
Report To: Environment & Regeneration
Committee

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Report By: Corporate Director
Environment, Regeneration &
Resources

Report No: ERC/RT/GMcF/18.621

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Subject: AMENDMENTS TO TRAFFIC REGULATION ORDER PROCEDURE

1.0 PURPOSE

- 1.1 The purpose of this report is to amend the procedure in relation to the promotion of permanent Traffic Regulation Orders (TRO) to reduce the timescales associated implementing the restrictions proposed.

2.0 SUMMARY

- 2.1 The Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 set out the steps which a local authority must carry out when promoting a TRO, however, they do not detail what steps must be taken by a Local Authority between (A) the consultation on a proposed TRO to which there are no maintained objections or the outcome of a Public Hearing into a proposed TRO where there are objections and (B) the making of the TRO.
- 2.2 Inverclyde Council's Scheme of Administration details functions reserved to the full Council. These include the promotion of or opposition to the making of private legislation and the promotion of byelaws, management rules and any necessary orders. This means that the full Council must consider the making of all TROs even though they have previously been approved by the Environment and Regeneration Committee.
- 2.3 This process adds approximately 10 weeks to the timescale for making a TRO which is particularly relevant to those applying for a DPPP where there is often an urgent need for the Order to be in place as quickly as possible. It is therefore proposed to amend the procedure for making a TRO.
- 2.4 The key changes from the existing procedures are:
- No face-to-face Members' Briefings. Briefings will only be carried out by email with Members given 14 days to review and comment on the proposals. If no comments are received the proposed TRO will progress. If comments are received they will be addressed either by changes to the proposed TRO or an explanation will be given to the Member(s) who raised the comment to explain why no action is proposed.
 - TRO consultations will be circulated to Ward Members of all wards directly affected by the proposed TRO. If a proposed TRO will have an impact on the whole Council area all Members will be consulted.
 - Following completion of the consultation, if there are no maintained objections to the proposed TRO, the Head of Legal and Property Services will be authorised to make the TRO.
 - Following completion of the public consultation, if there are maintained objections, a report will be submitted to the Environment and Regeneration Committee. This will seek approval to hear the objections and the route which they should be heard i.e. a Special Meeting of the Environment and Regeneration Committee or by appointing an Independent Reporter.

- On conclusion of the Hearing, the TRO will either be made by the Environment and Regeneration Committee (if the objections are dismissed), made in part (if the objections are sustained in part) or not made (if the objections are upheld).
- There will no longer be a requirement for the Inverclyde Council to consider or approve the making of a TRO in any circumstances.

3.0 RECOMMENDATION

3.1 It is recommended that the Committee:

approves:

- (i) the amended procedure and decision making process involved in the promotion of permanent Traffic Regulation Orders in terms of the Local Authorities' Traffic Order (Procedure) (Scotland) Regulations 1999;
- (ii) the changes to the briefing to Members by email instead of face-to-face;
- (iii) the making of TROs by either the Head of Legal and Property Services or the Environment and Regeneration Committee; and
- (iv) Notes that a separate report will be remitted to the Inverclyde Council for approval to amend the Scheme of Administration and Scheme of Delegation.

Gail MacFarlane
Head of Roads and Transportation

4.0 BACKGROUND

- 4.1 Local Authorities are empowered to make TROs under the Road Traffic Regulation Act 1984, as amended and following the procedure set out in The Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999, as amended.
- 4.2 The Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 set out the steps which a local authority must carry out when promoting a TRO, however, they do not detail what steps must be taken by a Local Authority between (A) the consultation on a proposed TRO to which there are no maintained objections or the outcome of a Public Hearing into a proposed TRO where there are objections and (B) the making of the TRO.
- 4.3 Inverclyde Council's Scheme of Administration details functions reserved to the full Council. These include the promotion of or opposition to the making of private legislation and the promotion of byelaws, management rules and any necessary orders. This means that the full Council must consider the making of all TROs even though they have previously been approved by the Environment and Regeneration Committee.
- 4.4 The current Scheme of Delegation and Scheme of Administration require all TROs to go before both the Environment and Regeneration Committee and the Inverclyde Council, whether there are objections or not. This process can add 10 weeks to the making of a TRO which delays the introduction of the TRO. This delay is particularly difficult when a resident is waiting for a DPPP to be introduced and enforced.
- 4.5 Research into how other local authorities make TROs has found that their timescale is significantly less than our own. Some authorities require their TROs to be considered by one Committee or Cabinet whilst others delegate the ability to make TROs to a Head of Service.
- 4.6 At the March 2014 meeting of the Environment and Regeneration Committee the current TRO procedure was approved. This procedure is shown in Appendix 1. As well as the requirement for the TRO to be considered by both the Committee and the full Council, the current procedure includes the requirement for Officers to provide a face-to-face briefing to Members prior to promoting any significant TRO. This adds further time to the time it takes to make a TRO. Appendix 1
- 4.7 In an effort to reduce the time it takes to make a TRO the Head of Roads and Transportation has reviewed this procedure and seeks approval to amend the procedure. A copy of the revised procedure is in Appendix 1. The key changes are: Appendix 1
- No face-to-face Members' Briefings. Briefings will only be carried out by email with Members given 14 days to review and comment on the proposals. If no comments are received the proposed TRO will progress. If comments are received they will be addressed either by changes to the proposed TRO or an explanation will be given to the Member(s) who raised the comment to explain why no action is proposed.
 - TRO consultations will be circulated to Ward Members of all wards directly affected by the proposed TRO. If a proposed TRO will have an impact on the whole Council area all Members will be consulted.
 - Following completion of the consultation, if there are no maintained objections to the proposed TRO, the Head of Legal and Property Services will be authorised to make the TRO.
 - Following completion of the public consultation, if there are maintained objections, a report will be submitted to the Environment and Regeneration Committee. This will seek approval to hear the objections and the route which they should be heard i.e. a Special Meeting of the Environment and Regeneration Committee or by appointing an Independent Reporter.
 - On conclusion of the Hearing, the TRO will either be made by the Environment and Regeneration Committee (if the objections are dismissed), made in part (if the objections are sustained in part) or not made (if the objections are upheld).
 - There will no longer be a requirement for the Inverclyde Council to consider or approve the making of a TRO in any circumstances.

4.8 Prior to the implementation of the revised procedure it will be necessary to amend the Scheme of Administration and Scheme of Delegation to remove the requirement for TROs to be approved by the Environment and Regeneration Committee and the Inverclyde Council and to delegate the ability to make TROs to the Head of Legal and Property Services or the Environment and Regeneration Committee, depending on whether there are maintained objections.

5.0 IMPLICATIONS

Finance

5.1 There are no financial implications arising from this report. The cost of advertising TROs remains the same using the existing and proposed procedures.

Legal

5.2 The Scheme of Administration and Scheme of Delegation will require to be amended to remove the requirement to present reports to the Environment and Regeneration Committee and the Inverclyde Council and to delegate the ability to make TROs to the Head of Legal and Property Services or the Environment and Regeneration Committee, depending on whether there are objections.

Human Resources

5.3 There are no HR implications arising from this report.

5.4 Equalities

(a) There are equalities implications in this report.

X	YES – This report introduces an amendment to a policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, a Equality Impact Assessment is required
	NO

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES
X	NO – This report's recommendations have no impact on inequalities of outcome caused by socio-economic disadvantage has been completed.

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES
X	NO – This report does not involve data processing.

5.5 Repopulation

There are no repopulation implications arising from this report.

6.0 CONSULTATIONS

6.1 The Head of Legal and Property Services has been consulted on the amended procedures.

7.0 LIST OF BACKGROUND PAPERS

7.1 Report to the Environment & Regeneration Committee in March 2014 entitled "Traffic Regulation Order Procedure" established the current procedure.

ROAD TRAFFIC REGULATION ACT 1984 and THE LOCAL AUTHORITIES' TRAFFIC ORDERS (PROCEDURE) (SCOTLAND) REGULATIONS 1999

TRAFFIC REGULATION ORDER (TRO) PROCEDURE

1. Where Roads and Transportation have determined that a moving TRO such as a one-way road, speed limit, weight or height restriction, etc is necessary they will undertake an initial informal consultation with Police Scotland which is the authority empowered to enforce such restrictions. If Police Scotland are supportive of the proposals the Head of Roads and Environmental Services will email all Councillors providing a specific briefing on those TROs which are likely to generate significant public interest. Councillors will have 14 days to provide comments on the proposed TROs.
- ~~4. Where Environmental and Commercial Roads and Environmental have determined that a waiting or loading TRO is necessary, the Head of Roads and Environmental Services will email all Councillors providing a specific briefing on those TROs which are likely to generate significant public interest. Councillors will have 14 days to provide comments on the proposed TROs. ~~an initial consultation stage is undertaken by them. The bodies included in all initial consultations are Police Scotland, Scottish Ambulance Service, Scottish Fire and Rescue Service, the local Ward Councillors, the Convenor and Vice-Convenor of the Environment & Regeneration Committee and the Community Council for the area. For those TROs affecting the whole Inverclyde area or Disabled Parking Places, or which are likely to generate significant public interest all Councillors and Community Councils will be consulted. It should be noted that this list is not exhaustive and will include other bodies depending on the type of TRO being promoted. At this stage, comments made by those consulted are not regarded as objections.~~~~
- ~~2.~~
- ~~2. The Head of Environmental & Commercial Services will invite all Councillors to attend a specific briefing on those TROs which are likely to generate significant public interest.~~
- ~~3. Following the 14 day informal Councillor Consultation for items 1 and 2 above, if there are comments, the Head of Roads and Environmental Services will consider these and determine if any changes are required to the proposed TRO. If changes are required, Councillors will be emailed again providing details of the changes and given a further 14 days to comment on these.~~

For all permanent TROs the following steps will apply:-

- ~~4. Presuming that the initial consulteesCouncillors are content with the proposal, the Head of Environmental and Commercial ServicesRoads and Environmental Services then instructs the Head of Legal and Democratic-Property Services to prepare the formal Order and supporting documentation for public consultation.~~
- ~~5. At this point, all those who were initially consulted at the first stage of the processPolice Scotland, Scottish Ambulance Service, Scottish Fire and Rescue Service, the local Ward Councillors and the Community Council and other key stakeholders will be informed that arrangements are being made to advertise the proposed TRO. Copies of the proposed TRO and supporting documentation (Schedule, Statement of Reasons and Plan_(s)) will also be passed to these consultees for information.~~
- ~~6. The proposed TRO is then advertised in the local newspaper and this starts the full public consultation process. Any interested party may ~~now~~ write to the Council with an objection to the terms of the Order within 21 days. ~~(28 days if the TRO involves speed restrictions).~~~~

7. All documents associated with the proposed TRO, including a Statement of Reasons for proposing to make the Order, will be made available for public inspection in the Customer Service Centre and all relevant libraries. The documents will also be placed on the Council's website.
8. All objections are acknowledged by the Head of Legal and ~~Democratic-Property~~ Services and forwarded to ~~Environmental and Commercial Services~~ Roads and Environmental Services ~~to for~~ consideration and comment.
9. Further explanation or clarification of the proposals in discussion or correspondence with objectors may result in the objection being withdrawn. If the objection cannot be resolved, ~~Environmental and Commercial Services~~ Roads and Environmental Services will consider whether the original proposal is capable of amendment in such a way that does not extend the application of the ~~fundamentally alter or increase the severity of the proposed TRO or increase the stringency of any prohibition contained in it~~. If so, this amendment will be presented to the objectors so as to attempt to secure the withdrawal of the objection.
10. Should the amendments extend the application of the TRO or increase the severity stringency of any prohibition contained in it, of or, fundamentally alter, the proposed TRO, then the proposals would require to be abandoned. Any future proposal taking into account the proposed amendments would require to go through the initial consultation and advertising stages once again.
11. On receipt of comments from ~~Environmental and Commercial Services~~ Roads and Environmental Services on the objections ~~received~~ made, the Head of Legal and ~~Democratic-Property~~ Services will formally respond by letter to the objectors on the basis of these comments. The objectors are given 14 days in which to maintain or withdraw their objection. Failure by the objector to respond within 14 days will be taken to imply that the objection has been withdrawn.
12. If no objections are ~~received~~ made, or if all objections made are then withdrawn, the proposal is submitted for the approval of the ~~Environment and Regeneration Committee and thereafter to the full Council~~ Heads of Legal and Property Services.
13. Where objections cannot be resolved through further explanation or alterations to the proposals, the proposal will either be abandoned or the objections heard. A report will be put to the Environment and Regeneration Committee for members to determine how to consider the objections i.e. to determine if, a public hearing will be heard by the a Special Committee of the Environment and Regeneration Committee or before an Independent Reporter will be held and/or the matter will be put to the Environment and Regeneration Committee for members to determine how to consider the objections. There are circumstances in the relevant legislation when the objections to a TRO must be heard by an Independent Reporter and the Council must comply with that legislation.
14. Should a public hearing be undertaken and heard by either the Environment and Regeneration Committee or an Independent Reporter, notice of a hearing is published in the local newspaper and letters are issued to all of the parties ~~that who~~ have maintained their objections. The conduct of the hearing will follow the requirements set out in the 1999 Regulations as supplemented by the Council's Rules of Procedure. At this stage the objectors will have an opportunity to prepare a statement of their case for the TRO not being made or for it being amended and the Head of Roads and Environmental Services will have the opportunity to prepare a statement of case for the TRO and address the case for the objectors; in this way, the Committee or the Reporter will have a full statement of the case for both the objectors and the Head of Roads and

Environmental Services which will assist in making a decision on how to proceed with the TRO, procedure set out in the 1999 Regulations and will be led by the Reporter.

15. In the event the hearing is heard by and Independent Reporter, oOnce the Independent Reporter has made his recommendations these will be submitted to the Environment and Regeneration Committee for a decision on whether to proceed with the TRO. ~~This decision will then be submitted to full Council for final approval.~~
16. Once final approval of a TRO is given by ~~full Council~~either the Environment and Regeneration Committee or the Head of Legal and Property Services, the effective date of the TRO is inserted and the TRO as approved is made. This involves the TRO being signed and sealed on behalf of the Council by a Proper Officer. A notice is published in the local newspaper advising of the making of the TRO and of the effective date. A letter is issued to ~~the~~ Police Scotland and Procurator Fiscal advising the TRO has been made and enclosing a copy of the ~~final-made~~ TRO. A copy of the ~~final-made~~ TRO is made available for public inspection at the same locations as mentioned in para. ~~5-7~~ above. A 6 week period from the date of the making of the Order is available for any objections to be raised regarding the process of making the TRO. Any such challenges received are dealt with through the Court of Session. The Order will not take effect until the 6 weeks has expired.
17. A TRO which requires no changes could be in place within ~~6-4~~ months. An Order ~~with-to~~ which objections are made which can be resolved as set out in paragraph ~~128~~ above can take ~~96-12-9~~ months. A TRO which requires to go through all of the stages set out above could take ~~1815-24-21~~ months.
18. A TRO must be complete within a 2 year period from the first date of publication of the proposals – otherwise it cannot be made and would require to go through the whole process as set out above again.

ROAD TRAFFIC REGULATION ACT 1984 and THE LOCAL AUTHORITIES' TRAFFIC ORDERS (PROCEDURE) (SCOTLAND) REGULATIONS 1999

PERMANENT TRAFFIC REGULATION ORDER (TRO) PROCEDURE

1. Where Roads and Environmental Services have determined that a moving TRO such as a one-way road, turning bans, weight or height restriction, etc. is necessary they will undertake an initial informal consultation with Police Scotland which is the authority empowered to enforce such restrictions. If Police Scotland are supportive of the proposals, the Head of Roads and Environmental Services will email all Councillors providing a specific briefing on those TROs which are likely to generate significant public interest. Councillors will have 14 days to provide comments on the proposed TROs.
2. Where Roads and Environmental Services have determined that a waiting or loading TRO is necessary, the Head of Roads and Environmental Services will email all Councillors providing a specific briefing on those TROs which are likely to generate significant public interest. Councillors will have 14 days to provide comments on the proposed TROs.
3. Following the 14 day informal Councillor consultation for items 1 and 2 above, if there are comments, the Head of Roads and Environmental Services will consider these and determine if any changes are required to the proposed TRO. If changes are required, Councillors will be emailed again providing details of the changes and given a further 14 days to comment on these.

For all permanent TROs the following steps will apply:-

4. Presuming that the Councillors are content with the proposal, the Head of Roads and Environmental Services then instructs the Head of Legal and Property Services to prepare the formal Order and supporting documentation for public consultation.
5. At this point, Police Scotland, Scottish Ambulance Service, Scottish Fire and Rescue Service, the Ward Councillors and the Community Council and other key stakeholders will be informed that arrangements are being made to advertise the proposed TRO. Copies of the proposed TRO and supporting documentation (Schedule and Plan(s)) will also be passed to these consultees for information.
6. The proposed TRO is then advertised in the local newspaper and this starts the full public consultation process. Any interested party may write to the Council with an objection to the terms of the proposed Order within 21 days.
7. All documents associated with the proposed TRO, including a Statement of Reasons for proposing to make the Order, will be made available for public inspection in the Customer Service Centre, Roads Reception and all relevant libraries. The documents will also be placed on the Council's website.
8. All objections made are acknowledged by the Head of Legal and Property Services and forwarded to Roads and Environmental Services for consideration and comment.
9. Further explanation or clarification of the proposals in discussion or correspondence with objectors may result in the objections being withdrawn. If an objection cannot be resolved, Roads and Environmental Services will consider whether the original proposal is capable of amendment in such a way that it does not extend the application of the TRO or increase the stringency of any prohibition contained in it. If so, this amendment

will be presented to the objector so as to attempt to secure the withdrawal of the objection.

10. Should the amendments extend the application of the TRO or increase the stringency of any prohibition contained in it, then the proposals would require to be abandoned. Any future proposal taking into account the proposed amendments would require to go through the initial consultation and advertising stages once again.
11. On receipt of comments from Roads and Environmental Services on objections made, the Head of Legal and Property Services will formally respond by letter to the objectors on the basis of these comments. The objectors are given 14 days in which to maintain or withdraw their objections. Failure by the objectors to respond within 14 days will be taken to imply that the objections have been maintained.
12. If no objections are made, or if all objections made are then withdrawn, the proposal is submitted for the approval of the Head of Legal and Property Services.
13. Where objections cannot be resolved through further explanation or alterations to the proposals, the proposal will either be abandoned or the objections heard. A report will be put to the Environment and Regeneration Committee for members to determine how to consider the objections i.e. to determine if a public hearing will be heard by a Special Meeting of the Environment and Regeneration Committee or before an Independent Reporter. There are circumstances in the relevant legislation when the objections to a TRO must be heard by an Independent Reporter and the Council must comply with that legislation.
14. Should a public hearing be undertaken and heard by either the Environment and Regeneration Committee or an Independent Reporter, notice of a hearing is published in the local newspaper and letters are issued to all of the parties who have maintained their objections. The conduct of the hearing will follow the requirements set out in the 1999 Regulations as supplemented by the Council's Rules of Procedure. At this stage the objectors will have an opportunity to prepare a statement of their case for the TRO not being made or for it being amended and the Head of Roads and Environmental Services will have the opportunity to prepare a statement of case for the TRO and address the case for the objectors; in this way, the Committee or the Reporter will have a full statement of the case for both the objectors and the Head of Roads and Environmental Services which will assist in making a decision on how to proceed with the TRO.
15. In the event that the hearing is heard by an Independent Reporter, once the Independent Reporter has made his recommendations these will be submitted to the Environment and Regeneration Committee for a decision on whether to proceed with the TRO.
16. Once final approval of a TRO is given by either the Environment and Regeneration Committee or the Head of Legal and Property Services, the effective date of the TRO is inserted and the TRO as approved is made. This involves the TRO being signed and sealed on behalf of the Council by a Proper Officer. A notice is published in the local newspaper advising of the making of the TRO and of the effective date. A letter is issued to Police Scotland and the Procurator Fiscal advising the TRO has been made and enclosing a copy of the made TRO. A copy of the made TRO is made available for public inspection at the same locations as mentioned in paragraph 7 above. A 6 week period from the date of the making the Order is available for any challenges to be raised regarding the process of making the TRO. Any such challenges received are dealt with through the Court of Session. The Order will not take effect until the 6 week period has expired.

17. A TRO to which no objections are made could be in place within 4 months. An Order to which objections are made which can be resolved as set out in paragraph 12 above could take 6-9 months. A TRO which requires to go through all of the stages set out above could take 15-21 months.
18. A TRO must be complete within a 2 year period from the first date of publication of the proposals – otherwise it cannot be made and would require to go through the whole process as set out above again.