

To: PLANNING AND ENVIRONMENT COMMITTEE		Subject: CONSULTATION: GALAS AND EVENTS AFFECTING PUBLIC ROADS
From: DIRECTOR OF ADMINISTRATION		
Date: 11 May 2004	Ref: JAF/IL	

1. Purpose of Report

- 1.1 The report advises of a consultation by the Scottish Executive on galas and events affecting public roads and, in particular, on the circumstances in which a Temporary Traffic Regulation Order is required.

2. Background

- 2.1 On 15 March 2004 the Scottish Executive wrote to invite comments on a draft Guidance Document, which the Scottish Executive propose to issue as a joint publication with the Association of Chief Police Officers of Scotland and the Society of Chief Officers of Transportation in Scotland to

- help event organisers establish whether their event requires a Temporary Traffic Regulation Order to close off any public roads affected;
- provide organisers and Roads Authorities with a process to follow when requesting and promoting a Temporary Traffic Regulation Order;

and

- outline the level of supporting information which should be provided and highlight organisers' obligations and duties under common law and health and safety legislation.

Comments on the consultation document, a copy of which has been deposited in the Members' Library, are to be submitted not later than 21 May 2004.

3. Consultation Document and Considerations

- 3.1 The introduction to the consultation document refers to events which affect the fabric of towns, including the main streets and major routes in and out of towns, and provides, as examples, Common Ridings, Riding of the Marches, town galas, festive celebrations, military processions and other similar events.
- 3.2 The consultation document identifies that, where the staging of an event interferes with traffic on public roads, this can be controlled in one of two ways. The two ways identified in the consultation document are:-

- A practice that has often been followed for a number of years involves the police at a local level assisting to close off roads, control traffic and generally ensure the safety of the public for the duration of the event. This has been done on an informal basis without the backing of official Orders made under the legislative powers bestowed on Roads Authorities. With the pressure of the increasing traffic demand over the years, and increasing risks to public safety, the consultation document identifies that it may now be inappropriate to follow those informal practices.
- Where the police do not consider it appropriate to halt traffic under these informal practices, a Temporary Traffic Regulation Order can be promoted by the Roads Authority on behalf of the event organiser to effect road closures and control the movement of traffic.

3.3 In referring to the legislation, the consultation document 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. Temporary road closures for any other event are empowered by a Temporary Traffic Regulation Order made under Section 16A of the Road Traffic Regulation Act 1984. Sections 16A, B and C, inserted by virtue of the Road Traffic Regulation (Special Events) Act 1994, make provision, in connection with sporting or social events held on roads or entertainment so held, for the restriction or regulation of traffic on roads and for connected purposes”.

The Guidance does not, however, address the issue of whether “sporting or social events held on roads or entertainments so held” can include, also, public processions.

- 3.4 The consultation document further identifies that initial advice requires to be sought from the appropriate Roads Authority and from police. In the majority of cases Temporary Traffic Regulation Orders are made under Section 16A of the 1984 Act by the local authority and the consultation document indicates that organisers should allow a minimum of twelve weeks’ notice from submission of a written application with full supporting information to allow full consultation to take effect with other interested parties, advertising and notification before an Order is to come into effect.
- 3.5 The guidance goes on to outline the information required to be provided to enable the local authority to undertake statutory consultation prior to making a Temporary Traffic Regulation Order.

4. **Consideration**

- 4.1 Following consultation with the Divisional Commander, Strathclyde Police and the Director of Planning and Environment, it is considered that the guidance could profitably be extended to indicate the circumstances in which a Temporary Traffic Regulation Order is required. The consultation document, in considering the circumstances in which such an Order may be required, refers to events such as military processions – but, in its section on legislation, it indicates that traffic may be held up for short periods for events such as a march or moving procession which can be controlled under police powers provided there will be limited traffic disruption. While the guidance indicates that police action is currently undertaken on an informal basis, the Divisional Commander identifies that police officers in uniform currently enjoy the power to stop or direct traffic under Section 163 of the Road Traffic Act 1988. This power directly relates to maintaining the safe free flow of traffic on public roads and, in the view of the Divisional Commander, does not normally extend to the closure of roads for extended periods to facilitate processions, demonstrations or community events – with a possible exception of instances where such events have a

very limited effect on the roads network. The Divisional Commander goes on to indicate that clear guidance should be given on the type of event – including its form, duration and the extent of its effect on the public road network – which may be policed in an informal manner.

- 4.2 In circumstances in which a Temporary Traffic Regulation Order is required, the guidance correctly identifies that application should be made twelve weeks in advance of the proposed date to allow for the necessary statutory procedures. This period does not in any way correspond with the period of seven days' advance notice which, in terms of the Civic Government (Scotland) Act 1982, a person proposing to hold a procession in public requires to give to a Local Authority.
- 4.3 The consultation document refers, also, to the costs of Temporary Traffic Regulation Orders. It is clear that costs will be incurred in promoting, advertising and implementing such Orders – including costs in physically closing off streets.

5. Consultation Questions

- 5.1 In light of the foregoing considerations, the following responses to the questions posed by the consultation document have been formulated for consideration.

Question 1 We would welcome views on the general principle that, where police do not have appropriate powers, closures of public roads to allow events to be held require formal road closure.

Proposed Response The basis of this question is not clear: it would appear to follow logically that, if police do not have appropriate powers to regulate or restrict traffic to permit an event to take place, a formal road closure will be required to achieve the closure of public roads.

Question 2 We would welcome views on the restrictions on police powers when dealing with events that require traffic to be halted.

Proposed Response While it is understood that there has been no judicial determination of the extent of the powers of the police, in the absence of a Temporary Traffic Regulation Order, to regulate or restrict traffic, the Draft Guidance is not helpful in clarifying the position: references to police acting “on an informal basis” and phrases such as “providing there will be limited traffic disruption” are not helpful in identifying the circumstances in which police are entitled to act in the absence of a Temporary Traffic Regulation Order. If the Guidance is to be of assistance, clarification of this is essential.

Question 3 We would welcome views on the issue of responsibility and cost for raising the Temporary Traffic Regulation Orders.

If a Temporary Traffic Regulation Order is seen to be necessary who do you consider should bear the costs?

Proposed Response Responsibility for the promotion of a Temporary Traffic Regulation Order requires to remain with the Roads Authority. Local knowledge of the road network and the effect of a closure on traffic movements are vital factors in assessing the situation, and local Councils – or the Trunk Roads Authority – are best

placed to undertake this role. As managers of their respective road networks and co-ordinators of all events occurring on their routes, the Roads Authorities have a detailed knowledge of other events, public utility works, maintenance works or other potential obstructions along affected routes.

The consultation document specifies that the organisers of events should be aware that they may be expected to meet certain costs associated with the implementation of road closures: those include the physical work necessary to implement the closure. It is considered that this is misleading – significant further costs are involved in the promotion of Temporary Traffic Regulation Orders and it is not appropriate that any of those costs should necessarily be borne by the Local Authority.

Question 4

We would welcome views on the issue of responsibility and the cost for implementing traffic management measures.

Given the traffic management is seen to be necessary who do you consider should bear the cost?

Proposed Response

Proposed response as for Question 3.

Question 5

We would welcome views on the overall adequacy, quality and usefulness of the advice given in the document.

Proposed Response

It is considered that the consultation document fails to address the principal issues – the question of whether the words “sporting event, social event or entertainment” in Section 16A of the Road Traffic Regulation Act 1984 embrace, also, public processions, the circumstances in which a Temporary Traffic Regulation Order is required – particularly in connection with public processions – and the extent of or limitations on the powers of the police under the Road Traffic Act 1988. It is considered, also, that the consultation document should address the current provision of the sections of the Road Traffic Regulation Act 1984 as inserted by the Road Traffic Regulation (Special Events) Act 1994 which provide that only one Temporary Traffic Regulation Order is permitted within any calendar year affecting the same length of road without special permission from the Scottish Ministers. Finally it is considered that the document should address possible conflict between the timescales required for a Temporary Traffic Regulation Order and the period of notice required, under the Civic Government (Scotland) Act 1982, by a person proposing to hold a public procession.

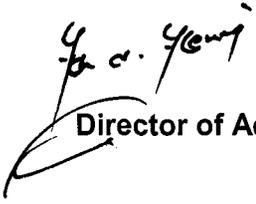
Question 6

We would welcome your alternative ideas.

No proposed response.

6. **Recommendation**

- 6.1 It is recommended that the Committee note the consultation on galas and events affecting public roads and, in light of the foregoing, give consideration to a proposed response.

A handwritten signature in black ink, appearing to read 'John Fleming', is written over a large, stylized signature line.

Director of Administration

Members seeking further information on the contents of this report are asked to contact John Fleming, Head of Central Services on Extension 2228.