

Derbyshire County Council

Meeting with Cabinet Member, Health and Communities

17 June 2014

Report of the Strategic Director, Health and Communities

**ENFORCEMENT OF ENVIRONMENTAL WEIGHT RESTRICTIONS IN DERBYSHIRE
2013-14**

1 Purpose of the report:

To inform the Cabinet Member, Health and Communities of action taken during the previous year to enforce weight restrictions which limit the access of heavy goods vehicles to certain locations and to seek endorsement of the current compliance policy with regards to weight restriction enforcement.

2 Information and analysis:

- 2.1 Road Traffic legislation – specifically the Road Traffic Regulation Act 1984 makes it an offence for Heavy Goods Vehicles (HGV's) with a maximum gross weight of more than 7.5 tonnes to breach an environmental weight restriction. There are hundreds of weight restrictions in place on the county's roads to protect local communities from the disruption and damage caused by goods vehicles travelling along unsuitable routes. The maximum gross weight is the legal maximum weight of the vehicle plus its load that is permitted. This weight varies according to the size of the vehicle from 3.5 tonnes for something like a transit van up to 44 tonnes for the largest vehicles.. As well as environmental weight restrictions, the county council – as a Highways Authority – has the power to impose a structural weight restriction – typically for bridges – where HGV's might cause damage. The offence of breaching a weight restriction applies to vehicles with a maximum gross weight of more than 7.5 tonnes (or whatever the restriction is – typically 3 tonnes for structural restrictions) regardless of how much the vehicle actually weighs.
- 2.2 Unlike other trading standards legislation, there is no duty placed on the authority to enforce the legislation. In other words, the local authority cannot be criticised or be accountable to the Local Government Ombudsman for failing to enforce the provisions of the legislation. However, given the impact on local communities, the Trading Standards Division has, for many years, carried out proactive checks and responded to complaints from members of the public alleging breaches of weight restrictions by HGV's. The number of checks carried out by the Division has declined in line with a reduction in resources, but we seek to carry out checks in those areas of the county generating the most complaints and work closely with Police and Highway Division colleagues to ensure that complaints are captured and responded to where resources allow.

2.3 Derbyshire County Council's Highways Division is responsible for setting up weight restrictions in the county. There is a legal process and for a weight restriction to be enforceable, the authority has to demonstrate that it has followed the correct process as set out in the Road Traffic Order. The process includes consultation with relevant parties and consideration of the following criteria:

- to prevent damage to the highway infrastructure (carriageway, footways, street furniture, etc) and buildings;
- protect the character and environment of rural areas, villages and residential estates;
- manage congestion on our roads;
- reduce risks to vulnerable road users, including pedestrians and cyclists.

Further details are available on the DCC website via the following link:

http://www.derbyshire.gov.uk/transport_roads/roads_traffic/traffic_management/freight_management/weight_limits/default.asp

2.4 The Division received 469 complaints about breaches of weight restrictions during the last financial year (slightly down from the previous year) and carried out 23 checks which detected 141 infringements. This compares to the detection of 119 breaches following 28 checks in the preceding year. Full details of enforcement activity conducted during 2013-14 - including a ranking of complaints about breaches of weight restrictions - are provided in Appendix 1 to this report. It should be noted that not all HGV's observed in a restricted area will be in breach. There are a number of exemptions including:

- vehicles making deliveries or collections at premises within the restriction
- vehicles working on or near the roads in question
- emergency service and military vehicles
- buses, coaches and other public service vehicles.

2.5 Members of the public who are concerned about HGV's breaching weight restrictions are encouraged to provide details to the Trading Standards Division. The essential information required is the date, time and registration details. This enables us to identify the owner of the vehicle and seek an explanation from them as to why the vehicle was travelling along a restricted area. Local residents can submit details to us via an on-line form available via the following link:

<http://forms.derbyshirepartnership.gov.uk/tempdocs/000001588/61865.HTM>

2.6 When a vehicle is observed breaching a weight restriction without a legitimate reason (for example to deliver or collect goods in the restricted area) both the driver and operator of the vehicle are potentially guilty of an offence. Given that the driver is actively responsible for a vehicle contravening a restriction, Operators are not usually charged unless there is an element of responsibility or negligence in respect of their drivers' actions. In line with the Division's compliance policy, unless

either party has previously been warned, the person or persons responsible will be given a written warning. It is proposed that this policy is endorsed together with the current strategy of targeting those weight restrictions generating the most complaints from local residents.

- 2.7 As there is no statutory duty to enforce weight restrictions there is a risk that, with the need to make further savings as an authority, this particular area of enforcement will be further reduced.

3 Other considerations:

In preparing this report the relevance of the following factors has been considered; financial, legal, prevention of crime and disorder, equality of opportunity; and environmental, health, human resources, property and transport considerations.

4 Background papers:

None

5 Key Decision:

No

6 Call-in:

Is it required that call-in be waived for any decision on this report?

No

7 Strategic Director's recommendation:

That the Cabinet Member, Health and Communities notes the activity to tackle breaches of weight restrictions in Derbyshire and endorses the proposed policy towards enforcement.

David Lowe
Strategic Director
Health and Communities

Appendix 1 - Trading Standards Project Report; Weight Restriction Enforcement in Derbyshire 2013-14

Activities Undertaken:

- 23 reactive checks were undertaken during the year, an 18% reduction on the previous year due to resource pressures;
- Investigation of complaints referring to specific non-compliant HGVs: operators of these vehicles were traced where possible and letters sent, advising them of the breach;
- Receipt of general complaints regarding HGVs breaching restrictions were used as an aid to targeting checks at various locations in the County;
- Continued involvement in a capital project proposal from Economy Transport and Environment to link a camera system to the existing weigh-in-motion technology installed at Swarkestone Causeway to enable comprehensive enforcement of the weight restriction on this important ancient monument;
- Report and, where appropriate, prosecution of repeat offenders.

Results:

- 141 potential breaches were detected, of which 4 are still under investigation;
- 19 of the completed breaches were dealt with by the Police, 9 drivers receiving a Fixed Penalty Notice and 10 drivers receiving a Verbal Warning;
- Of the remaining 118 completed investigations, 104 breaches were dealt with by means of Warning Letters, 10 resulted in No Further Action and 4 breaches resulted in Prosecution of the operators concerned;
- A total of 469 complaints were received – compared to 478 for last year and 415 for the previous year.

148 Warning Letters were issued (in 43 cases both driver and company were issued with Warning Letters). Four prosecutions were instigated against operators who had previously been issued with Warning Letters for breaching weight restrictions in Derbyshire or who failed or refused to respond to enquiries, two of which are still pending. Details of the concluded prosecutions are as follows:

- One contravention at Swarkestone Causeway resulted in the operator receiving a fine of £500 and costs of £115.
- One contravention at Station Road, Ilkeston resulted in the operator receiving a fine of £1000 and costs of £155.

Two operators are due in court in May, one for a breach of Swarkestone Causeway (for which they have previously been prosecuted) and one for a breach of a 3 tonne bridge at Buttermilk Lane, Long Duckmanton in an 18 tonne vehicle (the company declined to co-operate with any enquiries).

Significance of Results:

Compared to the previous year, the above figures show a considerable increase in the number of breaches detected: 141 in 23 checks compared with 119 in 28 checks for 2012/2013. 469 complaints for the year represents a decrease of 1.9% on 2012-2013.

Summary of any infringements:

108 confirmed contraventions dealt with by the Department, 104 of which were dealt with by means of Warning Letters to drivers and/or companies. Four breaches involved operators who had previously been warned or who failed/refused to respond to enquiries so these were dealt with by means of Prosecution.

Conclusion:

An important area of work, even though not a statutory function, which attracts support and interest of stakeholders and residents in affected areas. Continuing activity necessary on a 'reactive' basis only, targeting checks at sites where complaints or other intelligence indicates there is a problem. Removing a 'target figure' for project checks has enabled the service to be provided more flexibly and, as a result, more breaches have been detected proportionate to activity.

Liaison is continuing with Environment, Transport and Economy colleagues in relation to the capital project to install a camera monitoring system on Swarkestone Causeway. The project has been delayed due to the appreciation that cameras would also need to be installed at Stanton-by-Bridge to ensure HGVs don't use the single track road through the village (which is also weight-restricted) to avoid crossing the Causeway. Whilst the technical side of the project can be achieved, enforcement is a problem as fixed penalties cannot yet be issued by authorities outside London for moving traffic offences and the potential cost of processing several hundred breaches per year through the court system is prohibitive. The authority is currently in contact with the Police to discuss using their ticket office to issue fixed penalty notices.

Recommendations:

Activity to continue, including current response to complaints, with checks being on a 'reactive' basis based on complaint trends and other intelligence gathering. Continuing liaison with other agencies, including Police, VOSA and Environmental Services, to improve effectiveness.

KP TSO 16 April 2014

Complaints about Breaches of Weight Restrictions

Rank	Weight Restriction	13/14	12/13	11/12
1	Stanton-by-Dale	128	118	85
2	The Handleys, Chesterfield	92	202	40
3	West Bank, Winster (3.5 tonnes)	68	55	63
4	B6050/1 Millthorpe/Cutthorpe	58	7	5
5	Scropton Village	15	2	
6	Swarkestone Causeway	14	11	8
7	Repton Village	13	4	7
8	Harpur Hill Rd., Buxton	10	4	47

9	Charlesworth	9	15	37
10	Winster Village	9	8	16
11	High St./South St., Riddings	9	3	4
12	Breadsall Village	4	11	11
13	Smalldale, Buxton	4		
14	Station Rd., Whitwell	3	3	35
15	B6054 Holmesfield	3	2	12
16	Oaks Rd./Hall Lane, Willington	3		
17	B6013 Higham	2		1
18	Youlgrave/Alport	1	7	7
19	Brassington Village	1		2
20	Shardlow Village	1		1
21	Gresley Wood Rd., Church Gresley	1		
22	Bertrand Road, Clay Cross	1		
	General Complaints/Requests	18	12	2
	Total	467	464	383

Weight Restrict Checks Conducted 2013-14

	Checks	No. of infringements
Swarkestone Causeway*	7	43
Stanton-by-Dale (and Dale Abbey)	6	22
Station Road, Ilkeston	5	20
Buttermilk River Bridge (3 tonne)	2	17
Moir Road, Woodville	2	11
The Handleys, Chesterfield	1	1
Stanton-by-Bridge	0	5
Steep Turnpike, Matlock	0	2
Breadsall Village	0	2
West Bank, Winster (3.5 tonne)	0	1
Starkholmes, Matlock	0	1
High St./South St., Riddings	0	1
Catton Hall, nr. Drakelow	0	1
TOTALS	23	127

Notes:-

Figures exclude vehicles already determined as 'no further action'.

*4 vehicles still under investigation.

Figures indicating breaches without check relate to investigations based on officer sightings whilst on other duties, sightings by Police or photographic evidence provided by local residents.