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Draft Guidance for New Procedures for Traffic Orders

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1. Introduction

1.1 This guidance is provide advice to all traffic authorities in England, including local authorities, Transport for London and the Highways Agency on the revised procedures to be followed in connection with traffic orders made by them under the Road Traffic Regulation Act 1984 (RTRA). The new regulations replace the previous regulations as they apply only to England and are set out in the following 3 Instruments:

- The Local Authorities Traffic Orders (Procedure) (England) Regulations 2012.
- The Road Traffic (Temporary Provisions) (Procedure) Amendment – England) Regulations 2012.
- The Secretary of State’s Traffic Orders (Procedure) (England and Wales (Amendment England) Regulations 2012.

1.2 The regulations listed above apply to England only and make no change to the previous regulations as they apply to Scotland and Wales. However, the Welsh Government has launched a consultation on 7th December 2011 on plans to remove publication requirements so plan to make their own regulations.

1.3 The principal reason that these amendments have been made is to deregulate publicity requirements for traffic orders, and to provide flexibility for authorities in selecting the methods that they use to publicise their proposed and made traffic orders. Since the regulations were written 15-20 years ago, reflecting earlier regulations, methods of communication have changed more than anyone could have foreseen at that time.

1.4 The new regulations remove the requirement to place advertisements in local newspapers, and have replaced those requirements simply with a requirement to inform those individuals and organisations likely to be

affected as determined by the authority in a way or ways which is most appropriate in the circumstances. Traffic authorities will be expected to apply a 'test of reasonableness' to the methods they select. This is expected to result in a significant saving to traffic authorities, and to the utility companies etc. who currently pay the cost of the advertisements placed for orders that they have requested.

- 1.5** Changes have also been made in relation to the consultation requirements for permanent traffic orders. The statutory duty to consult the police in relation to all permanent traffic orders, whether made by LA or HA remains. We have also added a new statutory requirement to consult town or parish councils (plus district councils where applicable in two-tier areas) to both the Local Authorities and Secretary of State's regulations. We see this as being an essential democratic safeguard.
- 1.6** The detailed list of specific requirements for consultation has been removed from the Local Authorities' regulations. Like for publication, all traffic authorities will be expected to apply a 'test of reasonableness' to who they decide to consult from the list shown in point 22.
- 1.7** Changes have also been made to the requirements relating particularly to temporary traffic orders made under Section 22C of the Road Traffic Regulation Act (in connection with terrorism). In effect, that means that traffic authorities may reduce or waive the publicity normally associated with temporary orders but only after consultation with the appropriate chief of police.
- 1.8** The regulations have also been changed to remove the specific requirements of who should be given notice when an order is made. This creates consistency across all the regulations, and again will depend on a 'test of reasonableness' regarding who should be notified.
- 1.9** At the same time, we have taken the opportunity to amend the regulations applying to minor orders by up-dating the references.
- 1.10** We have also expanded the regulations by adding a general obligation to indicate the effects of any order not relating to a road (e.g. for an off-street car park). It will not always be appropriate to use traffic signs, so this allows flexibility to use signs other than traffic signs.

2. Background

2.1 The regulations have been amended with regard to publicity for the following reasons:

- To remove the cost burden for advertising in local newspapers on traffic authorities and businesses.
- To provide the ability to use alternative channels of communication, including those which may emerge in the future.
- To improve consistency across the requirements placed in relation to local authorities and the Highways Agency (acting on behalf of the Secretary of State).
- To enable the flexibility for traffic authorities to choose the most appropriate and proportionate methods of communication for their target audiences and the scale of the works concerned, thus removing the obligation to advertise in a local newspaper where it is inappropriate, ineffective or excessive.
- To contribute to the coalition government's aim to promote localism, enabling decisions to be taken at a local level by those who know their area best.

2.2 As concerns consultation, the amended regulations allow traffic authorities to determine who it is appropriate to consult in each case, rather than being constrained by regulations.

2.3 As the new regulations have removed much of the specific requirements for publication and consultation for Traffic Orders, this guidance sets out what authorities should consider when making traffic orders under the revised regulations.

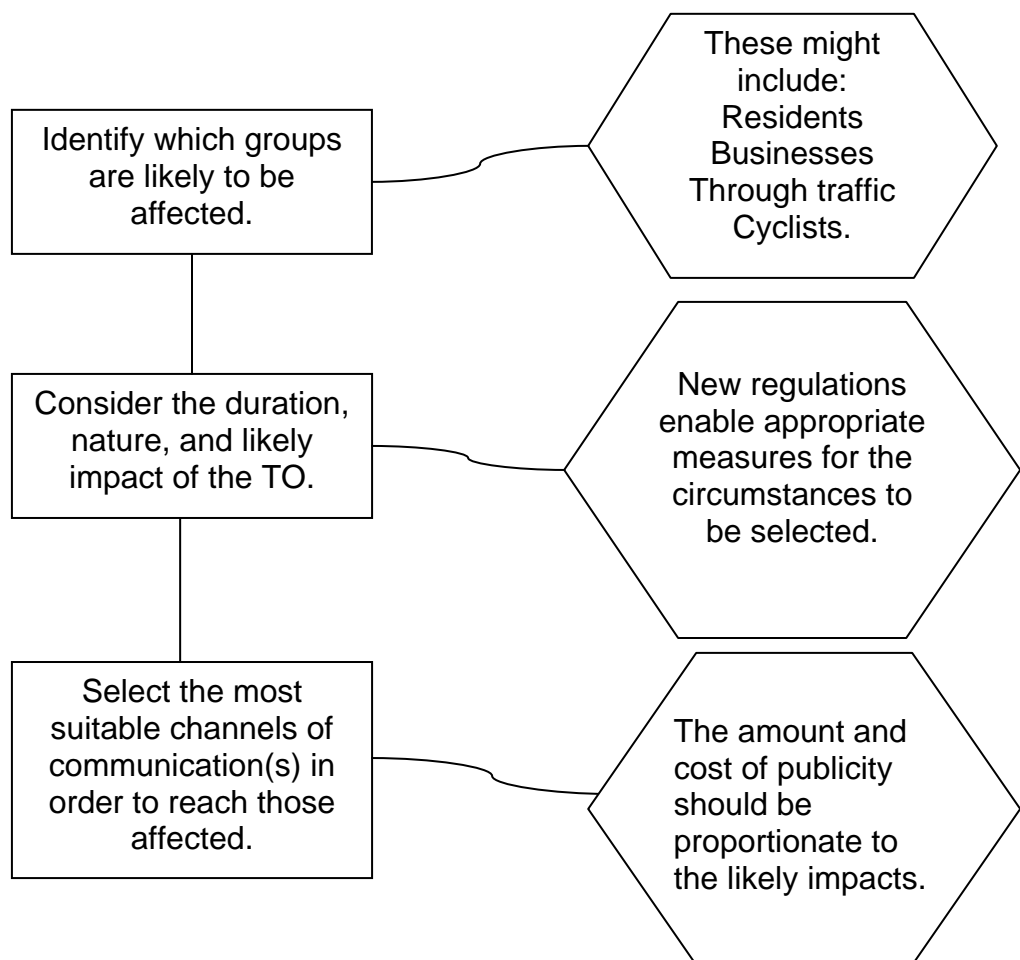
3. Types of traffic order

- 3.1** Traffic Orders (also known as Traffic Regulation Orders and Traffic Management Orders) are the legal instruments by which traffic authorities implement most traffic controls on their roads. They are designed to regulate, restrict or prohibit the use of a road or any part of the width of a road by vehicular traffic or pedestrians. A TO may take effect at all times or during specific periods, and certain classes of traffic may be exempted. Traffic authorities have the powers to make traffic orders, which includes local authorities, Transport for London and the Highways Agency. The orders affected by the recent changes to the regulations are temporary and permanent orders.
- 3.2** Permanent traffic orders remain in force until superseded or revoked.
- 3.3** Experimental traffic orders may last for up to 18 months.
- 3.4** Temporary traffic orders may last for up to 6 months on footpaths etc., and for 18 months on other roads. Temporary orders may be extended in certain circumstances.
- 3.5** Anti-terrorist Traffic Orders (ATTROs) can be temporary or permanent orders made for the purpose of avoiding or reducing the likelihood of danger connected with terrorism.
- 3.6** The changes to publicity arrangements apply to both temporary and permanent orders, as well as ATTROs, whereas the changes in consultation arrangements apply to permanent orders only.

4. Publication

4.1 Traffic authorities are required to take reasonable steps to bring proposed and made traffic orders to the notice of those that may be affected. This may vary depending on the nature, duration and impact applying to the circumstances of each order.

4.2 We see the selection of appropriate channels of communication process as a 3-stage approach as illustrated in the flow diagram below:



4.3 This table below considers the different communication methods available, considers their pros and cons, and looks at their suitability alongside the target groups you may need to inform, and identifies which are most suitable for which groups.

Communication Channel	Pros	Cons	Target Group:		
			Local Residents	Local Business	Through traffic
Advertise on Traffic Authority web-site	Low cost and wide reach – recommended in all cases. Central source of info	Some target groups may not have access	Yes	Yes	Yes
Display notices in affected roads	Reaches regular road users	Only readable on foot – misses motorised traffic	Yes	Yes	No
Leaflet drop to affected premises	Reaches limited target effectively	May miss interested parties	Yes	Yes	No
E-comms to affected premises	Reaches limited target effectively. Low cost.	May miss interested parties	Yes	Yes	No
Advertise in local paper ('sign-post' ad)	Widely accessible. Can direct to further information	Moderate cost. Declining readership	Yes	Yes	No
Advertise local paper (Detailed Ad)	Widely accessible	High cost. Declining readers.	Yes	Yes	No
Advertise on local paper web-site	Increasing usage. Cheaper than newspaper ads	Some target groups may not have access.	Yes	Yes	Yes
Local radio ads	Potential wide	Cost.	Yes	Yes	Yes

	reach.	Levels of listeners. Identifying suitable station.			
Publish London Gazette	Central source for London activities. Low cost.	Not read by local people affected.	No	No	No
Press release	Free of charge. Widely accessible.	Local paper may not run it – content not under control of TA.	Yes	Yes	No
Advance warning Signs	Low cost and wide reach, esp. for through traffic.	Only able to provide limited info.	Yes	Yes	Yes
Social networking Sites	Low cost and wide reach across people within each target group.	Will only reach those signed up to site(s).	Yes	Yes	Yes

4.4 There are very many different circumstances in which traffic orders are made, so it is not possible to give a definitive recommendation of what will be appropriate in each case. It is likely that a combination of methods from those will serve to reach the target groups identified.

4.5 The list is not intended to be exhaustive or restrictive - innovative solutions are encouraged. It indicates which methods might be considered for different target groups. Where the table says 'yes', this does not mean that every channel should be used in each case, but those should be considered as a possible suitable method.

4.6 We strongly recommend that traffic authorities choose to use on-line publicity for their traffic orders. This could be used as a way of conveying the full details of the traffic order, which could be 'sign-posted' from other sources. With that in mind, a suggested format for on-line

advertising of traffic orders will be provided. We hope that this will aid consistency in how traffic orders are advertised on-line.

4.7 However, we consider that in most cases on-line publicity alone will not provide the coverage required to publicise traffic orders adequately. A significant proportion of people don't have internet access, and are unlikely to check the relevant web-site with sufficient regularity to become aware of traffic orders. What it may provide is the detail of the TO removing the need to describe all the detail in an advert or in a notice on the street - but the authority will usually need to do something else to inform people.

4.8 The London Gazette is one of Government's official journals and newspapers of record. Placing notices in the London Gazette puts information permanently on the public record. A Gazette notice can be used, often conclusively, in a court of law. Whilst publishing traffic orders in the London Gazette will not directly reach those likely to be affected by traffic orders, that the method of publication used facilitates access to the information from search engines such as Google, so that the public and organisations can find notices and re-publish them, within their own applications and services, ensuring wide dissemination. For more information visit: <http://www.nationalarchives.gov.uk/information-management/our-services/gazettes.htm>

5. Mapping

- 5.1** The Department considers that maps should be used to indicate the restrictions throughout the traffic order process and particularly to help improve the consultation process. The Department will provide advice on mapping traffic orders as part of the traffic signs policy review in 2012. Local authorities should also give consideration to including the regulatory sign design and, where possible, indicate the placing of these signs as part of the consultation process. This will help ensure that the sign design is considered at an early stage and that careful consideration is given to the number of signs to be provided and their placement.

6. ATTROs

- 6.1** The new regulations make special provision that in exceptional circumstances, following consultation with the appropriate chief of police, temporary ATTROs may be made without the usual publicity for reasons of national security.
- 6.2** In terms of duration, it may be desirable not to exceed the usual 7-day advance publicity. On very rare occasions it may be appropriate for a reduced period, such as 2-3 days, or indeed, no advance notice at all to be given, which may now be done by the traffic authority following consultation with the chief of police. The police will normally also be in contact with the Centre for Protection of National Infrastructure (CPNI) in such cases.
- 6.3** With regard to the publication aspect, it that low key communication may be considered appropriate, again for reasons of national security. This is now permissible under the new regulations.

7. Consultation

7.1 Consultation is required in the case of permanent traffic orders only. The new regulations have changed the requirements about who traffic authorities should consult. The amendments remove the list from the local authorities' regulations, and guidance on that is now provided below. This means that now for both the Highways Agency and Local Traffic Authorities, the only statutory consultees are the police, and the newly added requirement to consult town or parish councils (plus district councils where applicable in two-tier areas) to both the Local Authorities and Secretary of State's regulations. With regard to others they are expected to consult as is reasonable on the circumstances based on the following list:

Item	Potential Consultee	Circumstances
1.	Another authority	Where the order relates to, or appears to the order making authority to be likely to affect traffic on, a road for which another authority is the traffic authority.
2.	Town or parish councils and district councils (if 2-tier).	In most cases.
3.	Bus operators	Where the order affects a bus route.
4.	In case (a) the chief officer of the appropriate NHS trust In case (b) the chief officer of the fire authority	Recommended in most cases if the order may affect possible progress of emergency vehicles.
6.	Such other organisations or individuals likely to be affected by any provision in the order as the order making authority thinks it appropriate to consult.	These to be determined by the traffic authority on a case-by-case basis.
7.	The Freight Transport Association and or The Road Haulage Association	In cases where the order may affect the operation of heavy goods vehicles.

8.	The appropriate Crown authority	Where the order relates to, or appears to the order making authority to be likely to affect traffic on, a Crown road. (Very infrequent).
9.	The concessionaire	Where the order relates to, or appears to the order making authority to be likely to affect traffic on, a road subject to a concession. (Very infrequent).
10.	The operator of the service	Where the order relates to, or appears to the order making authority to be likely to affect traffic on, a road on which a tramcar or trolley vehicle service is provided. (Infrequent)

7.2 Please note that entry 2 above is an addition to the list of consultees listed in the previous local authorities' regulations. This is due to the government's wish to de-centralise power, and for a greater role to be played by Town or parish councils and district councils with regard to local matters.