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**To:** POLICE AND FIRE & RESCUE SERVICE SCRUTINY SUB COMMITTEE

**On:** 16 JANUARY 2018

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**Report by:** DIRECTOR OF ENVIRONMENT & COMMUNITIES

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**Heading:** PRE-PLANNED EVENTS ON PUBLIC ROADS – THE REQUIREMENT FOR  
TEMPORARY TRAFFIC REGULATION ORDERS (TTROs)

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## **1. Summary**

- 1.1 Police Scotland wrote to all local authority Chief Executives in Scotland on 13 October 2017 outlining a change in Police Scotland's position in relation to the requirement to have a Temporary Traffic Regulation Order (TTRO) in place for pre-planned events taking place on public roads.
  - 1.2 This change in position potentially has an impact on all local authorities as it suggests that local authorities should be issuing TTROs for events that historically didn't require them.
  - 1.3 This report sets out the key points, the legal background to TTROs for events and the potential implications for Renfrewshire.
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## **2. Recommendations**

It is recommended that the Police and Fire and Rescue Scrutiny Sub Committee:

- 2.1 Notes that the Roads Service will continue to issue TTROs for events where a full road closure is required and will continue not to require a TTRO for marches and moving processions where limited traffic disruption is expected, as detailed in paragraph 6.4 of this report.

- 2.2 Agrees to write to CoSLA informing them of the position of the Council in this regard and seeking their support in promoting a change in legislation that would provide clarity for Police Scotland and extend police powers to regulate traffic beyond extraordinary circumstances without the requirement of a TTRO, as detailed in paragraph 6.6 of this report.
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### **3. Temporary Traffic Regulation Orders (TTROs)**

- 3.1 TTROs are governed by the Road Traffic Regulation Act 1984 ("RTR Act 1984"). A TTRO can be made under either section 14 or under section 16A of the Road Traffic Regulation Act 1984.
- 3.2 Currently, most TTROs are issued by Renfrewshire Council under Section 14 of the Road Traffic Regulation Act 1984. Section 14 TTROs give the authority significant powers to control a road in any way it sees fit. The procedure for putting in place a Section 14 TTRO is regulated by The Road Traffic (Temporary Restrictions) Procedure Regulations 1992. Notice must be provided in advance of the road closure with appropriate signage used to inform people of the closure and any diversions in place. Section 14 TTROs could be used to regulate traffic in relation to an event if it were established that there was a likelihood of danger to the public. The danger would be the risk of injury by a vehicle to members of the public exercising their right to protest/march in the carriageway.
- 3.3 Section 16A TTROs also give the authority significant powers to control a road, specifically for the purpose of holding "sporting events, social events and entertainment". The major events held in Renfrewshire normally have a TTRO issued under Section 16 of the regulations. A Section 16A TTRO can be for a maximum of 3 days and can only be applied to a given section of road once in any one calendar year unless consent is given by Scottish Ministers. Scottish Ministers require 6 weeks' notice to review and approve a proposed TTRO, which adds considerable time to the application process if this is required. It is unlikely that Section 16A TTROs could be used for events such as parades and political marches because these are not deemed to be sporting, social or entertainment events. It could however be used for small scale social events such as parades, street parties, carnivals etc. where at present TTROs are not currently viewed as required, or issued by the Council.
- 3.4 The position adopted by the Council to date in determining whether a TTRO is required for a specific event, has been based on guidance issued by the Scottish Executive in 2005 entitled "*Galas and events affecting public roads – Guidance to Organisers*". It states:

*Traffic may be held up for short periods for events such as a march, or a moving procession. These can be controlled under police powers, providing there will be limited traffic disruption. The Civic Government (Scotland) Act 1982 Part V – Public*

*Procession sets out statutory provisions for the application and provision of notice from event's organisers to their local authority for permission to hold such events.*

- 3.5 For larger scale events, Renfrewshire Council have always issued a TTRO as detailed above in 3.3.

#### **4. Current Regulatory Process in Relation to Events**

- 4.1 All applications for events/parades and marches must be notified to the Council as the relevant licensing authority and the Regulatory Functions Board have powers to decide whether they should be prohibited. The legal presumption is that events / parades and marches should be permitted unless there are specific reasons for the event to be prohibited. Police Scotland is a statutory consultee in this process. Historically, Police Scotland in the majority of cases would generally advise that they have no objections and they would undertake to manage traffic flow as part of routine Police business. Major events - which have a significant impact on roads, such as the Fireworks in Paisley, have always had a Temporary Traffic Regulation Order in place – together with appropriate signage, diversions and advertising.
- 4.2 For many years, Police Scotland has assisted smaller events and parades by creating a rolling road closure and stopping traffic as the event / parade passes certain streets along the route. This is in line with the guidance issued by the Scottish Executive in 2005 which highlighted that events of this nature did not require a TTRO to be in place and that the Police could manage traffic in these circumstances.
- 4.3 Generally, in these cases Police Scotland has only registered an objection to applications where there were plans for 2 events to occur at the same time and in roughly the same location, creating Police resourcing issues. In such circumstances the Council Licensing team have normally been able to liaise with Event Organisers to change their proposed timings and routes in a way that allows both events to go ahead with Police support.
- 4.4 Police Scotland has now changed its position as outlined in a letter to all local authority Chief Executive's on 13 October 2017. It is understood by Renfrewshire Council that this is in relation to Police Scotland either facing, or potentially facing, legal action for causing delays and consequential losses to a business when they provided Policing for an event where a TTRO was not in place.
- 4.5 The letter from Police Scotland sets out that Police Scotland now believes that current legislation does not contain the powers required to enable police officers to regulate traffic for pre-planned events where they believe a TTRO is required but not in place. They have stated that the legal advice that they have received is that the previous, informal arrangements to stop traffic for events / parades is deemed to be unlawful. They are asking that TTRO's be put in place for all events to provide the legal basis for Police resources to be put in place for traffic management purposes.

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## **5. Other Local Authority approaches**

- 5.1 This issue is affecting all local authorities across Scotland, however currently there is some inconsistency throughout the country in the way in which local authorities and local Police Divisions have been interpreting the requirement for TTROs and the approach taken to dealing with events. Some of the approaches that have been adopted by Councils are quite innovative, but may not be suitable in all areas or circumstances.
- 5.2 For example, Edinburgh City Council currently use Section 14 TTROs for all events, with a generic statement at the bottom that “it is in conjunction with rolling road closures”, however, in relation to the nature, location and type of events that take place in Renfrewshire it is considered that this would not provide a workable and robust solution for Renfrewshire Council to adopt. There are doubts as to whether this approach would provide legal protection for the Council here. It may be that the scale and frequency of events that take place within a city such as Edinburgh may mean that the associated disruption is better understood and accepted by residents and businesses and there is greater awareness among the population of how to avoid or work around events as they take place, mitigating the impact of a generic statement about the nature and timing of the closure that would cause more confusion and frustration within Renfrewshire communities.
- 5.3 Similarly, Angus Council has issued a year-long TTRO around Glamis Castle for events. However, this is a restricted defined geographical area and this model would prove difficult for Renfrewshire Council to implement due to the different streets and areas used for various parades / marches etc. Under a Section 14 TTRO the Council is required to give notice on or before the day on which the order is made of the specific times that the road closure will take place and the diversion routes that are in place need to be fully sign posted. Due to the varied nature, scale and impact of Renfrewshire events, without doing individual TTROs which give precise notice of the route affected, a blanket TTRO would be vague and could be open to challenge as it does not provide sufficient information to the emergency services, bus operators, public etc. to allow them to make alternative arrangements.
- 5.4 North Ayrshire Council is in a similar position to Renfrewshire Council, and their Legal Services have sought an independent legal opinion which has been shared with other local authorities. This opinion clearly states that Section 16A TTROs should not be used for marches and political demonstrations (which are currently the majority of events that take place in Renfrewshire without a TTRO) as these are not social, sporting or entertainment events. The opinion provided to North Ayrshire Council also does not agree with the view expressed in the letter from Police Scotland to Chief Executive’s that Police Scotland do not currently have the power to stop and manage traffic in relation to these events in the way that they currently do.

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## **6. Implications for Renfrewshire Council – Options Appraisal**

### **Option 1**

- 6.1 The first option available to Renfrewshire Council is to accept the Police position and implement Temporary Traffic Regulation Orders (TTROs) for all events on public roads. This would have a considerable cost associated with publicising TTROs correctly and also a further resource input to implement and manage the TTROs including advertising of diversion routes, signing of closed roads, coning etc. The procedure for putting in place a TTRO is regulated by The Road Traffic (Temporary Restrictions) Procedure Regulations 1992. Notice must be provided to the public and appropriate signage must be used. For most events that currently do not require a TTRO in Renfrewshire the duration of the event would be for under 2 hours.
- 6.2 If this option were to be taken, Renfrewshire Council would be assuming the risk and cost associated with this process as well as potential liabilities. The disruption posed by the diversion and closure implemented would also, potentially be more significant for communities affected, where currently a rolling road closure is in place.
- 6.3 In considering this option it is also relevant to note that once a Temporary Traffic Regulation Order is in place it is specific to a period of time and a location, and it cannot be changed. Statutorily, a second TTRO cannot be put in place at the same time in the same or an associated location. This would mean that the current position where event organisers can agree to minor changes in route or start and finish times in order to take account of changes in circumstances or to allow more than one event to take place within a town centre on the same day could not be followed. In practice this would mean that event organisers of marches that are planned and scheduled well in advance would, in general, prevent other community events that tend to be planned closer to the time from taking place at the preferred times and locations for these events. It would also mean that the current practice of asking organisers to reconsider routes and times if Police Scotland has operational resourcing issues could not continue. For these reasons it is recommended that this option should not be pursued.

### **Option 2**

- 6.4 The second option, which it is recommended should be agreed, is to continue to implement Temporary Traffic Regulation Orders in all cases where a road closure is required for significant events, and to continue to take the position that in line with the guidance originally received from the Scottish Executive in 2005, that TTROs are not required for marches and moving processions where limited traffic disruption is expected. This approach would be in line with the independent legal advice received by North Ayrshire Council and shared with all local authorities and

would be consistent with the interpretation of the legal position by Renfrewshire Council's legal services and licensing teams.

- 6.5 In considering this option it is relevant to note that by adopting this approach the Council could find itself in the position that the Regulatory Functions Board are considering permitting an event where Police Scotland has stated that they will not provide traffic management support unless a TTRO is in place, where the Council is not seeking a TTRO from the organiser. This would potentially put the Police in a difficult position locally as they would potentially seek to police an event for community safety and public protection reasons but without being responsible for managing the traffic.
- 6.6 Regardless of the position taken by the Council, it is clear that the position for Police Scotland is difficult and ideally should be resolved and clarified as soon as possible. The quickest and easiest way to achieve this would be for legislation to be passed by the Scottish Parliament that gave Police officers the powers to control and manage traffic – without a TTRO being in place and outwith their response to an emergency or unforeseen incident. In this regard it is recommended that the Council write to CoSLA seeking their support in requesting the Scottish Government to consider drafting appropriate legislation to present to the Scottish Parliament at the earliest opportunity.
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### Implications of the Report

1. **Financial** – The cost of creating, advertising and managing TTROs would have a financial impact on Renfrewshire Council.
2. **HR & Organisational Development** – None.
3. **Community Planning** –  
  
Our Renfrewshire is safe – By working as part of the Renfrewshire Community Safety Partnership, the priorities in the Local Fire and Rescue Service Plan will contribute to ensuring Renfrewshire is a safe place to live.
4. **Legal** – The implications for the creation of TTROs for events on a public road are detailed within this report.
5. **Property/Assets** – None.
6. **Information Technology** – None.
7. **Equality & Human Rights** –

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

8. **Health & Safety** – None.
  9. **Procurement** – None.
  10. **Risk** – None.
  11. **Privacy Impact** – None.
  12. **Cosla Policy Position** – Not formally agreed at present.
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#### **List of Background Papers**

- (a) Letter from Police Scotland to Local Authority Chief Executive's 13 October 2017
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