

How local authorities can enforce 20mph limits

A 20's Plenty for Us Briefing JULY 2018

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Local authorities can, with the approval of their police force, institute public prosecutions of speed limit offenders.

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It is a generally held view that it is only the police that can enforce 20mph or other limits. However, legislation may provide appropriate scope for local authorities to institute criminal proceedings for speed limit violation if it is authorised by a police force to do so.

This is a technical document that lays out the relevant points to support the approach to Local Authorities' involvement to enable prosecution enforcement. It is provided as a basis for discussion between local authorities and local police.

Local Authority as Public Prosecutor

The Criminal Justice Act 2003 includes in Section 29 "New method of instituting proceedings". It sets out the procedures for public prosecutors to institute proceedings in criminal cases.

Particular references include;

29 (1) A public prosecutor may institute criminal proceedings against a person by issuing a document (a "written charge") which charges the person with an offence.

A "public prosecutor" is defined further as :-

29 (5) In this section "public prosecutor" means—

(a) a police force or a person authorised by a police force to institute criminal proceedings,

With authority from their local police force then a local authority can act as a "public prosecutor".

Offences for which the conduct of criminal proceedings may be conducted other than by the Crown Prosecution Service.

The Crown Prosecution Service is under a duty to undertake the conduct of all criminal proceedings, other than Specified Proceedings issued on or on behalf of the police.

This means that certain types of offences are outside the obligations of the Crown Prosecution Service. This is clarified in the Section 3 Prosecution of Offences Act 1985 which states:

Functions of the Director.

Sec 3 (2) It shall be the duty of the Director [F4, subject to any provisions contained in the Criminal Justice Act 1987] —

3 (2) (a) to take over the conduct of all criminal proceedings, other than specified proceedings, instituted on behalf of a police force (whether by a member of that force or by any other person);

Those "specified proceedings" are further detailed in The Prosecution of Offences Act 1985 (Specified Proceedings) Order 1999 :-

1. Fixed penalty offences within the meaning of section 51(1) of the Road Traffic Offenders Act 1988(1).

And section 51(1) of the Road Traffic Offenders Act 1988(1) references Schedule 3 of the same act which includes :

RTRA section 89(1) Speeding offences under RTRA and other Acts.

And also

3. The offences under sections 17(2), 18(3), 24(3), 26(1) and (2), 29, 31(1), 42(b), 47(1), 87(2), 143, 164(6) and (9), 165(3) and (6), 168 and 172(3) of the Road Traffic Act 1988(1).

172(3) includes :-

(3) Subject to the following provisions, a person who fails to comply with a requirement under subsection (2) above shall be guilty of an offence.

Therefore, the CPS is not under an obligation to institute or take over the conduct of proceedings of the above listed offences. In practice, the police currently conduct the proceedings unless and until the cases are effectively heard at trial upon the defendant pleading not guilty.

Further enforcement provisions that need the authority of the police

Section 20 Road Traffic Offenders Act 1988; Speeding Offences:

Evidence of an offence produced by a record from a prescribed device and the circumstances in which the record was produced must be signed by a Constable or a person authorised by the chief of police of the police area.

Section 172 Road Traffic Act; Duty to give information was to the identity of the driver.

Section 172 (2); Where the driver of a vehicle is guilty of a road traffic offence (some exceptions) the person keeping the vehicle shall give such information as to the identity of the driver as he may be required to give by or on behalf of a chief officer of police.

Release of registration and licensing particulars.

Road Vehicles (Registration and Licensing) Regulations 2002

Section 27 - the Secretary of State may make any particulars contained in the register available for use; (a) by a local authority for any purpose connected with the investigation of an offence....

Summary

In order for a local authority to enable enforcement against drivers for speeding or other offences, e.g. a registered keeper of a vehicle withholding information on the driver, then the police body must authorise the local authority or person/body as able to institute proceedings as a “public prosecutor” and carry out other functions that require police authority. If all requisite police authority is provided initially, it seems that Local Authorities may engage in the whole enforcement process as a public prosecutor.

Local Authority as Private Prosecutor

In addition, Local Authorities also have private prosecutor powers. This is covered by the Section 222 of the Local Government Act 1972 :-

222 Power of local authorities to prosecute or defend legal proceedings.

(1) Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area—

(a) they may prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name,

However, in terms of the Local Government Act it is necessary for there to be both an interest of inhabitants for the area and appropriate minuting of the authorising of proceedings. The Court of Appeal case AB&Ors, R v (2017) EWCA Crim 534 (28 April 2017), provided a judgement on the use of Section 222 Local Authorities Act 1972; “ The power under Section 222 arises by reference to a consideration of expediency; the expediency must be for the promotion or protection of interests. The interests are those of the inhabitants of the Local Authority’s area. If those elements are satisfied, then the Local Authority may prosecute.....

Consideration of these issues would allow Local Authorities to create appropriate authorisation and processes for them to successfully prosecute speeding drivers.

Rod King MBE, Founder and Campaign Director of 20’s Plenty for Us commented :-

“We know lower speeds reduce casualties and 20mph is a key threshold above which pedestrian and cyclist danger rises rapidly

It is accepted that enforced wide-area 20mph limits are a key factor in retrofitting communities for active travel, reducing casualties, reducing pollution and making our communities better places to be.

Local authorities reap the benefits of lower speeds with better public health, lower casualty costs and lower pollution. They can now work with police to take on public prosecutor powers and provide that strong enforcement.

Emerging technology on speed detection and recording as well as developing software and processes for prosecution could provide for near universal speed limit compliance at minimal cost with huge benefits for local authorities and communities.”

20’s Plenty For Us campaigns for a 20mph default speed limit in built up areas without physical calming.

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