

Scottish Parliament Cross Party Group on Cycling, Walking and Buses

Michael Matheson MSP
Cabinet Secretary for Transport, Infrastructure and Connectivity
Scottish Government

21 January 2021

Your ref: 2020/0004071

Dear Cabinet Secretary,

Traffic Regulation Order (TRO) Review and Spaces for People

Thank you for your letter of 26 November, in reply to ours of 20 October.

Thank you for updating us on the progress of the TRO review. We were pleased to hear that this is “at the forefront” of your work, and that you will include consideration of the points in the annex to our original letter. We hope the results of the review will come forward soon.

We fully accept your point that there needs to be a suitable avenue for people concerned about proposed schemes to be consulted, to comment and/or to object, but we trust the review will come up with approaches which improve on the current unsatisfactory arrangements which were described in our letter and annex.

It is encouraging that you have already amended internal procedures to ensure that objections to redetermination orders only trigger a public inquiry “where necessary,” given the recent Edinburgh example of a 2-year project delay due to a small number of objections, all of which were eventually dismissed. Some indication of how procedures have changed, and what are the new criteria for “necessary,” would be appreciated.

We are, however, concerned over your response to the second, related, issue that we raised – the difficulties for local authorities who wish to make successful Spaces for People (SfP) projects permanent, a direction of travel which you have encouraged. In Edinburgh, for example, 30km or so of semi-segregated arterial road cyclistoutes are being introduced, together with measures at over 50 primary schools, and many town centre footway extensions. Most of these schemes appear successful and, where problems are identified on the basis of early experience, schemes are being modified or in a very few cases removed.

To see successful schemes disappear purely because the legal and other processes for making them permanent (and for keeping the temporary schemes in place until then) are so fraught with problems, would be a tragedy which would be met with complete incomprehension by the people now using them.

Your letter suggests that current procedures and resources available to local authorities are adequate to enable them to make SfP schemes permanent when they so wish. However, there are in practice great difficulties for Councils and we urge you rapidly to look into and implement measures, whether via secondary legislation, Guidance, financial, administrative, advice or other means, to ease these difficulties.

As stated in your letter, you very rapidly introduced new Guidance on TTROs at the start of the pandemic, showing that the government is capable of speedy and effective action on such matters when deemed necessary. Furthermore, the *Cleaner Air Scotland 2* consultation document¹ states (para 139) that the Scottish Government will “Work with local authorities and delivery partners to consider opportunities for making the temporary infrastructure permanent.”

The difficulties for councils include the following...

- 1. Expiry of TTROs.** You refer to a timescale of 18 months, which may be extended for a further six months if procedures are underway to make the scheme permanent. However, our understanding is that a TTRO may expire at any point before 18 months if the temporary cause for the Order (which for the SfP TTROs relates to covid) comes to an end. The vaccine programme now underway may make this a reality in a matter of months, rendering the 18-months limit and the six month extension irrelevant.
- 2. TTRO, ETRO and TRO processes.** Many SfP projects involve loading restrictions which, if included in a TRO, will trigger a Public Hearing if there are unwithdrawn objections. Because of this, TTROs may expire well before any TRO process could be completed; thus councils may have no choice but to follow most TTROs with an Experimental Traffic Regulation Order (ETRO) and then follow that with a full TRO. To do this for all successful SfP schemes would mean significant waste of resources. It would effectively mean three separate consultations – the feedback which councils are accepting and using to modify TTRO SfP schemes, followed by ETRO consultation, followed by a comment and objection phase for the TRO. There are serious implications for council staffing capacity, and this could well impact on council ability to progress other active travel programmes.
- 3. Design and funding.** A permanent scheme is likely to need a significant level of redesign, based on experience with the temporary scheme, and furthermore it is likely to be significantly more costly due to using permanent materials. There are major implications for capital funding and again for staffing capacity. Furthermore, this also adds to the risk that successful temporary infrastructure will have to be removed long before the council is in a position to install the permanent scheme.

Possible steps which could be taken to resolve such issues are suggested below. Some of these overlap with the above TRO Review, but could perhaps be brought forward if appropriate, in the same way that you rightly prioritised active travel issues in the prolonged PDR deliberations.

We do not pretend to have all the answers. This is not intended as a comprehensive or definitive list, and doubtless you are able to develop further options in addition to or alternative to those suggested here.

¹ <https://www.gov.scot/publications/cleaner-air-scotland-2-draft-air-quality-strategy-consultation/>

1. Allow covid-related TTRO schemes to remain in place until an underway TRO process is complete - with some safeguards over inordinate timescales, but with greater flexibility than say a rigid 6 or 12 months extension, whether or not the pandemic is over.
2. Even once a TRO process is complete, allow the temporary infrastructure to remain until the necessary capital, staffing and other resources to implement the permanent scheme are in place – again with safeguards over inordinate timescales.
3. Significantly lengthen the period for an ETRO, from 18 months to say 36 months, and then make it simpler for the scheme to become permanent, as we understand is the case south of the Border - whilst of course guaranteeing full consultation/objection opportunities at an appropriate point in the process.
4. Significantly increase the funds available for cycling infrastructure in the near future, for example in the forthcoming budget, rather than the current promise to freeze funding at £100m a year for the next 5 years. We are aware that Sustrans already can no longer meet current demand from councils and others for cycle infrastructure funding; thus if councils across Scotland, for legal reasons, have no choice other than to make SfP schemes permanent rapidly or to remove them, then the absence of funding will mean that many such schemes will have to be removed even where councils wish them retained.

Kind regards,

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Co-convenors of the Cross Party Group on Cycling, Walking & Buses