement more than the police, who have more pressing duties to achieve.

This is considered to be a logical area where the responsibility for parking enforcement can be clearly and completely handed over from one agency to another.

## **8. Consultation**

In accordance with the relevant guidelines, before submitting their application the Council consulted with all the relevant stakeholders in November 2013. A list of the consultees and responses is at Annex B. 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 South Wales 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**

This Order applies to the whole of the city and county of Cardiff with the exception of—

- (a) the M4 motorway and its slip roads and the gyratory carriageway (A4054) around Junction 32;
- (b) the A470 trunk road including its northern slip roads adjoining the A4054 gyratory carriageway, from the boundary with the County Borough of Rhondda Cynon Taf at a point approximately 240 metres north of the B4262 Ynys Bridge roundabout to the M4 Junction 32 gyratory carriageway via the northern slip roads;
- (c) the A48(M) from the boundary with the City of Newport administrative area to the slip road merge and diverge at the St Mellons Junction; and
- (d) the A4232 from Junction 33 of the M4, including its circulatory carriageway, to its junction with the A48 gyratory at Culverhouse Cross via the northern slip roads.

## ANNEX B

### SCHEDULE OF CONSULTATION

Organisation	Response
The AA	No objection
Blaenau Gwent County Borough Council	No response
Bridgend County Borough Council	No response
Bus Users Cymru	No response
Caerphilly County Borough Council	No response
Capital Region Tourism	No response
Cardiff City Retail Partnership	No response
Cardiff City Transport Service Ltd. (Cardiff Bus)	Supported
Cardiff & Vale NHS Trust	Supported
Cardiff Cycle Campaign	No response
Cardiff Harbour Authority	Supported
Cardiff Hoteliers Association	No response
Cardiff Licensees Forum	No response
Cardiff Metropolitan University	No objection
Cardiff University - Communications	No response
City Sightseeing Ltd	No response
Coach Travel Wales	No response
Confederation of Passenger Transport Wales	No response
Creigiau Travel	No response
Cyclists' Touring Club (CTC)	Supported
Cytun - Cardiff Churches	No response
Diverse Cymru	No response
DVLA Swansea	No comments
Easyway Minicoach Ltd	No response
Edwards Coaches	No response
Federation of Small Businesses	No response
Ferris Coaches	No response
First Cymru	No response
Freight Transport Association	No response
Living Streets	No response
Mainline Coaches Ltd	No response
Merthyr Tydfil County Borough Council	No response
Millennium Stadium	Supported
Monmouthshire County Council	No response
Motorpoint Arena	No objection
National Express	No response
Newport City Council	No response

Newport Transport Ltd.	No response
RAC	No response
Rhondda Cynon Taff County Borough Council	No response
Road Haulage Association (Mids & SW)	No response
SEWTA	No response
SEWTA c/o Bridgend CBC	No response
South Wales Fire & Rescue Service	No objection
South Wales Police	Supported
St David's Centre	Supported
Stadium Events Liaison Group	No response
Stagecoach South Wales	Supported
Sustrans	Supported
Sixty Sixty Coaches	No response
Torfaen County Borough Council	No comment
Traffic Enforcement Centre (TEC)	No response
Traffic Penalty Tribunal (TPT)	No comment
Traveline Cymru	No response
University of South Wales	No response
Vale of Glamorgan Council	No response
Welsh Ambulance Services NHS Trust	No response
Welsh Government	Supported