

## RECORD OF OFFICER DECISION

### APPROVAL FOR TEMPORARY MODIFICATION OF CONSULTATION MEASURES FOR TRAFFIC REGULATION ORDERS

#### **Decision made**

To approve the proposed temporary measures for consulting on Traffic Regulation Orders (TROs) in response to concern about the ability to implement the publicity requirements when making permanent TROs during the Covid19 crisis.

**Made by:** PARVIS KHANSARI, DIRECTOR HIGHWAYS AND ENVIRONMENT

#### **Background**

1. Pursuant to paragraph 4 of Part 3 Section D, the Directors of Wiltshire Council are empowered to take all necessary decisions in cases of emergency. This decision is being taken by Parvis Khansari using these powers in circumstances where the Director concerned believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual and/or that the interests of the Council may be compromised if this decision is not otherwise taken.

#### **Reason for decision**

2. This decision would in other circumstances be taken by Cabinet. However, in circumstances where the Cabinet is unable to meet to expedite its functions in a timely manner during the COVID-19 pandemic, this decision is being taken in accordance with the power referred to in paragraph 1 above in consultation with the Cabinet Member for Highways, Transport and Waste. This decision will be reported to the next meeting of the Cabinet. The relevant legislation is the Road Traffic Regulation Act 1984 ('the 1984 Act'), the Secretary of State's Traffic Orders (Procedure) (England and Wales) Regulations 1990 ('the 1990 Regulations'), the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 ('the 1992 Regulations') and the Local Authorities Traffic Orders (Procedure) (England and Wales) Regs 1996 ('the 1996 Regulations'). The Traffic Orders Procedure (Coronavirus) (amendment) (England) Regulations 2020 ('the 2020 Traffic Order Regulations') which came into force on 23 May 2020 (to apply until 30 April 2021) which temporarily amends 1990 Regulations, the 1992 Regulations and the 1996 Regulations. There is also an updated Department of Transport Guidance for the making of traffic orders during the pandemic dated 29 June 2020.
3. Traffic orders can be permanent, temporary or experimental and the 2020 Traffic Order Regulations sets out an emergency procedure for temporary orders and amends the publicity requirements for permanent, experimental and other traffic orders. The amendments formally allow for alternative publicity, inspection and on site posting of notices. The alternative arrangements for non-emergency orders will apply to all temporary, permanent and experimental orders regardless of whether they relate to coronavirus. If a local print newspaper remains in circulation, the order

will still need to be published (in order to follow the government's objective of supporting local independent news).

#### TRO Process pre Covid19

4. When TROs are proposed they are advertised (within a locally circulating newspaper) and put out to a statutory public consultation. As part of this standard approach, with each permanent TRO that is proposed, site notices are placed on the affected road(s), providing general details of the proposal alongside an indicative plan. The site notice also contains details on how to comment and view further information. The site notices remain in place for the duration of the consultation period (a minimum of 21 days).
5. Deposit documents are placed for public inspection in the main reception at County Hall as well as being placed at the nearest library to the area likely to be affected by the proposals. Details of both are contained within the press notice and the site notice(s). Full consultation documents are also placed on the website, which allows for comments to be submitted online for all proposals.

#### Main issues experienced by the authority

##### Posting notice of the Order on the affected roads

6. Regulation 7(1)(c) of the 1996 Regulations states that an order making authority shall, before making an order:
  - c) take such other steps as it may consider appropriate for ensuring that adequate publicity about the order is given to persons likely to be affected by its provisions and, without prejudice to the generality of this sub-paragraph, such other steps may include –
    - (ii) the display of notices in roads or other places affected by the order; or
    - (iii) the delivery of notices or letters to premises, or premises occupied by persons, appearing to the authority to be likely to be affected by any provisions in that order.
7. Regulation 17(4) states:
  - (4) The Order making authority shall take such other steps of the kinds referred to in regulation 7(1)(c) as it considers appropriate for the purpose of ensuring that adequate publicity is given to the making of the order. During the Covid crisis it may, in some circumstances, be inadvisable for staff to post site notices. In such circumstances and as acknowledged by the DfT, the regulations allow some discretion in publicising permanent orders, noting that an authority is required to *“take such other steps as it may consider appropriate for ensuring that adequate publicity... is given to persons likely to be affected.”* This would include cases where it is not reasonably practicable, for reasons connected to coronavirus, to post notices on site, or make documents available for inspection at specific office locations making appropriate alternative arrangements for ensuring the documents are

available for inspection, or posting notices on site. This may include online publication, or providing alternative means for inspection of documents.

#### Making deposited documents available for public inspection at council offices

8. Schedule 2 of the 1996 Regulations states:

...[relevant documents]... must be made available for inspection at the principal offices of the authority during normal office hours and at such other places (if any) within its area as it may think fit during such hours as it may determine for each such place.

Public Health England's advice on social distancing and avoiding non-essential trips has led to Wiltshire Council's office being closed. DfT guidance states that where authorities's offices are closed they should consider alternative arrangements that could achieve the same result for example use of online publication, or providing alternative means for inspection of documents.

#### Proposals during government restrictions

9. Both of these issues can be addressed with the same approach:

- Publish information of TRO proposals on Wiltshire Council's social media (Twitter and Facebook), directing readers to Wiltshire Council's website for further information and details on how to comment.
- Publish on the 'Our Community Matters' website, managed by the Area Boards. This resource can be accessed by members of the public. The post could include a link sign posting to the consultation page.
- Utilise the Wiltshire Council Newsletter to the public; to include within the newsletter either details of individual proposals or include something on a reoccurring basis that if people wish to keep up to date with current TRO proposals to visit the TRO consultation page along with the link.
- On the front page of the website, the webteam are looking to add under the 'Popular Tasks' section a link to give easier access to information on TROs

10. The above proposals will be used to help full inform the public and to assist and enable the public to view the full consultation documents, thereby adhering to the recommendations set out in the DfT guidance.

11. I confirm that in making this decision I have considered the following in line with Wiltshire Council's Constitution:

Key decision requirements	Yes
Views of relevant cabinet member(s), committee chairman, area board(s)	Yes
Consideration of the area boards and delegated decision checklist for officers on the issue of when and how to involve	Yes

local councillors and area boards in decisions about local services	
Implication of any council policy, initiative, strategy or procedure	Yes
Consultation in accordance with requirements and expectations of consultation with the public	N/A
Range of options available	Yes
Staffing, financial and legal implications	Yes
Risk assessment	Yes
Involvement of statutory officers and/or directors	Yes
Regional or national guidance from other bodies	Yes
The council's constitution	Yes
This contract is suitable for execution under the e-signature process.	N/A

### **Conflict of Interest**

12. Not applicable.

### **Other options considered**

13. As set out in this report.



Made by:

Parvis Khansari, Director, Highways and Environment

Date:

12 July 2020