

OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE
12th JUNE 2008

IMPLEMENTATION OF THE TRAFFIC MANAGEMENT ACT

Purpose of Report

1. To advise Members on the implications of the Traffic Management Act 2004 (TMA)

Background

2. Following consideration of a report on the Transport Whole Services Inspection Action Plan at the 17th January 2008 meeting of this Committee, further information was requested on the TMA. The TMA was introduced in 2004 to tackle congestion and disruption on the road network. The Act is being implemented in several parts with the most recent sections governing Civil Parking Enforcement and Street Works having been brought into force on 31st March 2008. The Act gives authorities additional tools to better manage the highway network, parking enforcement and the co-ordination of street works.

Main Considerations

Network Management

3. The Network Management duty requires local traffic authorities to manage their road network to achieve, as far as reasonably practicable, and having regard to their other obligations, policies and objectives, the expeditious movement of traffic on their road networks. Authorities are required to establish processes to identify causes of road congestion or other disruption to the movement of traffic on their network; and to consider any possible action that could be taken in response.
4. However these duties must be balanced against the statutory obligations of the statutory undertakers to provide a supply or service that is closely monitored by the utility regulators. Statutory undertakers have a legal right to carry out works involving placing and maintaining their apparatus in the public highway.
5. A Network Management Plan is currently being drafted to show how this authority is proposing to meet the requirements of the Network Management Duty imposed by the TMA, in particular, how this Council will achieve a better managed, safer and more efficient highway network for all highway users. It contains the current network management activities that this Authority is undertaking, together with a detailed action plan identifying areas where additional work needs to be undertaken. The plan will form part of the 2008 Local Transport Plan (LTP) Progress Report due to be published in consultation draft form in early Autumn.

Street Works

6. The New Roads and Street Works Act 1991 (NRSWA), supported by relevant regulations, provides a legislative framework for street works by undertakers. NRSWA does not apply to works undertaken on behalf of the highway authority. However the TMA requires the highway authority to ensure parity, by applying the same standards and approaches to an authority's own works as to those of other works promoters. Wiltshire has for some time required information on the County Council's works to be made available to the street works team but following the introduction of the TMA more detailed information has been requested similar to that supplied by statutory undertakers.
7. The TMA tightens the regulatory framework within which undertakers dig up roads, giving authorities more power to co-ordinate, control and direct works effectively with the aim of minimising disruption. The aim is to balance the statutory rights of highway authorities and undertakers, with the rights of road users to expect minimum disruption from works. Under the Authority's network management duty endeavours will be made to ensure that congestion and delay is kept to a minimum by the works being carried out as effectively and efficiently as possible.
8. The most important element is the co-ordination of all works in the highway to enable differences between those competing for space or time in the street to be resolved in a positive and constructive way. The TMA increases the notice periods required for planned works to facilitate more effective co-ordination. To encourage accurate and timely noticing of works, a fixed penalty system has been introduced as an alternative to court action. In practice, by working closely with the statutory undertakers, the majority of the works are satisfactorily co-ordinated through negotiation.
9. The TMA introduces new charges for unreasonably prolonged occupation of the highway. This is where the agreed works exceed the duration given in the notice to the local authority and a satisfactory reason for the non completion of the works has not been given by the undertaker prior to the end of the notice period.
10. The legislation increases the maximum duration of restriction local authorities may impose following substantial road works, for example, following the resurfacing of a road. Where a formal restriction is in place on a road, the formal consent of the local authority is required before an undertaker is permitted to carry out works. However this does not preclude undertakers from carrying out certain categories of work including, for example, new customer connections.
11. An authority can issue a formal direction to control the dates and times of works but only if it believes that the works could cause serious disruption to traffic, which could be reduced or avoided if undertaken at other specific times. However in practice, in the majority of cases, by working closely with the undertakers, the timing of works is generally agreed through discussion and negotiation to ensure that delay and disruption to road users is kept to a minimum. In a typical year this involves the co-ordination of works at over 15,000 sites throughout the County.
12. The TMA provides for the introduction of permit schemes, the details of which have to be agreed by the Secretary of State. Permit schemes provide an alternative to the 'notification system' of the New Roads and Street Works Act 1991 (NRSWA). A statutory undertaker would need to book time on the highway through a permit as would a highway authority for its own works. The implications of this latest legislation need careful consideration. The potential benefits need to be assessed against burden of the likely substantial increase in administration for the local authority. Consideration also needs to be given to the extent of the road network to be included in a permit scheme and the impact of the requirement for the County Council's own works to be subject to the same permit controls. The implications of a permit scheme are being investigated and discussions with other surrounding authorities are taking place as a potential option would be to enter into a joint South West scheme.

Parking Enforcement

13. The TMA builds on and strengthens the successful civil enforcement regime (including parking) introduced by the Road Traffic Act 1991, the Transport Act 2000 and London legislation. This was previously known as decriminalised parking enforcement (DPE). DPE has been in operation in Salisbury District since 2001, and throughout the Districts of North Wiltshire and Kennet since September 2006. The County Council is currently working with West Wiltshire District Council to bring the enforcement system into operation on 16th June 2008. The District Councils undertake enforcement of the on-street parking controls under agreement with this Authority.

The primary changes are:-

- (i) The term “Decriminalised Parking Enforcement” (DPE) has been changed to “Civil Parking Enforcement” (CPE). Parking Attendants are now known as “Civil Enforcement Officers” to reflect their wider role and the Designated Parking Areas will be called Civil Enforcement Areas.
- (ii) Parking penalties based on differential charge bands have been introduced in order to provide an enforcement regime appropriate to the contravention. The more serious contraventions, such as parking on double yellow lines, receive a £70 penalty, whilst overstaying a pay and display will incur a £50 fine.
- (iii) The power to serve a Penalty Charge Notice (PCN) by post has been introduced if a driver either drives away or an officer is prevented serving a notice by way of making threats.
- (iv) The National Parking Adjudication Service (now known as the Traffic Penalty Tribunal) has the power to refer appeals back to the Local Authority if it is considered that suitable discretion was not exercised in considering a parking appeal.
- (v) The ability to enforce parking on zig-zags at pedestrian crossings has been introduced (previously only the police could enforce these). The legislation does allow for enforcement of double parking, and parking across a dropped kerb, however further clarification on procedures is required.
- (vi) Legislation has also been introduced to enable enforcement of certain moving offences, for example, banned turns and yellow box junctions. Enabling regulations are due in 2009 and applications will be required to the Secretary of State.

Risk Assessment

14. Under the TMA, the Secretary of State has the power to intervene in a local traffic authority, if it is considered that a local authority may be, or is, failing to perform any of its network management duties.

Financial Implications

15. The legislation allows local authorities to charge statutory undertakers for certain functions, for example, inspecting reinstatements. However, although some income is received, it does not cover the staffing costs involved in undertaking the works.
16. The Government has indicated that parking enforcement should be self-financing and any deficit has to be supported within existing local authority budgets.

Environmental Impact

17. Improved co-ordination of works will minimise the delays and disruption to the road network, with benefits to air quality and pollution issues.

Recommendation

18. That the report be noted.

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The following unpublished documents have been relied on in the preparation of this Report:

None.