

TRAFFIC REGULATION ORDER REVIEW CONSULTATION

Response to Transport Scotland consultation

29 July 2021

The consultation is framed in the context of concerns raised by Local Authorities. The background documents read as though the objective of the exercise is to mitigate the problems of Local Authorities; in which case we might ask: *why are you bothering to consult anyone else?*

We instead recommend that the that the review of the TRO process be reframed in these terms: *are the laws and processes affecting ETROs etc. still appropriate?*

Our perspective here is that one might reasonably expect Local Authorities to have professional staff capable of navigating the system. However, we suggest the system no longer meets the needs of external stakeholders, whether they be residents, businesses, transport operators or whoever.

The background papers themselves indicate the welter of different TROs and other orders, procedures, and requirements. This might be understood by professional Local Authority staff, but is no doubt highly confusing to local residents and anyone else with an interest in the outcome the orders are intended to produce. It therefore fails the test of transparency.

The point is illustrated by the fact that local residents sometimes resort to professional legal advice to secure, or object to, an order affecting them. This clearly disadvantages those with fewer resources.

Indeed, we'd observe that many or most people don't know what a Traffic Regulation Order or Redetermination Order is. Even the terms 'Experimental' or 'Temporary' can have multiple interpretations.

We suggest rebasing the discussion on the following principles:

- **Emergency orders:** generally covering hours or days, at most a few weeks, when an unpredicted event occurs such as a road collapse, or 'major incident'. Inherently, consultation is not practicable. However, notification of those affected should take place as soon as possible.
- **Short-term orders:** covering a limited period, to accommodate predicted events such as planned road works, building works or local events. This could include situations such as those described in the background papers as 'experimental'; such as Spaces for People or any other measure where a 'try and modify' approach is appropriate.
- **Permanent orders:** probably covering all other situations. This could include 'Redetermination Orders'. However, within this group a mechanism is needed to cover minor variations e.g. slightly extending a parking bay or double yellow line (e.g. by a metre or so), which appear currently to require the full TRO process, which is obviously disproportionate.

Note that this entails the withdrawal of the Public Local Inquiry process. In our view, decisions about local roads should be left entirely to the relevant Local Authority. The inclusion of a quasi-legal process is, as set out above, fundamentally undemocratic; rather than producing a system of universal rules for all, it benefits those who can best, or have the resources to, 'work' the system.

Having established these principles, questions of consultation (how, what, when, why, who etc) *follow*, rather than lead the process. As noted above, emergency orders are likely to require notification but not consultation.

For short-term and permanent orders, 'how, what, when, why, who' depends on the scale and impact of the proposed order. Nevertheless, the nature of a short-term order, especially if it is experimental, suggests they will usually, but not always, be more limited in scope than permanent orders.

Therefore, legislation/regulations cannot be over-prescriptive; it cannot cover the wide range of circumstances that orders are designed to address. But a maximum period of 18 months for any short-term order should suffice; anything longer would generally warrant a permanent order if appropriate.



Scotland's alliance for sustainable transport

Transform Scotland
5 Rose Street, Edinburgh, EH2 2PR
t: 0131 243 2690
e: <info@transformscotland.org.uk>
w: <www.transform.scot>

transform
scotland

We campaign for walking, cycling and public transport to be the easiest and most affordable options for everyone. Our diverse membership brings together public, private and third sector organisations from across Scotland. We are a registered Scottish charity (SC041516).