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### **Briefing Note: Traffic Management Act (TMA) 2004: Implementation of Part 6**

Part 6 of the TMA 2004 enables civil enforcement of moving vehicle offences such as yellow box junctions and easier enforcement of bus lanes in areas with Local Authority Parking Enforcement (LAPE). Of particular relevance for those on cycles is that it also enables similar enforcement for infringements in both mandatory cycle lanes, and advanced stop boxes at traffic light controlled junctions. It also allows the use of approved camera systems, as part of the civil enforcement process.

Although marked for action in the DfT 'Cycling and Walking Action' plans, between 2005 and 2009, Part 6 has never been enacted, and hence these powers, have never been available to local authorities (LAs), despite inclusion in the Act.

This means outside London only full police officers (not PCSOs) can issue Fixed Penalty Notices for the above infringements. Unfortunately police authorities, do not seem to consider such infringements serious, despite the significant road danger created for those on cycles, and compared with the number of infringements, issue extremely few tickets.

On certain busy routes into Cambridge delivery vehicles will regularly stop, on a daily basis, in cycle lanes during peak hours, but rarely if ever be ticketed. Between January and March in 2010 only 5 tickets were issued in Cambridge, most just due to the persistence of Cambridge Cycling Campaign members.

In late 2010 DfT wrote to twenty Local Authorities about enabling Part 6 of the TMA, to give local authorities such powers listed above.

Cambridge Cycling Campaign, through the local MP Dr Julian Huppert, contacted DfT about some details of this, and the resulting decision by the Parliamentary Under-Secretary of State for Transport, Norman Baker MP, not to proceed with enactment of Part 6.

Via FOI requests, we have since obtained some further details, including the names of authorities consulted, who replied, and copies of the replies received by DfT.

Firstly, the letter that DfT wrote to LAs contained:

*“Implementation of Part 6 of the Traffic Management Act 2004 (TMA)-Remaining powers for local authorities to enforce bus lanes and certain moving traffic matters (eg yellow box junctions)*

*I am writing to seek your views on whether the powers referred to above should be enacted, and if they were, whether your council is likely to want to use them ...”*

No mention was made of the powers to cover offences in cycle lanes or advanced stop boxes. Of those included in the list, four of the LAs were district councils with no highway powers, those residing with the relevant County Council, hence the letter was irrelevant.

### **Extracts from Local Authority comments on TMA 2004 Part 6 received by DfT:**

Birmingham City Council

*“...In general Birmingham City Council welcomes this consultation and would look actively to support such powers should they become available. You may be aware that we have previously sought clarity from your Department with regard to the implementation of these powers as we believe that active and targeted enforcement of such offences would greatly assist us in carrying out our Network Management Duty...”*

Brighton & Hove City Council

*“... The matter has been discussed with our Traffic Manager, Road Safety Manager and local transport operators, all of whom are of the view that these additional powers are needed in Brighton and Hove...We would welcome enactment of these powers as soon as due process allows”*

Bristol City Council

*“...I am confident therefore that the rolling out of the remaining powers contained in Part 6 of the Traffic Management Act, to permit local authorities to enforce moving vehicle offences will provide another tool in the traffic management toolkit to assist in combating inconsiderate motorists and reducing disruption to the highway network...’*

Leeds City Council

*“...Having considered the issues carefully I can confirm that should the powers of Part 6 of the Traffic Management Act be enacted, Leeds City Council would wish to use them”*

Liverpool City Council

*“...In answer to these questions I would state that Liverpool City Council does support the enactment of the powers and would seek to use them...”*

Manchester City Council

*“...I can confirm that Manchester City Council is in support of the implementation of the remaining powers in the TMA and I set out below the evidence to support how we would utilize these additional powers...”*

*...The enforcement of moving vehicle traffic offences would also enable us at certain locations where traffic restrictions are regularly flouted by a minority of Hackney carriage drivers and other taxi drivers. It is hoped that this might change driver behaviour removing the need for resource intensive joint police/licensing operations...*

#### Newcastle City Council

*'...I can confirm that Newcastle City Council still wish to adopt these powers and would welcome the enactment of Part 6 as soon as is practicable...*

*... I believe these enforcement powers are needed as a matter of urgency to support our Local Transport Plan and Network Management Duty policies and objectives...*

#### Nottingham City Council

*"...If the remaining powers were enacted I can assure you that this authority would use them...*

*...Nottingham actively welcomes this opportunity, and would be enthusiastic to use these new powers in order to further improve our integrated transport network, and improve safety within our City...*

#### Oxford City Council

*" Oxford City Council is not the local Highway Authority. That responsibility falls to Oxfordshire County Council. So I can confirm that the City Council will not be using the enforcement powers that your letter refers to. Nevertheless, if and when the new powers are implemented and the County seeks to use them, I am sure the City Council would support such action..."*

#### Plymouth City Council

*"...The City of Plymouth would welcome the introduction of these powers and have a real need for them to tackle issues that are increasing in certain areas... This unauthorised action resulted in a fatality...If we had the extended powers we would be able to control this area by CCTV....It is the view of both elected members and officers that the need for these powers is both urgent and immediate...*

#### Reading Borough Council

*"...We would intend to give the enforcement high priority, as it fits in with our established Network Management policies and we have been awaiting the implementation of Part 6 of the TMA in order to be able to progress this..."*

#### Salford City Council

*"... Salford City Council... would support the enactment of Part 6 of the TMA referred to above..."*

#### Sheffield City Council

*"...Having powers of enforcement of Moving Traffic Contraventions could be helpful...On balance Sheffield views the addition of these powers as being very helpful in maintaining capacities on the highway network..."*

#### Southampton

*“...At this stage no firm decision has been taken about bus lane enforcement...and formal application will be submitted to DfT if the outcome is to go ahead with implementation”*

### **Contrary information from Norman Baker MP**

We had previously seen, via Dr Julian Huppert, the text of a letter from Norman Baker MP dated 28 July 2011 stating:

*...I wrote in December 2010 to leaders of 20 large English authorities, whom I thought would be among the first to use the moving vehicle powers contained in Part 6 of the TMA which your constituent describes in the context of mandatory cycle lanes. I was seeking further evidence to establish whether such powers would provide a positive impact in local situations. Whilst some were clearly very enthusiastic about this, and able to make the capital investment required, others were more muted in their support. Indeed some did not respond to the letter.*

*The Department must, as I am sure you appreciate, make tough choices about priorities and where resources are targeted. We came to the conclusion that this was not an area where staff resources should be devoted at this moment in time.*

*In order to control parking or stopping there would also need to be yellow or red line restrictions in place in any mandatory lane. It is for local authorities to decide whether or not to implement such restrictions...*

It should also be very clear from the replies from local authorities quoted above that there is a definite demand for the powers in Part 6 of the TMA, in every single reply. Some have clearly asked previously for this section to be enabled. Only Salford and Southampton could be considered muted in their support.

The major reason for failure to reply, which can be seen from the list, is not that they could not be bothered with such powers, but that as an authority without highway powers, they had no rights to use any such power.

We consider that there must have been some breakdown in communication within the Department as the letter from the Norman Baker MP, seems out of kilter with the replies received from local authorities.

In addition, we consider the last paragraph from the DfT letter to be incorrect. As the offence is ‘entering’ a mandatory cycle lane, even the driver of a stationary parked vehicle has committed the offence. Hence there is no requirement for such yellow lines, or the double traffic regulation order that would so be required. The ability to use a single traffic regulation order (TRO) and a single 150mm white line clearly gives cost savings, over an additional TRO and the maintenance of double yellow lines and ‘no unloading’ tick marks.

As a cycling campaign we consider the implementation/enabling of these powers in Part 6 vital so that infringements in Mandatory Cycle Lanes (MCLs) and Advanced Stop Boxes (ASBs) can be more effectively controlled.

Only when the compliance of motor vehicles with regulations regarding MCLs and ASBs is far greater will they become a useful and safe facility for those on cycles.

The enabling of these powers was not mentioned in the DfT letter, and the only LA with highway powers, and significant numbers of people on cycles on the list was Portsmouth. Cambridgeshire, Oxfordshire, York and Hull, all of whom have high levels of cycling, were omitted from the list of authorities consulted.

We consider that the consultation letter, consultation process, and the assessment of replies were all seriously flawed.

We demand that as part of the DfT work to support 'Cities fit for Cycling', Part 6 of the TMA2004 must be enabled as soon as possible.

Full copies of all the documents obtained via FOI are at:

<https://www.gov.uk/government/publications/consultation-on-part-6-of-the-traffic-management-act>

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