
OBJECTIONS TO TRAFFIC ORDERS IN DIRECT DISTRICTS (Min 367/2000)

1 SUMMARY

- 1.1 This report updates Members on the latest position with regard to the transfer of responsibility for dealing with Traffic Regulation Orders from the County Council to the District Council.

2 INTRODUCTION

- 2.1 Last year, Members considered a report on a possible change to the arrangements for dealing with Traffic Regulation Orders (TROs) that would result in the final decision on whether to action an Order being transferred to the District council.
- 2.2 The proposal at the time did not appear to have any significant resource implications, but before making a final decision, Members asked to see full details of the scheme and to be satisfied about the legal aspects before making a final commitment.

3 PROGRESS UPDATE

- 3.1 A belated response on this matter has now been received from the County Council which seeks to clarify the Council's concerns about the detailed arrangements and the legal position.
- 3.2 The information provided clarifies that Rochford would only be considering statutory objections to advertised TROs made within the framework of existing County policy. As the 'agent' of the Highway Authority, the County does not envisage any legal difficulties in Rochford Council determining the outcome of objections. Decisions would be taken in accordance with standing orders, Government legislation and The Local Government Act 2000. Therefore, the County concludes that it would not be right and proper, if authority was transferred, for the County to indemnify the District against the decisions of the District's own Members made on its behalf.
- 3.3 The County Council is now seeking confirmation of whether the District Council wishes to proceed with this proposed arrangement for dealing with TROs in order that arrangements can be put in hand to agree the necessary delegations.

4 DISCUSSION

- 4.1 As indicated previously to Members, the main change in the procedure would be that when the District Committee considers Orders, the decision taken would be the final one. At present, the views of this

Committee are forwarded to the County Council who make the final decision. The preparation, drafting of the notice and consultation would continue to be undertaken by County Officers.

- 4.2 The key issue of concern identified by Members when this matter was first considered related to the indemnity that the County would provide against decisions taken by the District. The County has clarified that it would expect the District to carry the responsibility and that it would not be right for one Authority to indemnify the actions of another.
- 4.3 The implications from this view would clearly be that any unforeseen problems arising from a change in traffic arrangements following a TRO procedure would be the responsibility of the District Council. It is understood from County Officers that claims following the implementation of a TRO are extremely rare. It might be, for example, that a shopkeeper is aggrieved about a change in parking arrangements, which results in a loss of business. The route for a challenge of this nature would be through the Courts and provided that the decision taken by the Council was lawful and reasonable, it is unlikely that such a challenge would be successful.
- 4.4 The transfer of responsibility for making decisions on TROs to the District Council would enable all decisions on such matters to be taken locally. Given that the Council's existing insurance arrangements are adequate to deal with any claims, and the fact that such claims are extremely rare in any event, it is considered that the advantages of making decisions on TROs at the local level outweigh such concerns.

5 RESOURCE IMPLICATIONS

- 5.1 The insurance policies of the Council provide cover for "the business of the insured". Should Members agree to this recommendation our insurers will be advised on this change to services. It is not anticipated that there will be any change of premium.
- 5.2 Should Members agree at some future date to adopt decriminalised parking, the two services and local policies will have some links.

6 LEGAL IMPLICATIONS

- 6.1 The indemnity issue is discussed under resource implications above.

7 RECOMMENDATION

It is proposed that the Committee **RESOLVES**

That Essex County Council be advised that Rochford District Council agrees to accept the responsibility for determining Traffic Regulation Orders, subject to the preparation of the notices, consultation arrangements and associated administrative arrangements being dealt with by the County Council. (HPS)

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Background Papers:

Letter from Essex County Council dated 8 November 2001

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