



Cabinet Report

Date	14 JULY 2022
Title	ISLE OF WIGHT COUNCIL TRAFFIC REGULATION ORDER POLICY
Report of	CABINET MEMBER FOR INFRASTRUCTURE, HIGHWAYS PFI AND TRANSPORT

EXECUTIVE SUMMARY

1. Proposed Traffic Regulation Order (TRO) Policy for approval.
2. This report provides the details of recommendation for introducing new TRO Policy, with immediate effect, as detailed in the Appendix 1 – TRO Policy Draft.
3. The proposal is setting up the framework for making decisions on TRO proposals. It is aiming to ensure consistency in the way the highway traffic is managed on the island.
4. The Policy is aiming to balance the need for new traffic regulations on the island's highway to ensure safety for all road users, against the impact on the local communities and amenities.

RECOMMENDATION

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| 5. That Cabinet approves the proposed policy that is subject to this report in relation to the Isle of Wight Council Traffic Regulation Policy. |
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BACKGROUND

6. The Statutory Authority for making new TROs is contained within the Section 1 (1) in the Road Traffic Regulation Act 1984:

(1) The traffic authority for a road outside Greater London may make an order under this section (referred to in this Act as a "traffic regulation order") in respect of the road where it appears to the authority making the order that it is expedient to make it

- (a) for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
 - (b) for preventing damage to the road or to any building on or near the road, or
 - (c) for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
 - (d) for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property, or
 - (e) (without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
 - (f) for preserving or improving the amenities of the area through which the road runs, or
 - (g) for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality).
7. Orders are progressed in accordance with the Local Authority's Traffic Regulation Order (Procedure) (England and Wales) Regulations 1996.
 8. The Statutory Authority for signs and road markings are by virtue of the Traffic Signs Regulations and General Directions 2016.
 9. The council is under a duty pursuant to Section 16 of the Traffic Management Act 2004 to manage their road network, whilst having regard to their other obligations, policies and objectives at the same time, with a view to facilitate the passage on the road or any other road of any class of traffic (including pedestrians) and for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising.
 10. Section 122 of the Road Traffic Regulation Act 1984 requires the local authority to secure the expeditious, convenient and safe movement of traffic (including pedestrians) and the provision of adequate parking facilities.
 11. Consideration will need to be given to the duty under Section 122 of the Road Traffic Regulation Act 1984 when deciding whether to make, or to refuse to make a traffic regulation order.
 12. The proposed TRO Policy is setting up the framework for making decisions on TRO proposals. It is aiming to ensure consistency in the way the highway traffic is managed on the island.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

Provision of affordable housing for Island Residents

13. Some of the new development schemes, which incorporate affordable housing provisions, require improvement works on the highways. Some of these improvements require TROs in order for them to be enforceable.
14. The proposed Policy statement supports the Council's duty to review TRO proposals related to the new development schemes, where it can be clearly evidenced that the benefits of the proposed TRO significantly outweigh the negative impacts on the wider locality.

Responding to climate change and enhancing the biosphere

15. The proposal, if implemented, is unlikely to have a measurable positive or negative effect on carbon emissions

Economic Recovery and Reducing Poverty

16. It is not anticipated that the new policy would have a direct impact on reducing the number of residents living in poverty
17. In terms of sustainable economic growth, it is anticipated that the new TRO Policy will have a positive impact, as it supports the expeditious and safe movement of traffic (including pedestrians) and the provision of adequate parking facilities on the island.

Impact on Young People and Future Generations

18. The recommendation, if approved, would have a positive impact on young people and future generations living on the island, as the safety of all road users plays a big role in citizens' wellbeing on a daily basis – as pedestrians, drivers, cyclists and public transport users.

Corporate Aims

19. In line with the Corporate Plan 2021-2025, the proposed TRO Policy support Council's a clear vision to work together openly and with our communities. As outlined in the Policy, Councils' decisions on TRO proposal are based on a public consultation and will aim to support and sustain island's economy, environment and people.
20. The proposed TRO policy has links to the Island Planning Strategy draft. The draft sets an expectation for the related policies to include a requirement for all planning applications to take into account any amenity impacts at the earliest opportunity in the planning application process.

CONSULTATION

21. No consultation has been conducted in relation to this proposal.

FINANCIAL / BUDGET IMPLICATIONS

22. There is no cost associated with this proposal.
23. The recommended option would have a positive financial impact by reducing the potential liability issues for the Isle of Wight Council (IWC) as a Highway Authority, should its decisions related to individual TROs be challenged in the court.

LEGAL IMPLICATIONS

24. The IWC as a public body which is charged with the power to make a decision in the course of a statutory process must exercise this discretion in accordance with public law principles. That being that it must have regard to all material facts and make a decision that is reasonable having regard to the relevant provisions of Section 122 of the Road Traffic Regulation Act 1984 as follow:
 - (a) desirability of securing and maintaining reasonable access to premises;
 - (b) the effect on the amenities of any locality effected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the road(s) run;
 - (c) any strategy prepared under section 80 of the Environment Act 1995 (the national air quality strategy);
 - (d) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles;
 - (e) any other matters appearing to the local authority to be relevant.
25. The Regulation 13 of the Local Authority's Traffic Regulation Order (Procedure) (England and Wales) Regulations 1996 confirms that before making an order, the traffic authority shall consider all objections duly made to the TROs that have not been withdrawn.
26. The validity of any traffic regulation order made by the council can be challenged by application to the High Court to challenge the validity of a TRO, or any of its provisions, within six weeks following the date the order on the grounds identified in paragraphs 35-36 of Schedule 9 to the Road Traffic Regulation Act 1984.
27. The court has the power to suspend an order or any of its provisions until the final determination of the proceedings.
28. A person aggrieved by a decision of the council to refuse to make a traffic regulation order can seek a judicial review of the exercise of those functions. That challenge can be brought on the grounds of illegality, irrationality, and/or procedural impropriety.

29. The proposed TRO Policy mitigates the above legal implications by setting up a decision-making framework and ensuring consistency in the way the highway traffic is managed island wide.

EQUALITY AND DIVERSITY

30. Due regard to the Council's responsibilities under the Equality Act 2010 has been given and an Equality Impact Assessment (EIA) form has been completed and attached to this report as Appendix 2.
31. In summary, there will be no negative impact on the protected characteristics - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

OPTIONS

32. Option 1: To approve the proposed draft that is subject to this report in relation to the ISLE OF WIGHT COUNCIL TRAFFIC REGULATION POLICY.
33. Option 2: To not approve the proposed draft that is subject to this report in relation to the ISLE OF WIGHT COUNCIL TRAFFIC REGULATION POLICY and to abandon the proposal.
34. Option 3: To approve the proposed draft that is subject to this report in relation to the ISLE OF WIGHT COUNCIL TRAFFIC REGULATION POLICY with amendment.

RISK MANAGEMENT

35. The proposed TRO Policy is focusing on the safety for all road users, whilst securing the movement of the traffic and preserving parking space where possible. It is ensuring that, where there a risk has been identified to pedestrians, drivers, cyclists and traffic, the risk will be addressed by making appropriate and consistent decision on implementation of suitable TRO.

EVALUATION

36. Option 2: To not approve - Once a safety risk on the highway has been identified, the Local Highway Authority has a legal obligation to address it, in many cases by introducing a new TRO. Choosing to not approve the proposed TRO Policy, which makes the process of introducing TROs consistent across the island, may lead to the Authority being liable, should a road collision occur in such a location with identified road safety issue.
37. Option 3: To approve with amendment – This Policy has been drafted in line with the current legislation that governs the TRO process and with best practices country wide. Any amendment to the draft that changes the direction of the Policy i.e. the overall approach when making a TRO decision, will need to be in line with the Road Traffic Regulation Act 1984, the Local Authority's Traffic Regulation Order (Procedure) (England and Wales) Regulations 1996, and the public law principles.

APPENDICES ATTACHED

Appendix 1 – TRO Policy Draft

Appendix 2 – Equality Impact Assessment

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