

City Centre ATTRO/TRO

The Law for Traffic Regulation Order:

1. The powers provided to Councils to implement an Anti-Terrorism Traffic Regulation Order (ATTRO) and a Traffic Regulation order (TRO) are contained in the Road Traffic Regulation Act 1984 ("the 1984 Act). Specifically, Section 22C (ATTRO) and Section 1 (TRO).
2. For an Order to meet the criteria for an ATTRO it must be made for the following purposes:
for the purpose of avoiding or reducing, or reducing the likelihood of, danger connected with terrorism (for which purpose the reference to persons or other traffic using the road shall be treated as including a reference to persons or property on or near the road); or
for the purpose of preventing or reducing damage connected with terrorism.
3. For an order to meet the criteria for a TRO it must be made for the following purposes:
for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising, or
for preventing damage to the road or to any building on or near the road, or
for facilitating the passage on the road or any other road of any class of traffic (including pedestrians), or
for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property, or
(without prejudice to the generality of paragraph (d) above) for preserving the character of the road in a case where it is specially suitable for use by persons on horseback or on foot, or
for preserving or improving the amenities of the area through which the road runs [or
for any of the purposes specified in paragraphs (a) to (c) of subsection (1) of section 87 of the Environment Act 1995 (air quality)].
4. The Council must also consider Section 122 of the 1984 Act which states:
It shall be the duty of local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off.
(2) The matters referred to in subsection (1) above as being specified in this subsection are—
(a) the desirability of securing and maintaining reasonable access to premises;
(b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
(bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);
(c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
(d) any other matters appearing to the local authority to be relevant.

5. The Local Authorities' Traffic Orders (Procedure) Regulations 1996 ("The 1996 Regulations") under Regulation 6 requires the Council to consult, before making an order, such organisations representing persons likely to be affected by the order.
6. An objection to the order can be made during the advertisement period (21 days) prior to make the order final. If such an objection is made and cannot be resolved the Council may be required to hold a public inquiry. Paragraph 9(3)(a) The 1996 Regulations sets out when a public inquiry is mandatory that being:
its effect is to prohibit the loading or unloading of vehicles or vehicles of any class in a road on any day of the week—
at all times;
before 07.00 hours;
between 10.00 and 16.00 hours; or
after 19.00 hours, or
its effect is to prohibit or restrict the passage of public service vehicles along a road.
7. By virtue of Section 35 of the 1984 Act any person can object to the making of a TRO within 6 weeks of the date the order is made, please note that although the ATTRO is made under section 22c this section simply adds anti-terrorism as a purpose for the making of an order under section 1, thus an ATTRO is still a TRO for the purposes of objection.
8. The Council will need to discharge the public sector equality duty under section 149 of the Equality Act 2010 ("the 2010 Act") *before* making any order.
9. There is a range of protected characteristics in the 2010 Act.
10. The Council should consider Section 6 of the Crime and Disorder Act 1998 which imposes a duty to formulate and implement certain types of strategies. If the Councils strategy makes reference to or is relevant to the proposed ATTRO this can be taken into account in deciding whether or not to make the proposed ATTRO.
11. The Council should also consider Section 17(1) of the Crime and Disorder Act 1998 which states:

Duty to consider crime and disorder implications.

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,

(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and

(b) the misuse of drugs, alcohol and other substances in its area; and

(c) re-offending in its area

12. The final current piece of legislation that should be considered is Section of the Traffic Management Act 2004 (“the 2004 Act”) which states:

16(1) It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives—

(a)securing the expeditious movement of traffic on the authority's road network; and

(b)facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

(2) The action which the authority may take in performing that duty includes, in particular, any action which they consider will contribute to securing—

(a)the more efficient use of their road network; or

(b)the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network or a road network for which another authority is the traffic authority;

and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority).

18(1) The appropriate national authority may publish guidance authorities about the techniques of network management or any other matter relating to the performance of the duties imposed by sections 16 and 17.

(2) In performing those duties an authority shall have regard to any such guidance.

13. Protect Duty Legislation (Martyns’ Law) is not yet on the legislative books but on the presumption it will be this can be considered.

14. I trust this advice note is helpful, but should there be any questions please do not hesitate to contact me.

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