

Division(s):

DEPUTY LEADER - 23 MARCH 2015

TRADING STANDARDS SERVICE WEIGHT RESTRICTION ENFORCEMENT PRIORITISATION POLICY

Report by Chief Fire Officer and Head of Community Safety

Introduction

1. Under the Road Traffic Regulation Act 1984 Oxfordshire County Council may make an order (a “traffic regulation order”) for a limited number of reasons. The reasons for introducing a traffic regulation order can include-
 - for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
 - for preventing damage to the road or to any building on or near the road, or for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
 - for purposes relating to air quality under the Environment Act 1995.
2. Weight restriction traffic regulation orders are accompanied by a ‘statement of reasons’ when published outlining the purpose of the order.
3. Weight restriction traffic regulation orders are categorised as either structural or environmental restrictions. Environmental restrictions cover an area and all roads within that area. Structural restrictions apply to specific roads or stretches of roads. The Orders enacting the restriction often contain exemptions relevant to the area or road. In relation to environmental restrictions these commonly include exemptions for vehicles that are required to enter the area to collect or deliver within that restricted zone.
4. There are currently approximately 70 weight restrictions in force across Oxfordshire. In addition, temporary weight restrictions are often introduced whilst road works are carried out to prevent heavy goods vehicles (HGVs) diverting on inappropriate routes. During consultations with local residents affected by major road works residents frequently express their wish to see enforcement action carried out during the works to protect their environment.
5. All road weight restrictions will be indicated through the use of appropriate road signs. In addition maps are provided on the County Council’s website identifying the restrictions as an aid to drivers and companies to assist them in planning journeys.
6. The Oxfordshire Local Transport Plan 2011-2030 (April 2011) (LTP3) sets out the Council’s strategic traffic infrastructure approach with the aims to attract and support economic investment and growth, deliver transport infrastructure, tackle congestion and improve quality of life.

7. Policy TC5 of the LTP 3 states that:
'Oxfordshire County Council will identify suitable and unsuitable routes for freight movement, balancing the needs of businesses with protection of the local environment and maintaining the highway network.'
8. In addition, Policy G8 of this plan sets out the Council's intention to "...manage the classification and numbering of the roads in its control to direct traffic, and particularly lorry traffic, onto the most suitable roads as far as is practicable."

Enforcement of the Weight Restriction Orders

9. The Police and the Trading Standards Service can enforce Weight Restriction Orders under the Road Traffic Regulation Act 1984. In Oxfordshire, routine monitoring is carried out on the roads and areas covered by weight restriction orders to ensure that vehicles are not contravening these restrictions.
10. Contravention of a weight restriction is breach of a Traffic Regulation Order (TRO) – which is an offence under s.5 (1) of the Road Traffic Regulation Act 1984 (as amended). A Local Authority can prosecute such offences under s.222 of Local Government Act. The Police also have enforcement powers in respect of weight restriction orders and can also issue a fixed penalty notice for the offence.
11. Possible contraventions of weight restriction orders can be reported by members of the public or may be seen by Trading Standards Service Enforcement Officers during site visits. In either case the potential contravention will be investigated through the following process-
 - (a) Checks are initially carried out with the Driver and Vehicle Licensing Agency to ascertain whether the maximum gross weight (MGW) of the vehicle exceeds that of the restriction.
 - (b) If the MGW of the vehicle exceeds that of the restriction contact is made with the vehicle's owner to determine who the driver was at the date and time in question.
 - (c) The driver is then contacted, under caution, in order to obtain their comments on the potential offence.
 - (d) When the driver's response is received the investigating officer will prepare a file of the evidence so that a decision can be made on the next course of action.
 - (e) Options that are considered following the identification of a contravention of the order include a warning letter to the driver and vehicle owner, the issue of a simple caution or initiation of a prosecution. On occasion the Service will work with the vehicle operator to find alternative routes for their vehicles if it is clear that the contravention was unintended and that this course of action will prevent further contraventions by that company's vehicles or drivers.
 - (f) If it is appropriate to prosecute the driver, the case file is forwarded to the County Council's Legal Services for authorisation and summonses are served on the defendant.

- (g) Evidence of the breach is also served on the defendant prior to the court hearing.
 - (h) The case will then be heard in the Magistrates Court where a fine up to a maximum of £1000 plus costs could be imposed.
12. Whilst the process for investigating suspected contraventions of the Orders is fairly routine it does take several hours of officer time for each investigation and prosecution to be processed. There is currently no means by which local authorities could enforce weight restriction order breaches by use of fixed penalty notices which would reduce the time required to investigate and process contraventions of the orders.

The Need for an Enforcement Prioritisation Policy

13. The resources available to enforce the County's road weight restrictions are finite and have to be applied across the different restrictions. However, circumstances dictate that it is sometimes necessary to introduce new weight restriction orders to control HGV traffic in Oxfordshire. Changes to the way that suspected contraventions of the weight restriction orders are detected also impacts on the use of resources. Camera based systems can provide for 24/7 monitoring and therefore the introduction of cameras to a location can result in a significant increase in investigations of suspected contraventions at that location. Similarly, an increase in local, community led, monitoring can result in a significant increase in investigations of suspected breaches from that location. These, and other factors, can affect the enforcement of each weight restriction order.
14. As a result there is a continual need to review how the available resources are allocated to enforce the different weight restriction orders. Communities frequently request additional monitoring and enforcement to deter illegal HGV use in a locality. A prioritisation policy for weight restriction enforcement will ensure that the process for allocation of resources is transparent, and ensure that the available resources are utilised in the most effective manner to support and protect the road infrastructure in Oxfordshire and local communities.

General Principles for the Enforcement of Weight Restriction Orders

15. Current Enforcement Approach:
At this time there is no formally agreed structure which can be used to determine the allocation of resources to the enforcement of each specific weight restriction. In planning for the monitoring of each weight restriction the Trading Standards Service needs to balance a range of factors when determining the best use of available resources, for example the purpose of the restriction, the number of community reported breaches or volume of breaches detected by any remote cameras that require investigation, the presence of temporary restrictions requiring monitoring, the level of community concern about the restriction, etc. However, there is no published framework detailing how the Service will take these factors into account and

providing interested parties with information on the enforcement approach they can expect at any particular location.

16. Proposed Enforcement Approach:

It is proposed that the Trading Standards Service will follow the following principles in enforcing the county's road weight restrictions -

- The Trading Standards Service will conduct an initial assessment on all potential contraventions of weight restriction orders reported to it by members of the public whilst the number of weight restriction orders remains at current levels. This assessment will determine whether a full investigation is appropriate and likely to lead to formal action. Full investigations by Trading Standards will only be commenced where it is likely that robust and admissible evidence of the contravention will be available.
- Where there is an identified problem in a location (see the explanation of the priority assessment process below), the Trading Standards Service will undertake proactive enforcement of the weight restriction orders at that location.
- Due to the number of weight restriction orders in place, regular proactive enforcement at all locations is not feasible and therefore the resources allocated to proactive monitoring of each restriction will be based on assessments of priorities.
- The Trading Standards Service will complete a priority assessment (see below) for each weight restriction order. This assessment will be completed in conjunction with the Council's Environment and Economy Directorate. This assessment will provide a framework for the prioritisation of enforcement resources across the different orders and localities.
- Each priority assessment will be reviewed annually.
- Where contraventions of orders are identified by cameras or the local community, the amount of proactive monitoring undertaken at the location of that order may be reduced to take account of the time committed to investigating the suspected contraventions identified by the community or through the use of cameras.
- The Trading Standards Service will collate information relating to the County's weight restricted roads, such as the amount of monitoring undertaken, number of contraventions detected, investigation outcomes by area or location, etc. and make this information available on its website where possible.

Priority Assessments

17. The Trading Standards Service's approach to the enforcement of traffic restriction orders will be informed by a priority assessment relating to each order. This priority assessment will be used to determine the proportion of the available enforcement capacity that will be allocated to the enforcement of that order.

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18. The priority assessments relating to each weight restriction order will take account of a range of factors. Details of the priority assessment framework are contained in annex 1 to this paper.
19. The priority assessment will be completed by the Trading Standards Service in discussion with the relevant officers from the Council's Environment and Economy Directorate. The assessment will consider the available evidence relating to each criterion. The local community will be consulted on the outcomes of the assessment and provided with an opportunity to offer further evidence that they believe should be considered. However, in relation to short-term or temporary restrictions, consultation is unlikely to be possible.
20. Further priority assessments may be completed on specific localities within a wider area covered by an environmental weight restriction order where it is clear that there are some factors in the assessment that vary across the area.
21. The priority assessment will categorise the restriction into the following groups according to the impact of contraventions of the order. Each restriction will be considered and assessed in isolation and not in comparison to any other area or road. The descriptions provide a general indication only of the likely categorisation of restrictions where specific risks or issues are evidenced.

High priority	Medium high priority	Medium priority	Low priority
<p>Potential risk of serious damage to road surface or structure, buildings, etc.</p> <p>Potential risk of injury to pedestrians (including non-road users) and other road users.</p> <p>Restrictions where contraventions would lead to serious disruption to local residents and businesses, high costs to remedy the damage caused or damage to the local economy.</p> <p>Restrictions which are essential to the effective delivery of broader strategies or responsibilities or temporary restrictions requiring</p>	<p>Potential risk of some structural damage to road surface or structure, buildings, etc.</p> <p>Restrictions where contraventions may lead to some disruption to local residents and businesses, moderate cost to remedy damage caused or some damage to the local economy.</p> <p>This category may also include restrictions where contraventions may cause some traffic disruption with detriment to local character or environment.</p>	<p>Low risk of damage to road surfaces or local traffic disruption.</p> <p>Low risk to property, pedestrians or other road users.</p> <p>Some potential detriment to local character, amenities or environment.</p> <p>It is not likely that a restriction introduced to protect structures would be assessed as medium or low risk since structural restrictions would not be in place without their being some significant risk to</p>	<p>Minimal risk to property, pedestrians or other road users.</p> <p>Low detriment to local character, amenities, or environment.</p> <p>It is not likely that a restriction introduced to protect structures would be assessed as medium or low risk since structural restrictions would not be in place without their being some significant risk to infrastructure integrity.</p>

effective enforcement (e.g. during road works which require diversions for traffic management).		infrastructure integrity.	
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Resource Allocation

- 22. Resources will be allocated to the enforcement of each restriction within the overall resource capacity available for this function and according to the assessed priority for the restriction. The overall amount of resource allocated to the enforcement of weight restrictions will be reviewed annually in line with the Council’s service and resource planning processes.
- 23. The Trading Standards Service will include a road traffic enforcement plan in its annual business plan. The road traffic enforcement plan will list the weight restriction enforcement priorities according to the completed priority assessments (as reviewed annually) but will not detail the amount of monitoring or enforcement of each restriction. The plan will also indicate the main method of enforcement for that restriction, for example community-led monitoring supported by the Trading Standards Service, camera based enforcement, pro-active monitoring visits or a combination.
- 24. It is recognised that circumstances may change during the year which will necessitate changes to the previously agreed enforcement plan. For example, bridge surveys may identify new structures requiring protection or temporary controls can be introduced to manage traffic flow during road works. Details of any changes to the plan will be published on the Trading Standards website.
- 25. The Trading Standards Service will also provide information on its enforcement activity, such as data on monitoring activities carried out, levels of contraventions detected, outcomes of investigations, etc. Where possible this will be broken down by area or location.

Action on Discovery of a Contravention of an Order

- 26. When a contravention of a weight restriction can be proven, there are a number of possible outcomes. The Trading Standards Service will determine the most appropriate outcome to pursue taking account of relevant policies and the individual circumstances of the contravention in question. Officers from the Trading Standards Service will consult with the Council’s Law and Governance Team where formal legal action may be appropriate. Decisions will be made with reference to the Council’s Enforcement Policy and the requirements of the Code for Crown Prosecutors. The Code for Crown Prosecutors contains a two stage test which should be applied before a prosecution is commenced; the evidential test (to ascertain whether there is sufficient evidence to provide a realistic prospect of conviction against each

suspect on each charge) and the public interest test. The factors guiding the priority assessment for each weight restriction are also relevant as part of the public interest test.

27. Occasionally, multiple weight restriction contraventions by the same driver are detected on the same day. In this event prosecution is more likely.

Interim Priority Assessments

28. Interim priority assessments for the main weight restrictions orders (or locations within those orders requiring enforcement) have been undertaken. These will be reviewed once the final policy for prioritisation of weight restriction enforcement is approved and the final assessment will be published in the Trading Standards Service business plan. The interim assessed categorisation is as follows-

Key:

- 1- Low Priority
- 2- Medium Priority
- 3- Medium High Priority
- 4- High Priority

Location	Priority Level
<u>Environmental Restrictions</u>	
Enstone	3
Islip	2
Little Milton	2
Long Wittenham	2
Marsh Baldon	3
Watlington	4
Sutton Courtney	3
Weston-on-the-Green	2
<u>Structural Restrictions</u>	
Shabbington	4
Charlbury	3
Newbridge	4

Weight Restrictions with Cameras

29. Weight restriction enforcement can be reinforced through the use of cameras that provide for automatic detection of potential breaches. However, camera systems are expensive and at this time only the Newbridge weight restriction has a camera monitoring system. This policy does not apply or relate to decisions on whether to extend the use of cameras to enforce weight restrictions. However, if a decision is made to install a camera based

monitoring system at a weight restriction the enforcement response to the potential contraventions detected may need to change to reflect the volume of contraventions. If the volume of contraventions detected by cameras could result in significant resources needing to be diverted to investigate those breaches, with the consequence that other weight restriction enforcement would need to be reduced, then consideration will be given to adopting an alternative approach for disposing of contraventions of that Order. Alternative approaches may include greater use of warnings to drivers in the first instance where such an alternative may be effective in reducing the overall number of contraventions and will also offset the increased resource commitment required to investigate all possible contraventions identified by the cameras.

Financial and Staff Implications

30. There are no financial or staff implications arising from this policy.

Equalities Implications

31. This policy has no equality implications

RECOMMENDATION

32. **The Cabinet Member for the Fire Service and Corporate Plan is RECOMMENDED to agree the proposed weight restriction enforcement prioritisation policy.**

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Background papers: None

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Priority Assessment Framework

Each weight restriction will be categorised by means of an assessment taking into account the available evidence relating to these factors.

- Road safety including the impact of the weight restriction on volumes of traffic, road class/speed limit, safety of other vehicles, safety and security of pedestrians, wheelchair users, cyclists and equestrians and buildings and history of Road Traffic Collisions. Account will also be taken of the risk posed by contraventions to non-road users (e.g. pedestrians on footpaths or near to the road).
- The risk to the transport infrastructure of damage to the road or bridge concerned.
- The costs and impacts of repairing structures in the event that damage results from contraventions of the order.
- Levels of contraventions of the order detected.
- Environmental impacts including the effects of contraventions on congestion, the character/amenity of area, road condition, air quality and other environmental factors where there is a potential for breaches of statutory thresholds, etc.
- Aggravating or mitigating factors such as possible alternative routes available, quality and accuracy of signage for drivers, opportunities for corrective or preventative action, etc.
- Community views on the impacts of HGV traffic in the area/ location.
- The importance of the order to the achievement of relevant policies, plans and strategies.

Priority assessments will be prepared in consultation with the community where there is a known community interest in the effectiveness of that order. The final assessment will be published and reviewed should a change in circumstances be identified.