

TRAFFIC REGULATION ORDERS/COMMUNITY ENGAGEMENT REVIEW

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise the Audit and Scrutiny Committee of the current position of the Mull Traffic Regulation Order and Community Engagement Review.
- 1.2 The Review was undertaken following a potential legal challenge to the Mull Traffic Regulation Order (TRO) and the Council determining that the process undertaken in that did not fully comply with statutory and regulatory requirements in establishing the TRO.

RECOMMENDATIONS

It is recommended that the Audit and Scrutiny Committee:

- 1.3 consider and note the contents of the report.

AUDIT AND SCRUTINY COMMITTEE

LEGAL AND REGULATORY SUPPORT

24 January 2020

TRAFFIC REGULATION ORDERS/COMMUNITY ENGAGEMENT REVIEW

2.0 INTRODUCTION

- 2.1 The purpose of this report is to advise the Audit and Scrutiny Committee of the current position of the Mull Traffic Regulation Order and Community Engagement Review.
- 2.2 The Review was undertaken following a potential legal challenge to the Mull Traffic Regulation Order (TRO) and the Council determining that the process undertaken in that did not fully comply with statutory and regulatory requirements in establishing the TRO.

3.0 RECOMMENDATIONS

It is recommended that the Audit and Scrutiny Committee:

- 3.1 consider and note the contents of the report.

4.0 DETAIL

- 4.1 At the February 2018 council budget meeting, it was agreed to progress a number of Traffic Regulation Orders (TROs), including the Argyll and Bute Council (Off-Street Parking Places and Charges) (Isle of Mull) Order 2019 (Mull Order), to promote changes to parking tariffs and to introduce charging in existing free car parks controlled by Argyll and Bute Council.
- 4.2 Consequent to that decision, officers in Roads and Infrastructure Services drafted and progressed the Mull Order to the point where council members could determine whether or not the Order should be made.
- 4.3 The Order came before the Oban Lorn and the Isles Committee (OLI) on 12 June 2019 who determined that the Mull Order should be made, subject to modifications.
- 4.4 Subsequent to the Area Committee decision, the Council was advised of a potential legal challenge to the Mull Order under Para 35 Schedule 9 of the Road Traffic Regulation Act 1984 in relation to the statutory compliance of the Council's process in the establishment of and process for determining the TRO.

- 4.5 Following an examination of the TRO process against the challenge, and having validated matters with external advice, it became apparent that there were issues in regard to the process that impacted on the decision that was taken by members to make the Mull Order.
- 4.6 It was determined that the Council would not proceed with the Mull Order which was revoked at the OLI Area Committee on 11 September 2019.
- 4.7 As part of that decision, the Area Committee instructed officers to review the Council's current operational TRO process, and to consider amongst other things whether there is adequate validation and quality assurance of technical inputs in the TRO process; whether future TROs should be on a multiple geographic basis; and how further community engagement will be undertaken prior to any future TRO.
- 4.8 Key stakeholders in the Mull and Iona communities were asked to contribute to the review. However they intimated that they wished an independent review to be carried out and would not participate in the internal review.
- 4.9 While the concerns of the stakeholders were noted, it was considered that the review would deal with these considerations adequately
- 4.10 The review process proceeded in accordance with the decision from the Area Committee.
- 4.12 While the review group expected to report to the January Audit and Scrutiny Committee, it is understood that Mull Community Council (MCC) stated in the draft minute of their meeting of 4 December 2019:

BM asked about the outcome of the TRO enquiry and hoped it could all be put behind us.

AS said there were ongoing communications with the council about it, what was needed from them was an assurance that this sort of thing would not happen again. A CPR (community participation request) should not be a basis for such documents as a TRO.

FB said we need the support of the Islands Bill to ensure the right of free lifeline car parks such as Craignure and Fionnphort.

AS suggested that at this point in time we are happy to draw a line and we should go forward and work in good faith with the Council. We should ask Pippa Milne to meet with us to discuss the future.

While this clearly indicates a desire to engage with the Chief Executive on matters bearing on the future it may also indicate a willingness to participate in the review process.

- 4.13 Given that MCC are a key stakeholder party affected by the Mull TRO, their participation in the review process would be welcome and beneficial and, in light of the extract of the minute above, it is now intended to contact them to afford a further opportunity. As a consequence, the final report to the Audit and Scrutiny Committee will be submitted after they have been provided an opportunity to do so.

5.0 CONCLUSION

- 5.1 The final review report will be submitted to this committee on the completed review at the earliest opportunity and once MCC have been provided a further opportunity to participate in the process.

6.0 IMPLICATIONS

- 6.1 Policy – None at present.
- 6.2 Financial – Potential impact on budget process
- 6.3 Legal – None at present.
- 6.4 HR - None
- 6.5 Fairer Scotland Duty: None at present.
 - 6.5.1 Equalities - protected characteristics – None at present.
 - 6.5.2 Socio-economic Duty: None at present.
 - 6.5.3 Islands – None at present.
- 6.6 Risk – None at present.
- 6.7 Customer Service – None at present.

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