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Des McKibbin

Enforcing Bus Lanes

1 Background and Context

Bus lanes are sections of road which are specifically for the use of buses, taxis, licensed private hire cars and bicycles. They are identified by road markings and signs that indicate which (if any) other vehicles are permitted to use the bus lane and the operational time of the bus lane.

- Most bus lanes operate at peak times only (typically 7.30am to 9.30am or 3.30pm to 6pm on Monday to Friday)
- In the city centre, bus lanes operate all day, from 7am to 7pm from Monday to Saturday.
- Outside the hours of operation the lanes can be used by all traffic.

As part of the Belfast on the Move, Transport Masterplan, the Department for Regional Development (DRD) has installed 13 bus lanes on core city centre streets. The aim of this is to create a more accessible city centre where public transport is given a higher priority and the streets are designed to better meet the needs of everyone, particularly cyclists and pedestrians; in total there are over 50km of bus lanes in Belfast.

1.1 Enforcement

The Installation and successful operation of these bus lanes is a pivotal step in preparing the city centre for the introduction of a new Rapid Transit system. Therefore, proper enforcement will be critical to the functioning and credibility of Belfast's bus lanes.

Currently the use of bus lanes by unauthorised vehicles is a criminal offence and as such enforcement is the responsibility of the PSNI. However, given the limited resources of the police and the low priority attached to this sort of offence the DRD are proposing the introduction powers for it to enforce bus lanes as a civil offence using a combination of static cameras within Belfast City Centre and a mobile camera unit which will operate on key arterial routes outside the city centre. The unauthorised use of bus lanes will continue to be enforced by the PSNI as a criminal matter.

1.2 Bus lane enforcement in GB

Bus lane contraventions are already subject to civil penalties in England, Wales and Scotland. These were first introduced, for this type of offence, in London in the mid-1990s; extended to the rest of England and Wales (for approved local authorities) by virtue of regulations made under section 144 of the Transport Act in 2000. While most recently, the legislation needed to allow for decriminalised bus lane enforcement in Scotland was enacted in April 2012.

1.3 Controversy

Bus lane enforcement in GB has become a controversial issue with opponents suggesting councils use them as a 'cash cow'. In London alone over 216,495 Penalty charge notices (PCNs) were issued for bus lane contraventions in the year ended 31st March 2011 (217,883 in 2009-10) with 1,396 (1,443 in 2009-10) appeals registered.

For this type of offence motorists generally receive a fine of £30, rising to £60 if they fail to pay within 14 days – However in London the current fine for a bus lane contravention is set at £130 with a 50% reduction if payment is made within 14 days (or within 21 days for parking contraventions issued by CCTV) .

- If offences continue at 2010-11 levels the revenue generated from this would be in the region of £14 - £28million per annum for London authorities.

DfT guidance¹ recommends that revenue raised from bus lane enforcement penalty charge notices (PCN) should initially be used to recover the costs of setting up, operating and maintaining the bus lane enforcement scheme. Any surplus revenue

¹ Provisional guidance on bus lane (including tramway) enforcement in England outside London

raised should be spent on meeting the costs of setting up the scheme, public transport or local road improvements.

2 England and Wales

Penalty Charge Notices (PCNs) are issued by councils that operate bus-lane enforcement under the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (ST2005 No 2757), in England (outside London).

The civil enforcement of bus-lane contraventions is regulated by the use of cameras. A penalty is only payable to a council in respect of a bus-lane contravention if the council has a visual record of the contravention generated and recorded by an approved device. An approved device is presumed to be accurate unless there is evidence to prove that it is not. Where a council has reason to believe a bus-lane contravention has occurred, it issues a PCN to the person liable for the contravention. This is generally the owner of the vehicle.

The PCN is sent to the owner by post. When a PCN is issued for a bus-lane contravention, the council states what the penalty charge is: currently £60. A discount of 50% applies - the discount rate, or £30 - if the penalty charge is paid by the end of the period of 14 days beginning with the date it is issued. Failing that, the full penalty charge has to be paid by the end of the period of 28 days beginning with the date when the PCN was issued. If the council hears nothing by the end of the period of 28 days beginning with the date when the PCN was served, the owner is liable to a penalty charge raised by 50% - to £90 - which the council can take civil legal proceedings to pursue through the County Court.

PCNs are enforced through the civil justice system, rather than the criminal courts. However, the Police retain their powers to enforce bus-lane infringements. If both the council and the Police attempt to penalise the same incident, the police action will take precedence. In these circumstances, the council cannot proceed with civil enforcement, and must refund any penalty charge already paid. Prosecution by the Police may lead to a criminal conviction, with the penalty enforceable in the Magistrates' Court. Such cases are not covered on the PATROL website.

The Traffic Penalty Tribunal hears appeals against Penalty Charge Notices (PCNs) issued by councils operating bus-lane enforcement under the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 (ST2005 No 2757), in England (outside London).

2.1 Level of contraventions

The Traffic Management Act 2004 requires local authorities in England and Wales to produce an Annual Report giving details of their approach to parking enforcement

along with various details and statistics. These reports provide details of all traffic management offences including bus lane offences. Table one provides details of bus lane PCNs issued between April 2010 and May 2011² in five major English cities:

- In total, 351,406 PCNs were issued of which only 1,382 (0.4%) were appealed;
- At the rate of £30 - £60 per fine this would have generated around £10.5m-£21m in revenue;
- Of the five cities sampled, the most PCNs (71,738) were issued in Liverpool (this was the first year of enforcement in Liverpool) generating between £2.15m and £4.3m;
- For the city of Sheffield, which is comparable in terms of size and population to Belfast the income for all Bus Lane PCNs was £609,536. This matched the expenditure therefore there was no surplus or indeed deficit.³

Table 1: PCN notices issues in five English Cities April 2010 and May 2011⁴

Area	PCN's issued	Appeals received	Not contested by council	Allowed by adjudicator	Total Successful including not contested.
All areas	351,406	1,382	583 (42%)	242	825 (60%)
Sheffield	23,121	93	36 (39%)	18 (19%)	54 (58%)
Bristol	15,504	118	44 (37%)	32 (27%)	76 (64%)
Liverpool	71,738	58	25 (43%)	17 (29%)	42 (72%)
Manchester	31,135	120	20 (17%)	24 (20%)	44 (37%)
Nottingham	30,423	187	23 (12%)	20 (11%)	43 (23%)
Average	34,384	115	29.6 (26%)	22.2 (19%)	51.8 (45%)

Liverpool City Council took the decision to suspend all of the city's bus lanes in October 2013. This is intended as a trial period in order to assess the potential impact on the city and is due to run until August 2014. The decision has brought criticism from outside of Liverpool with the Chartered Institute of Logistics and Transport (CILT) describing the decision as 'flawed thinking' that could damage the local economy.⁵

3 Scotland

The legislation needed to allow for decriminalised bus lane enforcement was enacted in April 2012. The primary legislation, the Transport (Scotland) Act 2001, states that surplus revenue generated by decriminalised bus lane enforcement is to be used solely *"for the purpose of directly or indirectly facilitating the achievement of policies in such*

² This is the most up-to-date information currently available

³ Sheffield City Council [online] available from: <http://nia1.me/246>

⁴ Ibid.

⁵ McCauley, A. (2014) Liverpool's bus lane suspension based on 'flimsy evidence' says institute [online] available from: <http://nia1.me/247>

authority's local transport strategy" in other words it is only to be used for implementing the authorities transport policy and cannot be directed towards other policy areas.

Both Edinburgh and Glasgow commenced live operation of bus lane camera enforcement on Monday 23 April 2012. The cameras used by the Council for bus lane enforcement use Automatic Number Plate Recognition (ANPR) technology. This type of system is also used by Glasgow and currently Aberdeen is in the process of procuring a similar system.

The camera reads the vehicle's number plate and if the vehicle's registration number is not on a list of approved vehicles the camera records four to five seconds of video. This is sent back by 3G telephony to the supporting system where the infringement is reviewed by a human operator using documented policy guidelines before a Charge Notice is issued.

3.1 Edinburgh

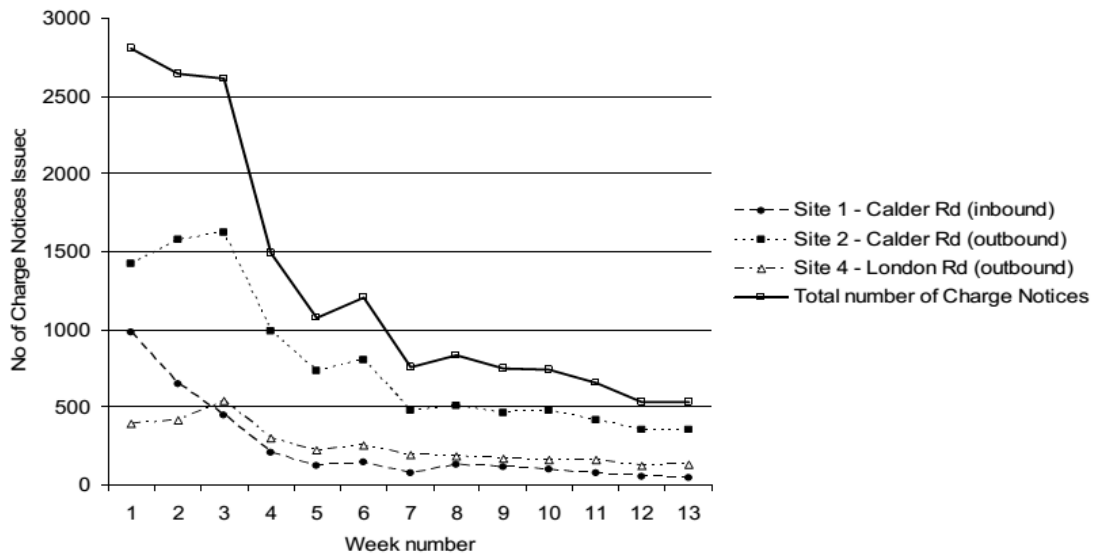
Prior to Edinburgh City Council (ECC) issuing PCNs, bus lane camera enforcement was advertised on the Council website, through social media and in traditional media, including radio and newspaper adverts in the Evening News and Metro. Leaflets were distributed and adverts were displayed on the rear of buses. Warning notices were issued for nearly three weeks prior to 23 April 2012, the date when the cameras went live.

Following complaints from a large number of motorists and adverse media reporting, the council issued instructions to review bus lane enforcement. This quickly resulted in certain sites being decommissioned and all PCNs issued were cancelled and any drivers who had already paid were refunded. In addition to revenue generating, some complaints included:

- safety issues due to sudden lane changes;
- possible impacts on cyclists' safety;
- Charge Notices being issued with time stamps outside operational hours.

Figure one below charts the first 13 weeks of operation of Bus Lane PCNs. It clearly shows significant reductions in the weekly total of PCNs issued which fell from 2803 (per week) to 532 per week over the 13 weeks; this represents a reduction of 81%.

This significant drop suggests that Bus Lane enforcement cameras are effective. As with any new rule it took a little bit of time to become established in Edinburgh. However it seems within 7 weeks the rate of PCNs began to level off at or below 500 for each site.



Overall reduction of 84% (Site 1 – Calder Rd (inbound) 95%; Site 2 – Calder Rd (outbound) – 75% and Site 4 London Rd (outbound) – 68%)

As a result of the review it should be noted that certain cameras were decommissioned. However, the review did see the value of effective enforcement as a means of maintaining a high quality and reliable public transport system. It recommended that two of the cameras sites be recommissioned as soon as changes to signage etc. were made. And only one was permanently decommissioned.

This type of problem is not unique to Edinburgh. One of the most high profile cases of incorrectly sited cameras/signage occurred in Birmingham. The Council had received hundreds of complaints from motorists that the warning signs at two locations were confusing and unclear, and while it took the council six months to react, the view of motorists was backed by an independent traffic tribunal ruling in March 2014.

Independent traffic penalty tribunal adjudicator Stephen Knapp ruled that some 77,000 fines issued across the two sites 'should not be enforced' as the signs are inadequate and caused 'understandable confusion' among drivers. Birmingham City Council had to cancel 18,000 PCNs for those who appealed while the position 59,000 who had already paid the fine is unclear.