



meeting **ENVIRONMENT AND SUSTAINABILITY SELECT COMMITTEE**

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TRAFFIC MANAGEMENT ACT 2004

Purpose of Report

1. To inform Members of the main strands of the Traffic Management Act 2004.

Background

2. A request was received from Members at the previous meeting of Select Committee on the 4 July 2005 for a brief summary of the main contents of the Traffic Management Act 2004.

Summary

3. To assist Members with this request, a concise factual summary of the Traffic Management Act (TMA) prepared by the Department for Transport is **attached** at Appendix 1 for information.

Implications for NCC

4. The most immediate impact on the County Council as local traffic authority has been the introduction of the new statutory network management duty to keep traffic flowing, reduce congestion and co-operate with adjoining highway authorities as part of this process (covered by Paras 6 – 10 of the attached summary). This new duty came into effect on the 4 January 2005 and as part of the arrangements, the Act requires that all local Traffic Authorities appoint a Traffic Manager with sufficient status and influence to satisfy the statutory duty on behalf of the Authority.
5. For Nottinghamshire, the Assistant Director (Transportation) has been appointed as interim Traffic Manager pending a permanent full-time appointment which is expected to be made in autumn 2005.
6. The Authority is already engaging with adjoining authorities including the Highways Agency to develop cross-boundary protocols and procedures to meet the requirements of the new duty. In fact, as part of this process

Nottinghamshire organised and hosted an East Midlands Traffic Managers' Forum on the 21 July 2005.

7. Whilst Members will note that the TMA includes sections on Traffic Management on Trunk Roads (particularly around the establishment of Regional Control Centres and Uniformed Traffic Officers) and London, there is also a significant section on Civil Enforcement.
8. As Members will be aware, this Authority has already voluntarily embarked on the process to introduce decriminalised parking enforcement in the administrative County of Nottinghamshire by January 2007, but the TMA now gives power to the Secretary of State to direct authorities to apply for civil enforcement powers (see para 19 of DfT Summary). This is a significant change in emphasis and has been drawn to District Councils' attention during the negotiation process.

Next Stages

9. It is not expected that the next raft of regulations associated with the TMA will be out until later in the year. This will cover further controls on Utility Works, Permit Schemes, Fixed Penalty Notices and Directions and also cover a range of other measures placing additional responsibilities on the County's own highway works in terms of safe working and keeping records of apparatus. All of this will bring highway works in line with those of Utilities (see paras 11 – 14 of attached summary).
10. The TMA is very much an evolving area with all local Traffic Authorities being on a steep learning curve with much legislation still to be brought into operation following consultation by DfT in Spring 2005. Although the broad shape of the TMA is known, the details with regard to matters such as notification, monitoring and data collection are subject to consultation currently under way. A report in this respect setting out implications for the Authority in order to meet the requirements of the TMA will be brought to this Select Committee early in 2006.

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APPENDIX 1

Traffic Management Act 2004 – Summary

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Traffic Management Act 2004 - Summary

Traffic Management Act 2004

The Traffic Management Act received Royal Assent on Thursday 22 July 2004. It is intended to provide the basis for better conditions for all road users through the proactive management of the national and local road network.

The Act can be found on: <http://www.hmsso.gov.uk/acts/acts2004/20040018.htm>

The Explanatory Notes are on: <http://www.hmsso.gov.uk/acts/en2004/2004en18.htm>

Traffic Management on Trunk Roads

1. Part 1 of the Act allows the Highways Agency to carry out some of the traffic management functions on motorways and trunk roads, which until now have only been carried out by the police. A new role for the Highways Agency provides greater focus on traffic management and keeping traffic moving, whilst freeing up police time to focus on crime detection and prevention.
2. Part 1 of the Act empowers the Secretary of State for Transport, as the traffic authority for trunk roads in England, to establish a uniformed on road **Traffic Officer** service to manage the traffic consequences of random incidents such as breakdowns, obstructions, debris and accidents on the strategic road network (which comprises of the majority of motorways and all-purpose trunk roads in England). Traffic Officers will have special constabulary-type powers to stop and direct traffic and place and operate traffic signs. The Traffic Officer started working alongside the police in **April 2004** and took on their full role with powers towards the end of that year. Traffic Officers will continue to be rolled-out initially onto the motorway network **throughout 2005 starting with the South East in August**.
3. To complement the powers being taken in the Act, the Secretary of State is establishing a national network of Regional Control Centres. These will be operated by the Highways Agency in partnership with the Police, and will monitor and manage traffic on the strategic road network.
4. Secondary legislation is now being pursued to enable Traffic Officers to have similar powers to the police (as prescribed in the Removal and Disposal of Vehicles Regulations 1986) to remove vehicles, in prescribed circumstances, from the strategic road network. Provision will also be made for disposing of such vehicles and the recovery of costs (via a statutory charge) for the removal, storage and disposal of vehicles removed by traffic officers. The disposal and cost recovery powers will be similar to those which the police and others enjoy under sections 100-102 of the Road Traffic Regulation Act 1984 and will be vested in the Secretary of State. It is envisaged that the secondary legislation will be introduced by **March 2006**.
5. More information about the role of the Traffic Officers can be found at the Highway Agency website: http://www.highways.gov.uk/knowledge/tcc/traf_off/index.htm

Network Management on Local Roads and Traffic Managers

6. Part 2 of the Act places a network management duty on local authorities to keep traffic flowing, taking account of their other duties and responsibilities, and to co-operate with other authorities to the same end. This came into force in **January 2005**.
7. As part of the arrangements for delivering the network management duty, the Act requires that all traffic authorities appoint a "**traffic manager**". The authority will need to exercise all of those functions that have an impact on traffic flows in a more co-ordinated way but the precise duties and responsibilities of the traffic manager will be for the authority to decide.
8. Following a twelve-week public consultation the Network Management Duty Guidance for English authorities was published in **November 2004**. The National Assembly for Wales has the same power to issue guidance to Welsh local authorities.
9. If it can be demonstrated that an authority is failing with regard to its network management duties, then the Act provides for the Secretary of State for England or the National Assembly for Wales to appoint a **traffic director** for that authority. Different levels of intervention will be possible; at one level there could be a relatively hands-off monitoring of what the authority was doing. At a more serious level a more hands-on approach would be appropriate, and the traffic director could take over responsibility for some of the authority's functions, as specified by the national authority. The intervention can be tailored to match the circumstances in each case and can be reversed.
10. The Secretary of State and the National Assembly for Wales must issue guidance on the criteria they would use to determine whether intervention was necessary. This is currently being developed for English local authorities and will also be subject to a twelve-week public consultation later in the year.

Road Works by Utilities and Highway Authorities

11. The Act seeks to tighten the existing regulatory framework within which utility companies - gas, electricity, water and telecoms - are permitted to dig up roads, giving authorities more powers to co-ordinate works effectively with the aim of minimising disruption. It also provides for additional duties on highway authorities so that all works on the road are better managed and co-ordinated.
12. Part 3 of the Act provides for the creation of **permit schemes** under which utilities, highway authorities (and others) wishing to dig up particular roads would have to apply for permission to carry out works. Those operating permit schemes (e.g. highway authorities, such as county or unitary councils) would be able to attach conditions to the grant of a permit (such as the dates during which works could take place) with a view to reducing the disruption and inconvenience which works cause. Local authorities would have to treat their own works on an equal footing to those carried out by others in deciding whether to issue a permit and what conditions to attach. Public consultation took place, between **February and April 2005**, on proposals for permit schemes, the results of which will be reported to the Select Committee by the end of this calendar year.

13. Part 4 of the Act includes a range of other new **measures to control utility works**, for instance:-

(i) at present, authorities can direct utilities not to carry out works at particular times of day. The Act provides authorities with further powers to direct utilities not to carry out their planned works on particular days, and where appropriate, to tell them that their works should avoid certain routes where it is reasonable to do so. The powers to direct the days that works could or could not take place came into effect in January 2005. Provisions relating the routes taken were part of the recent consultation.

(ii) currently, authorities can place a 12 month embargo on any more works taking place (with certain exceptions, such as emergencies) on a road on which major road works have just been carried out. The Act will allow authorities to apply similar embargoes after major utility works, and will allow the maximum length of the embargo to be changed through regulations (eg increasing it to 5 years). Proposals on this were part of the recent consultation.

(iii) the Act will allow authorities to direct utility companies (in certain circumstances which would be set out in regulations) not only to resurface the parts of the road that they had dug up, but to resurface the entire lane or width of the road. This would address the problem of the appearance and surface of some roads being scarred, and the structure weakened, by a series of trenches.

(iv) the Act will allow a more effective regime to be developed for inspecting the works carried out by utilities. The aim would be to target poor performance so as to improve the quality of works and reduce the amount of remedial works and repairs and the unnecessary disruption that they cause.

(v) the existing enforcement regime is only of limited effectiveness. The Act raises the levels of fines payable by utility companies who commit offences related to their street works (such as failing to reinstate the road to the prescribed standard, or failing to heed an authority's directions not to carry out works during particular hours). At the moment the maximum fines are £1,000 - the Act will raise these levels, in some cases to £2,500, and in others to £5,000. The increase in the level of fines came into force on **4 October 2004**

(vi) the Act allows for authorities to issue offenders with **Fixed Penalty Notices** (FPNs). Whilst the fines payable under FPNs are likely to be lower than those in the courts, the system would make it much easier for authorities to take action against offenders and to collect fines. Proposals for FPNs were part of the recent consultation.

14. Part 5 of the Act includes a range of measures amending the **Highways Act 1980** such as:-

(i) the Act provides for **additional responsibilities for highway authorities**. It will allow statutory guidance to be issued to authorities for safe working in the road and will make it possible for authorities to be required to keep records of their apparatus in the road. In both cases bringing highway authorities into line with the existing requirements on utilities. The duty on authorities to co-ordinate their own and utility works is extended to encompass other activities which occupy the road.

- (ii) the Act also allows "**lane rental**" and **overstaying charging powers** (under which, subject to regulations, utilities can be required to pay a daily charge every time they dig up the road, or if they take too long) to be extended to the owners of skips, scaffolding and other items (such as building materials) that are left in the road.

London

- 15. The Act also includes - in Part 5 - specific measures to improve traffic management in London. Transport for London will be expected to play an important role, to facilitate co-operation between all of London's traffic authorities, building on the partnership that has developed over the last year. The Act includes an enhanced role for TfL through the provision of a **strategic road network**. TfL is the strategic transport authority so it is ideally placed to consider the wider implications of highway schemes and works, particularly how they might affect the smooth running of the wider road network. TfL will have a greater role in co-ordinating these works where they affect the strategic roads. The Act allows for the operation of a single London-wide permit scheme.

Civil Enforcement of Driving and Parking Offences

- 16. Part 6 of the Act enables the consolidation, by making regulations, of **civil traffic enforcement legislation covering parking, bus lanes, some moving traffic offences** and the London night time and weekend lorry ban. The work for this will be done in stages with parking in the first stage through **2005 and 2006**. It extends the scope for local authorities to take over enforcement of traffic contraventions from the police. It enables authorities outside London to be given civil enforcement powers to cover a number of moving traffic offences (such as disobeying the rules at box junctions and banned turns) currently only available to London authorities under the London Local Authorities and Transport for London Act 2003. Enforcement of moving traffic contraventions under the 2003 Act powers began in London on a pilot basis in **June 2004**.
- 17. Building on London experience the Act will enable extension to authorities outside London of the ability to issue parking penalty charge notices by post, use of cameras to detect parking contraventions, and issue penalty charges for parking within the zigzag area of a pedestrian crossing. The Act also creates specific offences to deal with double parking and parking at dropped footways within a local authority civil enforcement area. Regulations to be made under the Act will enable authorities to challenge the veracity of statutory declarations so they cannot be used as a way of avoiding payment of parking penalty charges.
- 18. Section 87 of the Act enables the Secretary of State and the National Assembly for Wales to publish **statutory guidance to local authorities about any matter relating to their civil traffic enforcement functions** which may be conferred on them under Part 6 of the Act. In exercising those functions authorities must have regard to any such guidance. This will be particularly important in ensuring that enforcement is carried out in a fair and reasonable manner

19. To encourage greater take up of parking enforcement powers by local authorities the Act includes a reserve power to enable the Secretary of State or National Assembly for Wales to direct authorities to apply for civil parking enforcement powers.
20. To reduce abuse of the Blue Badge scheme, which gives parking concessions to disabled people, Section 94 of the Act gives the police, police traffic wardens and local authority parking enforcement officers the **power to inspect Blue Badges**. The inspection powers are expected to be introduced in **summer 2005**.
21. Section 95 of the Act gives local authorities the **additional freedom to spend surpluses from their on-street parking account** on local environmental improvements as well as parking facilities, road improvements and provision of public passenger transport services. This came into effect in **October 2004**. It also enables the Secretary of State or the National Assembly for Wales to give prescribed authorities complete freedom in how they spend any surplus.