

Annex D - Traffic Regulation Orders (TROs) - Peak District National Park Authority Policy and Procedure

Policy

The Peak District National Park Authority (*the Authority*) recognises that in certain situations, TROs may help to alleviate damage and trespass issues in relation to countryside access, and to protect designated areas suffering from damage, however, in practical terms if TROs had proved to be successful in tackling nuisance associated with vehicles many more would have been made by Highway Authorities which have already had such powers for a number of years. Derbyshire County Council has only promoted three TROs in the National Park area. The Authority will also learn from the experiences of authorities elsewhere in the country.¹ **The situations where the NPA may make TROs will be *identical* to those currently available to Highway Authorities.**

The Highway Authority has a number of statutory duties in connection with these highways, notably maintenance and enforcement. The NPA will not consider making a TRO solely as a result of such duties not being carried out. Furthermore, on the issue of road safety the Authority regards this as a matter for the Highway Authority and Police. The Authority considers that in all such cases, TROs should be made by the Highway Authority (without renouncing our legal ability to do so).

In addressing the new legislation it is also important to stress the practical difficulties in preventing vehicular use, the Authority will only consider promoting a TRO where:

- **Effective policing is possible.**
- **Private access is sustainable.**
- **Access for other users (such as horse-riders and where possible access for the less physically able) can be maintained.**
- **In making our decisions to process an order we will also take into account the amount and frequency of such access.**

Finally, the use of Motorised Vehicles on Unsurfaced highways is a legitimate use of some rights of way and highways, and the Authority is mindful of its duties in assisting to assert and protect the rights of all user groups.

Powers to make TROs are delegated to the Director of Recreation and Education utilising the methodology set out below. The Director of Recreation and Education will report back to Members regarding any decision to proceed with a Public Inquiry.

The Authority has therefore created a list of situations where it may be appropriate for it to promote a TRO, these are:

- **Where the use of voluntary restraint has failed.**

¹ For example, the experience of the Lake District National Park Authority indicates that traffic regulation orders can be applied more readily where there is common agreement between stakeholders that they are required, and that such agreements can be reached where the need is clearly identified.

- **Where cross boundary issues make it legislatively practical for the National Park to promote orders.**
- **Where on such routes damage to the surface has reached levels where motor vehicles or other users may be considered to have a risk of injury through using the route, or:**
- **Where the Director of Recreation and Education, having studied an individual situation feels that a TRO is appropriate (including the use of a pre-emptive TRO) having regard to issues such as serious (or serious potential) damage to ecological and heritage sensitivity and which is in line with the duties of the Authority, that the use of an immediate TRO is appropriate.**

Voluntary restraint will be monitored by ranger staff for a period of 6 months before the any recommendations on its success are made. If voluntary restraint has not succeeded, the Authority will return to the issue and discuss the options available. As failure of voluntary restraint may be caused by a number of issues its failure does not automatically indicate that a TRO will be the next step. Such routes will be revisited and discussed with interested parties before any recommendations are given to the Director of Recreation and Education, and the Head of Access and Recreation, and in such cases they will have the final say in recommending TROs after the failure of voluntary restraint.

In each case, the type of TRO proposed will initially fall into the category of experimental or temporary, unless there are exceptional circumstances which, in the view of the Director of Education and Recreation, make it expedient to proceed with an immediate proposal for a permanent TRO. The success of experimental and temporary TROs will therefore be used in the majority of cases to judge if making a permanent TRO is expedient.

It is suggested that this policy is reviewed annually by the Authority.

Procedure

This procedure is based upon that set out as a national standard in the Institute of Public Rights of Way Management Good Practice Guide. The underlying principal of the procedure is that powers to make TROs are delegated to the Director of Recreation and Education in line with existing Standing Orders (reference 7.1 –2 (public rights of way)), who will report to Members under specific circumstances. This procedure may be subject to change due to legislative alterations or alterations in best practice or new legal guidelines.

1 ASSESSMENT

- 1.1 Acknowledge receipt of the application and provide applicant with details of the process.
- 1.2 Does the Order fall wholly within one Highway Authority area?

Yes proceed to 1.3

No proceed to 1.4

- 1.3 The Authority Rights of Way Officer shall coordinate a report, acting upon advice from the area rangers and observations from site, as well as advice from relevant colleagues and other parties and forward these observations and the original request to the HA. If the HA is unable to process the order the order shall be considered under the criteria set out from 1.4.
- 1.4 The order shall be considered under the criteria of the policy. If the criteria are fulfilled proceed to 1.5. If the criteria are not met the applicant will be contacted informing him or her of the decision not to proceed and explaining present Authority policy.
- 1.5 The Authority Rights of Way Officer will form a view as to whether the request meets the requirements of the Road Traffic Regulation Act 1984 and seems reasonable.
- 1.6 The request will be discussed with the police and with the relevant Highway Authority or District Council Engineer (who may refer the matter to his relevant committee or elected member).
- 1.7 The request is discussed with any special interest organisations or representatives as well as those with private vehicular access.
- 1.8 The request will also be discussed with relevant staff of the Authority and with any relevant outside bodies that are appropriate such as Natural England.
- 1.9 The Authority Rights of Way Officer will make a report to the Police and the Director of Recreation and Education. If having studied the evidence presented in this report it is deemed acceptable for the Authority to proceed, the order shall be formally authorised and consultation will begin.

2 CONSULTATION

- 2.1 The list of consultees for TROs shall follow procedures set out under Statutory Instrument 1996 No. 2489 The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 part II (6) unless such legislation is superseded.
- 2.2 The Director of Recreation and Education, or the Head of Access and Recreation may also authorise other bodies to be consulted on a case by case basis.
- 2.3 4 weeks are allowed for a response to any consultation.
- 2.4 The formal consultation will usually take the form of a letter, with a plan showing the proposal, and a statement of reasons for making the TRO.
- 2.5 With consultations under way, press advertisements and site notices shall be prepared and posted if applicable to the type of order made.

3 ADVERTISEMENT

- 3.1 Legislation for Permanent TROs requires that an advertisement must be placed in a local paper and notices placed on site, giving details of the proposal and allowing a minimum period of 4 weeks for representation or objections.
- 3.2 The advertisement and notice must give brief details of the proposal and indicate where and when the proposed order, plan and statement of reasons can be inspected by the public.
- 3.3 For site notices a certificate of posting is required, site notices shall be maintained on a weekly basis throughout the consultation period.

4 OBJECTIONS

- 4.1 Objection or representations may be received as a result of the formal consultation for making an Experimental TRO into a Permanent TRO or to the making of a Permanent TRO. Generally they will be dealt with as follows.
 - The Head of Access and Recreation shall consider the objection/representation and if possible try to negotiate the withdrawal of objections.
 - If objection remains then the Head of Access and Recreation will consult with the Police and the District Council Engineer, and others as required, on the issues raised.
- 4.2 A report on the objection(s) is then prepared for consideration by the Director of Recreation and Education.
- 4.3 The report should include the recommendations of the Head of Access and Recreation (based upon consultations with the Police and District Engineer), and observations by the Authority Rights of Way Officer and rangers as well as other relevant parties.
- 4.4 Under delegated powers, the Director of Recreation and Education will make a decision based upon recommendations, this can be to abandon, amend or proceed with the proposal. If the proposal is amended then it requires to be re-authorised, and re-consulted upon. If, in the light of objections, the Director of Recreation and Education feels it appropriate, a Public Inquiry may be recommended to look into the order.
- 4.5 Any decision to proceed to a Public Inquiry must be reported to members.
- 4.6 If it is decided that a Public Inquiry is necessary then the Authority shall refer the proposed order plus the objections to the Department for Transport who, after considering the case, will decide whether the holding of a Public Inquiry is appropriate.

5 MAKE THE TRO

- 5.1 If there are no objections then the order is made as proposed.

- 5.2 If objections are made but the decision is still taken to proceed then the order is made as proposed.
- 5.3 In each case, the Authority must publish notices in the local paper and on site and make a copy of the Order and plan available for public inspection for at least 6 weeks.
- 5.4 When there are objectors the Authority must notify them of the making of the TRO.
- 5.5 If the TRO is not made then, although there is no need to publicise the decision, the relevant documents must still remain available for inspection for 6 weeks.

6 PHYSICAL BARRIERS

It will often be the case that the only effective way to ensure compliance with a TRO is by the use of a physical barrier to prevent unauthorised use. The Authority will utilise the most effective barriers available bearing in mind the need for continued public and private access and other user groups (walkers, horse riders, cyclists, horse drawn carriages).

7 DISABLED USERS

The Authority must consider the needs of the disabled, both when deciding whether a TRO is an appropriate response and when considering what type of physical barrier is required in order to ensure compliance with a TRO.

8 ENFORCEMENT

- 8.1 The Authority will only make TROs where it can be demonstrated that effective policing will be carried out after the order is made.
- 8.2 Only the police can take action against persons contravening a TRO.
- 8.3 Rangers shall be encouraged to report any contravention of TROs to a designated local police contact.

9 MAINTENANCE

- 9.1 The future maintenance of a route that is subject to a TRO may be an issue in the case of routes that are recorded as non-classified highways. The imposition of a TRO on such a route will, in addition to the initial costs of the TRO, carry with it future costs and maintenance responsibilities. There will be a continuing cost of maintaining signs and barriers. There may also be a need to actively maintain the route in a suitable condition for the remaining users, e.g. walkers, cyclists and horse-riders. In each case the Authority will establish a clear understanding with highway maintenance colleagues exactly who will be responsible for those continuing costs, and out of whose budget funding will be found.

9.2 In the case of a TRO that is applied to a byway open to all traffic or non-classified highway but which continues to allow vehicular use for access only, the question of future maintenance cannot be overlooked. In these cases the Highway Authority remains responsible for the maintenance and repair of the route in order to keep it in an adequate condition for the access only use.

10 STATUS

The application of a TRO does not alter the legal status of a route.