

Consultation on Traffic Regulation Orders (TROs)

Cycling Scotland submission July 2021

Question 1 – Are you content with the current procedures for ETROs in Scotland?

- No

Question 2 – Do you agree or disagree that Scottish Ministers should seek to make amendments to the procedure for making ETROs and TROs which give permanent effect to ETROs?

- Agree

Question 3 – Do you agree that before making an ETRO traffic authorities must consult with the police and any other bodies that would be required for a TRO having the same effect?

- Agree

Question 4 – Do you agree or disagree that traffic authorities should publish notice of making an ETRO at least 7 days before it will have effect?

- Agree

Question 5 – Do you agree or disagree that ETROs should be capable of being amended during the first 12 months of the ETROs maximum duration?

- Agree

Question 6 – Do you agree or disagree that if an ETRO is amended during that period that there must be a further 6-month period where representations and objections can be made?

- Agree

Question 7 - Do have any comments regarding your answers to the questions above or anything else on the topic of ETROs that you wish to share as part of this consultation? If your comments are in relation to a particular question please be specific about which question you are referring to.

We welcome the proposed changes to the procedure for ETROs. The proposed changes would simplify the process of making experimental temporary changes introduced permanent, where this was the chosen course of action. However, the current 18-month maximum time period for ETROs is too short and does not provide sufficient time for a scheme to be thoroughly implemented and assessed. We understand that the 18-month requirement is set out in legislation – Section 9(3) of the Road Traffic Regulation Act 1984 – and so amendment of this is beyond the scope of the proposals in this consultation. Where possible, this should be reviewed at an appropriate opportunity.

We note the consultation states that ETROs are currently rarely used in Scotland. This presents a missed opportunity, and the proposed changes are welcome to help address this. Further, by more closely aligning the procedure in Scotland with that in England and Wales, there is more opportunity for lesson learning and sharing of best practice. There needs to be a process in place of converting a TRO into an ETRO and the example from England and Wales could provide useful learning in this regard.

We support the response of our member organisation, Spokes Lothian, who have highlighted the impact of overall TRO procedures in delaying cycle schemes. We would also emphasise the benefits of national guidance and a source of further information so that local authorities can seek advice where required.

Question 8 – What are your views in relation to the need for a PLI when objections are made in relation to a proposed TRO containing loading or unloading restrictions?

If only one objection was received to a proposed TRO containing details of loading or unloading restrictions, a PLI would be disproportionate and the objection could be sufficiently dealt with by the local authority, as per standard procedures for TRO objections. The current approach is inconsistent and often disproportionate. Local decisions should be consistently made by local authorities on all available evidence.

With regards to loading or unloading restrictions, it is important that the needs of vulnerable road users are fully taken into account. Loading or unloading should not be permitted where it blocks or inhibits access to a pedestrian footway or dedicated, separated cycle lane or cycleway. Blocking a footway or cycleway in this regard can negatively impact on the safety of vulnerable road users, by forcing them into the road and into on-coming traffic. This should be accounted for in the initial stages of consideration of the TRO to mitigate the likelihood of objections on this issue.

There should also be a more limited scope for objections, with objections limited to equalities (which should already be addressed), environmental and direct business impacts which focus on access.

Question 9 – Are you content with the procedures regarding redetermination orders?

- No

Question 10 – Do you think legislation should be reviewed in light of the need to refer a proposed order to the Scottish Ministers if there are objections to it?

- Yes

Question 11 – Do you have any other comments in relation to the procedure for redetermination orders?

In relation to objections to redetermination orders needing to be referred to Scottish Ministers, we believe this should not need to be case in every circumstance, and it is appropriate for the TRO process, whereby objections are dealt with by the local authority or via a PLI where applicable, to be followed. The requirement for Scottish Ministers to deal with all objections is disproportionate.

There is a need for clarification on when redetermination orders are required, as this appears to be interpreted differently by different local authorities.