

**TRAFFIC REGULATION ORDERS/COMMUNITY ENGAGEMENT REVIEW**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 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 (the Order), to promote changes to parking tariffs and to introduce charging in existing free car parks controlled by Argyll and Bute Council.
- 1.2 Consequent to that decision, officers in Roads and Infrastructure Services drafted and progressed the Order to the point where council members could determine whether or not it should be made.
- 1.3 Following the public notification stage, there were a substantial number of objections made in relation to the Order, prior to it being determined by the Oban, Lorn and the Isles Committee (the OLI AC). However, this level of objection can arise to TROs of this nature that go on to deliver benefit for communities.
- 1.4 The Order came before the OLI AC on 12 June 2019 who determined that it should be made, subject to modifications.
- 1.5 Subsequently, the Council was advised of a potential legal challenge to the Order under Para 35 Schedule 9 of the Road Traffic Regulation Act 1984 relating to the statutory compliance of the Council's process in the establishment of, and process for, determining the Order.
- 1.6 Following an examination of the TRO process against the potential challenge, and having validated matters with expert 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 Order and specifically that the Council had not fully complied with the statutory and regulatory requirements in establishing the TRO.
- 1.7 On that basis, it was determined that the Order would not proceed and it was revoked by the OLI AC on 11 September 2019.
- 1.8 As part of that decision, the OLI AC instructed officers to review the Council's current operational TRO process and to consider, amongst other things, whether there was 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.

- 1.9 The scope of the review was to assess the TRO process and the Council's Community Engagement generally as outlined in the Terms of Reference attached as appendix 1 of this report. Roads and Infrastructure are currently working closely with a community group in Tobermory to develop a community led traffic management proposal aimed at delivering solutions to improve the local area, encourage responsible parking and manage traffic generally. The proposals have been developed through joint working between the community and council. Similar arrangements are taking place in Luss where community groups have engaged professional advisors who have been working alongside council officers to develop a traffic management scheme which meets the demands of Luss.
- 1.10 The number of Temporary Traffic Regulation Orders (TTROs) has risen from 33 in 2016 to 105 in 2018/2019. Ninety five TTROs and Notices have been processed to the end of November 2019, and it is likely that this financial year will see the largest demand to date. It is important to note that the Notices and TTROs are a statutory duty and are often time constrained. This has made it increasingly challenging to process TROs which arise either from Officer identified need (road safety, traffic management etc.) or from Council instruction (e.g. reviews of parking arrangements). It is clear that the processing of TTROs and Notices has become an increasing resource pressure on Roads and Infrastructure Services.

## **KEY FINDINGS AND RECOMMENDATIONS**

It is recommended that the Audit and Scrutiny Committee:

- 1.11 Agree to the findings and recommendations set out in the report and summarised at appendix 2.

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## AUDIT AND SCRUTINY COMMITTEE

LEGAL AND REGULATORY SUPPORT

17 MARCH 2020

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### ARGYLL AND BUTE COUNCIL – TRAFFIC REGULATION ORDER/COMMUNITY ENGAGEMENT REVIEW – REPORT

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## 2. BACKGROUND

- 2.1 At the February 2018 council budget meeting, it was agreed to progress a number of Traffic Regulation Orders (TROs), including on Mull, to promote changes to parking tariffs and to introduce charging in existing free car parks controlled by Argyll and Bute Council.
- 2.2 Consequent to that decision, officers in Roads and Amenity drafted and progressed the Order to the point where council members could determine whether or not it should be made.
- 2.3 The Order came before the OLI AC on 12 June 2019 who determined that the Order should be made subject to modifications.
- 2.4 In determining to make an Order and setting car parking charges, officers are mindful of the fact that the area committee may alter the charges they intend to set, and that is a matter which can figure into the TRO process at the appropriate time when council members are making the decision. As an example, that is something that the OLI AC had regard to when making the Mull TRO.
- 2.5 In July 2019, the Council was advised of a potential legal challenge to the Order under Para 35 Schedule 9 of the Road Traffic Regulation Act 1984 in relation to the statutory compliance of the Council's process of the establishment of, and process for, determining the TRO.
- 2.6 Following an examination of the Council's TRO process against the potential challenge, and having validated matters with expert external advice, it became apparent that there were issues in regard to the process that impacted on the decision that was ultimately taken by members.
- 2.7 It was determined that the Council, in the TRO process, did not fully comply with the statutory and regulatory requirements in establishing the TRO and, in particular, failed to properly consult with Iona Community Council in accordance with the requirements of the *Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999/614*. On that basis, it was determined that the Council would not proceed with the Order which was revoked by the OLI AC on 11 September 2019.
- 2.8 As part of that decision, the OLI AC instructed officers to review the Council's

current operational TRO process and to consider, amongst other things, whether there was 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.

- 2.9 The scope of the review was to assess the TRO process and the Council's community engagement generally as outlined in the Terms of Reference at appendix 1 of this report. Roads and Infrastructure are currently working closely with a community group in Tobermory to develop a community led traffic management proposal aimed at delivering solutions to improve the local area, encourage responsible parking and manage traffic generally. The proposals have been developed through joint working between the community and council. Similar arrangements are taking place in Luss where community groups have engaged professional advisors who have been working alongside council officers to develop a traffic management scheme which meets the demands of Luss.
- 2.10 The number of Temporary Traffic Regulation Orders (TTROs) has risen from 33 in 2016 to 105 in 2018/2018. Ninety five TTROs and Notices were processed to the end of November 2019 and it is likely that this financial year will see the largest demand to date. It is important to note that the Notices and TTROs are a statutory duty and are often time constrained. This has made it increasingly challenging to process TROs which arise either from officer identified need (road safety, traffic management etc.) or from council instruction (e.g. reviews of parking arrangements). It is clear that the processing of TTROs and Notices has become an increasing resource pressure on Roads and Infrastructure Services.

### **3. KEY FINDINGS AND RECOMMENDATIONS**

It is recommended that the Audit and Scrutiny Committee:

- 3.1 Agree to the findings and recommendations as set out below and as summarised at appendix 2.

## **4. RELEVANT LEGISLATION IN RELATION TO THE PROVISIONS OF TROs.**

### **ROAD TRAFFIC REGULATION ACT 1984**

- 4.1 Permanent TROs can be made under the Road Traffic Regulation Act 1984 (RTRA84).
- 4.2 Section 32 of the RTRA84 provides, amongst other things, a power for the local authority to provide off-street parking places for the purpose of relieving or preventing congestion of traffic where it appears to be necessary within their area.
- 4.3 Section 35 of the RTRA84 provides additional provisions relating to off street car parking which includes, amongst other things, a power enabling the Council to determine the charges to be paid in connection with its use in order to meet the continued cost of the provision of off street parking.
- 4.4 It was intended that the Argyll and Bute Council (Off-Street Parking Places and Charges) (Isle of Mull) Order 2019 would be made, amongst other powers, under Sections 32, 35 (1) and (3), 35A and 35C of the RTRA84.
- 4.5 Section 122 of the RTRA84 states that the Council is under a duty to *“exercise the functions conferred on them (by the Act) ... 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 the highway or, in Scotland, the road.”*

### **LOCAL AUTHORITIES TRAFFIC ORDERS (PROCEDURE) (SCOTLAND) REGULATIONS 1999.**

- 4.6 Procedures for making a TRO in Scotland are set out in the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 (LATORS). The Regulations set out the procedure for all aspects of making permanent TRO's in Scotland including Part II – the statutory procedure required before making an Order. The relevant sections of Part II for the purposes of this review are set out below.

### **CONSULTATION**

In looking at the consultations required by law and outlined in the Council's process, it's helpful to note that Roads and Infrastructure Services use the following terminology:

**Consultation 1:** is the term used to describe the consultation stage carried out prior to the statutory LATORS consultation as outlined in paragraph 4.7 below;

**Consultation 2:** is the term used to describe the statutory consultation required by Regulation 4(1) of LATORS as set out at paragraph 4.8 below;

**Public Notification:** is the term used to describe the public consultation required by the process whereby the TRO proposal is advertised and objections can be made.

4.7 Prior to the statutory consultation set out at 4.8 below, the Council is required to consult with Police Scotland in terms of paragraph 20 of Schedule 9 of the RTRA84. During this initial consultation, the Council currently also consults with non-statutory external organisations and internal services, for the purpose of identifying any matters that may need to be addressed in the initial development of any TRO proposal. Current consultees for this stage are:

- Police Scotland;
- Scottish Fire & Rescue;
- Scottish Ambulance Service;
- Strathclyde Partnership for Transport
- Local Multi Ward Elected Members;
- Chair of Area Committee for information;
- Public Transport Officer;
- Strategic Transport and Infrastructure Manager; and
- Development Policy and Housing Strategy Manager.

4.8 Following that, the Council will then carry out the statutory consultation (consultation 2), the purpose of which is to identify any matters that may need to be addressed before the proposal goes out to public consultation. Regulation 4(1) of LATORS sets out a variety of bodies that must be consulted when certain circumstances set out in the Regulations are met, specifically:

- Other highway/traffic authorities, e.g. adjacent Local Authorities;
- Crown authorities;
- Road concessionaires;
- Operators of tramcar or trolley vehicle services;
- Operators of bus services;
- Chief officers of NHS trusts;
- Chief officers of fire brigades/authorities;
- The Freight Transport Association (FTA);
- The Road Haulage Association (RHA); and
- *Such other organisations (if any) representing persons likely to be affected by any provision in the order as the authority thinks appropriate.*

4.9 It is a matter for the professional judgement of officers to determine what organisations representing people likely to be affected by a TRO require to be consulted. Consequently, there is a level of subjectivity and discretion in making such a determination.

4.10 Following the consultations, but prior to making any TRO, Regulation 5 of LATORS requires the Council to publish a notice of its proposals in the local area to which the TRO relates. The public notice is also sent to the statutory consultees. At this stage, anyone can make an objection (as set out by Regulation 7 of LATORS) and these are then considered as part of the current operational TRO process.

#### **CONSIDERATIONS OF OBJECTIONS AND MATTER OF WEIGHT TO BE ATTACHED TO THEM.**

4.11 Regulation 12 of LATORS requires the Council to consider all objections that are not withdrawn and the matter of weight to be attached to them.

## **OTHER RELEVANT LEGISLATION FOR THE PURPOSES OF THE REVIEW**

### **FAIRER SCOTLAND DUTY**

- 4.12 The Fairer Scotland Duty (FSD) in terms of Part 1 of the Equality Act 2010 places a legal responsibility on particular public bodies in Scotland to pay due regard to (actively consider) how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. The FSD did not come into force until 1 April 2018.

### **ISLAND IMPACT ASSESSMENT**

- 4.13 S8 of the Islands (Scotland) Act 2018 places a duty on relevant authorities to undertake an impact assessment when developing, redeveloping and delivering a policy, a strategy or a service, if it is anticipated to have a significantly different effect on an island community compared with other communities in Scotland (including other island communities as well as non-island communities).
- 4.14 The Council's Equality Impact Assessment (EqSEIA) process was last reviewed in 2018 with the intention of ensuring that both the FSD duty and the Islands (Scotland) Act 2018 impact assessments were incorporated.
- 4.15 The Islands (Scotland) Act 2018 impact assessments were taken into account as far as possible at that time given that the law is not yet in force and the Scottish Government Guidance has not been released. However, the Council's process will require to be reviewed in relation to the Island Communities Impact Assessment to ensure it is fit for purpose when the relevant guidance is published.

## **5. CONSIDERATION OF THE REVIEW TERMS OF REFERENCE**

### **TERMS OF REFERENCE 1 - REVIEW OF CURRENT OPERATIONAL TRAFFIC REGULATION ORDER PROCESS UTILISED BY COUNCIL – INCLUDING EXAMINATION OF CURRENT PROCESS AGAINST STATUTORY REQUIREMENTS**

- 5.1 The Council's current operational TRO process is set out in the Traffic Regulation Procedural Document (as amended) 2019 ( the TRPD).
- 5.2 A detailed review of the TRPD was carried out as part of the overall review in order to clarify whether it met the statutory requirements of the relevant legislation and specifically the relevant sections of Local Authorities Traffic Orders (Procedure) (Scotland) Regulations 1999/614 detailed above.
- 5.3 Additionally, a benchmarking exercise was carried out which compared the TRPD to analogous procedure documents from three other councils specifically Highland, Dumfries and Galloway and the Western Isles.

### **FINDINGS**

- 5.4 The Review Group determined that the Council erred in not consulting with Iona Community Council (ICC). While the current operational TRO process utilised by the Council complies with statutory requirements, the Council should have recognised the relevance of the Mull TRO to the Iona community and therefore ICC as *an organisation representing persons likely to be affected by any provision in the [traffic regulation] order* should have been consulted.
- 5.5 The benchmarking exercise determined that the Council's current operational TRO processes are broadly similar to those of comparator councils and in line with the statutory requirements. However the following points relating to community consultation and notification were noted:
  - Argyll and Bute Council generally consults with a wider range of consultees than the comparator councils at the statutory consultation phase of the process and local community councils are automatically included;
  - Not all comparator councils published TROs on [Tell Me Scotland](#) (the national website for public notices) unlike Argyll and Bute Council;
  - Argyll and Bute Council informs the public on its Traffic Order webpage which not all comparator Councils did;
  - The consultee list of one comparator council includes '*relevant* community council(s)'; and
  - One comparator Council refers to "feedback and improvement" from consultees and the general public to identify opportunities for improving services.
- 5.6 On the basis of the review and benchmarking exercise, the Review Group considered that whilst the Council's current operational TRO process meets the relevant statutory requirements, there are revisals that can be made to ensure there is better validation (in particular to ensure that relevant organisations are consulted) and to introduce additional scrutiny and quality checks at the consultation stage of the process. The recommended revisals are set out below.

## RECOMMENDATIONS

In looking at the recommendations, it's helpful to note that Roads and Infrastructure Services use the following terminology:

**Consultation 1:** is the term used to describe the consultation stage carried out prior to the statutory LATORS consultation as outlined in paragraph 4.7 above;

**Consultation 2:** is the term used to describe the statutory consultation required by Regulation 4(1) of LATORS and as set out at paragraph 4.8 above; and

**Public Notification:** is the term used to describe the public consultation required by the process whereby the TRO proposal is advertised and objections can be made.

It is recommended that the Council's current operational TRO process is amended on the following basis:

- 5.7 The list of consultees at Consultation 1 is amended to ensure that the only parties consulted at this stage are Police Scotland (as required by law) and selected internal council consultees specifically:
- Strategic Transport and Infrastructure Manager;
  - Development Policy & Housing Strategy Manager;
  - Fleet Waste and Infrastructure Manager;
  - Operations Manager, Development and Infrastructure;
  - Ward Members (which may be extended dependent on extent of TRO); and
  - Chair of the relevant Area Committee.
- 5.8 The statutory consultees required by Regulation 4(1) of LATORS that are currently consulted during Consultation 1 should be moved to Consultation 2 to ensure that all relevant statutory consultees are consulted at the same time during the process, specifically:
- Scottish Fire and Rescue Service; and
  - Scottish Ambulance Service.
- 5.9 Following completion of Consultation 1, officers shall circulate a draft Consultation 2 (statutory consultation) list to the Council's Community Development Officer for consideration. Thereafter, the Community Development Officer should respond with additional groups or organisations that they consider should be consulted with in relation to the TRO. This additional step will assist the Council to ensure that it identifies and engages with any relevant stakeholders and provides additional quality assurance to the process.
- 5.10 Following completion of the consultee draft list, the Assistant Network & Standards Manager (Traffic & Development) shall carry out a further check to ensure that all relevant consultees are captured. This step will build additional quality assurance into the process and ensure that the Council identifies and engages with any relevant stakeholders.

5.11 In cases where Consultation 1 & 2 are combined, the draft consultee lists will also be sent to the Community Development Officer prior to consultation commencing.

5.12 That consultees for each TRO process shall include *relevant* instead of local community councils, which will include all local community councils served and/or affected by any TRO and contiguous community councils as a minimum.

The methodology by which the Council carry out public notification is satisfactory therefore it is also recommended that:

5.13 No changes are made to the Council's current operational TRO procedures in relation to the Public Notification.

## **TERMS OF REFERENCE 2 - ENGAGE WITH STAKEHOLDER PARTIES INVOLVED IN THE CHALLENGE TO THE MULL TRO TO ENSURE THEIR VIEWS ARE APPROPRIATELY CAPTURED AND CONSIDERED AND ENGAGE WITH GROUPS IN RELATION TO OTHER RECENT OR CURRENT TRO PROCESS TO OBTAIN THEIR VIEWS**

5.14 The Review Group sought consultation with various stakeholder parties in relation to the Mull TRO. While they chose not to participate in the review the Review Group took cognisance of the extensive submissions they made during the consultation process and in their subsequent correspondence.

5.15 The Review Group consulted with previous consultees in relation to other TRO's to seek to obtain their views on what worked well and where there have been issues in relation to the current TRO operational process - 6 responses were received. The comments and suggested responses are detailed at appendix 3. It is intended that any responses will be issued following the report being considered by the Audit and Scrutiny Committee (ASC).

## **FINDINGS**

5.16 The outcome from the consultation process indicated that stakeholder parties wish to be engaged in a meaningful consultation that is fair open and transparent, and where their views are given due consideration and addressed in some form during the consultation process.

## **RECOMMENDATIONS**

It is recommended that:

5.17 The proposed changes to the Council's current operational TRO process set out at Terms of Reference 1, paragraphs 5.7-5.13 be adopted.

5.18 The proposed changes to the Council's current community engagement practices recommended as a result of the benchmarking exercise carried out by the Review Group against national community engagement standards set out at Terms of Reference 6, paragraphs 5.45- 5.47 and

detailed at appendix 4 be adopted.

- 5.19 With specific reference to the recommendations at paragraph 5.45, the suggested improvements to the TRO consultation letters be approved (see appendix 5 for proposed amendments to Consultation Letter) to facilitate a fair and transparent process;
- 5.20 The suggested responses to stakeholders who participated in the consultation set out at appendix 3 be approved.

### **TERMS OF REFERENCE 3 - TAKE INTO CONSIDERATION THE ISSUES RAISED IN THE LEGAL CHALLENGE OF THE MULL TRO PROCESS**

- 5.21 The issues raised in the legal challenge of the Mull TRO process were considered by the Review Group as part of the review.

### **FINDINGS**

- 5.22 The Review Group determined that the Council erred in not consulting with Iona Community Council (ICC). While the current operational TRO process utilised by the Council complies with statutory requirements, the Council should have recognised the relevance of the Mull TRO to the Iona community and therefore ICC, *as an organisation representing persons likely to be affected by any provision in the [traffic regulation] order*, should have been consulted.
- 5.23 The Council carried out an Equality and Socio-Economic Impact Assessment (EqSEIA) process for the Mull TRO. The EqSEIA is intended and designed to incorporate both the FSD duty and the Island Communities Impact Assessment under S8 of the Islands (Scotland) Act 2018 as far as it currently can on the basis that the law, as it relates to Island Communities Impact Assessments, is not yet in force and the Scottish Government Guidance has not been released.
- 5.24 A number of findings and recommendations are proposed in relation to the Council's Equality and Socio-Economic Impact Assessment process and these are set out below at Terms of Reference 8 from paragraphs 5.59-5.68 below.
- 5.25 The Council is required by LATORS to consider all objections made and not withdrawn. However, it is a matter for the Council to determine the weight to be attached to those, and is not considered that the Council behaved unreasonably when considering objections to the Mull TRO.
- 5.26 Councils have powers to raise income to support delivery of their services. In relation to TROs, information on which the budget decision on car parking charges made in February 2018 should have stated legal basis and purpose under which the Council was entitled to act.
- 5.27 Councils have powers to change and vary existing car parking charges. In line with s.35C or s.46A of the RTRA 1984 while the scale of change can reflect changes to council's fees and charges generally, a separate process should be followed for varying car parking charges.

## RECOMMENDATIONS

It is recommended that:

5.28 The suggested amendments to the Council's current operational TRO process set out at Terms of Reference 1 paragraphs 5.7-5.13 above be adopted including:

- That consultees for each TRO process shall include *relevant* instead of local community councils, which will include all local community councils served and/or affected by any TRO and contiguous community councils as a minimum.
- That advice is sought from Community Development Officers on possible additional relevant consultees who are affected or who are likely to be affected by a TRO proposal.

5.29 That the recommendations to the Council's approach to Equality Impact Assessments in the future set out at Terms of Reference 8 paragraph 5.62-5.68 be adopted.

5.30 That the Council's operational TRO process be reviewed to ensure that the legal basis and purpose for every TRO is stated at an initial stage and that any decision in relation to making a TRO should be separate from the budget setting process.

5.31 That where there is a proposed variation of charges relating to car parking places which are the subject of an existing TRO, the Council utilises the provisions contained within S35C and/or S46A of the RTRA84 which enable the charges to be raised via notification to the public.

### **TERMS OF REFERENCE 4 - CONSIDER WHETHER FUTURE TRO'S SHOULD BE SOUGHT ON A MULTIPLE OR GEOGRAPHICAL BASIS**

5.32 The Review Group considered whether future TROs should be sought on a multiple or geographical basis.

### **FINDINGS**

5.33 The Review Group determined that the current process is already flexible in terms of its approach to the geographical element of TROs and that a "one size fits all" approach where multiple TROs in a common geographical area are grouped together in the process or order is not always appropriate.

5.34 It is a matter for the professional judgement of officers to weigh the various considerations required in order to determine whether a TRO should contain more than one order, or cover multiple TROs in a geographical area.

## RECOMMENDATIONS

It is recommended that:

5.35 The Council's current operational TRO process should actively require

officers to consider and justify how TRO's should be sought on a case by case basis. The inclusion of the Community Development Officer to ensure appropriate community stakeholders are engaged and subsequent approval by the Assistant Network and Standards Manager (Traffic & Development) will introduce a quality check to ensure that cognisance of community views will be included when the Council is considering whether TROs should be on a multiple or geographical basis. Officers may also chose to split a proposal into multiple TROs to ensure that a single issue likely to generate objections doesn't unreasonably impact the whole proposal.

**TERMS OF REFERENCE 5 – CONSIDER HOW BEST TO ENSURE THERE IS ADEQUATE VALIDATION AND QUALITY ASSURANCE OF THE VARIOUS TECHNICAL INPUTS REQUIRED IN THE PROCESS AND THAT DECISIONS ARE TAKEN BY THE MOST APPROPRIATE COMMITTEE**

- 5.36 A review of the Council's current operational process was carried out as set out at Terms of Reference 1 above which included a review against the statutory requirements and a benchmarking exercise with the process of other local authorities.
- 5.37 The Review Group considered which committee would be most appropriate to make decisions in relation to making a TRO.

**FINDINGS**

- 5.38 While the Council's current operational TRO process met the statutory requirements there are revisals that could be made to ensure there is better validation and quality assurance and in particular to ensure that all relevant stakeholders are consulted.
- 5.39 As part of developing best practice in TROs, the Review Group considered that the Planning Protective Services and Licensing Committee may be the most appropriate forum to make decisions on TROs, with reports going to the relevant Area Committee for information. Having all TROs considered by the same committee would better facilitate the sharing of good practice in TROs across different areas of Argyll and Bute and develop member knowledge and expertise in relation to TROs.

**RECOMMENDATIONS**

It is recommended that:

- 5.40 The proposed revisals to the Council's current operational TRO process set out at Terms of Reference 1 paragraphs 5.7-5.13 are adopted to ensure there is better validation and quality assurance including:
- That advice is sought from Community Development Officers on possible additional relevant consultees who are affected or who are likely to be affected by a TRO proposal.
  - Following completion of the draft consultee list the Assistant Network &

Standards Manager (Traffic & Development) shall carry out a further check to ensure that all relevant consultees are captured. This step will build additional quality assurance into the process and ensure that the Council identifies and engages with any relevant stakeholders. When an organisation or other group is included within Consultation 2, justification will be provided explaining their inclusion.

- 5.41 As part of developing best practice in TROs, it is suggested that a similar approach be taken to the decision making process for planning applications and that consideration be given to utilising the Planning Protective Services and Licensing Committee to make decisions on TROs, with reports going to the relevant Area Committee for information. Having all TROs considered by the same Committee would better facilitate the sharing of good practice in relation to TROs across different areas of Argyll and Bute. It would also ensure a consistent approach to resolving TRO matters across Argyll and Bute. Any changes to the current governance arrangements would require a change to the Council's constitution.

**TERMS OF REFERENCE 6 – CONSIDER WHAT IMPROVEMENTS CAN BE MADE TO COMMUNITY ENGAGEMENT SO THAT THE COUNCIL WORKS JOINTLY WITH COMMUNITIES WHEN IT IDENTIFIES THE NEED TO REGULATE TRAFFIC IN A LOCALITY AND ON THE INTRODUCTION OF ANY PROVISIONS INCLUDING CHARGING.**

- 5.42 Stakeholder parties who have been previous consultees in relation to TRO's were asked to share their views on the Council's current TRO process and their comments and proposed Council responses are set out at appendix 3 below. The findings and recommendations are set out at Terms of Reference 2 above at paragraphs 5.16-5.20.
- 5.43 The National Standards for Community Engagement outline 7 good practice principles in planning and delivering community engagement. The Review Group benchmarked the Council's current operational TRO process against the standards and considered improvements that could be made under each of the principles. The recommended improvements are set out below and against the relevant standard at appendix 4.

**FINDINGS**

- 5.44 Whilst the Council's current operational TRO process generally met the National Standards for Community Engagement, there are improvements that could be made to enhance their delivery and to further encourage more inclusive and beneficial community engagement. These are set out below and at appendix 4.

**RECOMMENDATIONS**

The following recommendations have been arrived at with significant input from Community Development and will have wider application.

With specific reference to consultee feedback set out at appendix 3 and the National Standards for Community Engagement it is recommended that:

5.45 The proposed improvements to the Council's current operational TRO process against the National Standards for community engagement set out at appendix 4 be adopted including:

- Community Development Officers to be included in the process of validating consultees to ensure that all relevant stakeholders are included and to facilitate a fair and transparent process;
- Improvements to be made to consultation letter to encourage more participation ( as detailed at appendix 5)
- Roads and Infrastructure Services in consultation with Community Development will meet with community groups as appropriate;
- With reference to the consultee feedback, improve letters and early engagement (including non-statutory engagement where appropriate) to facilitate a fair and transparent process;
- More informative/less technical language should be used during TRO consultations; and
- Carry out a plain English check on consultation letters;

5.46 The Council's guidance on consulting, which is available on the Council's intranet, is based on the National Standards for Community Engagement. These should also be included in the Council's Community Engagement Strategy which is currently being developed. This should be made available on the Council's intranet, so that officers can refer to the standards and use them as a guide when planning any community engagement activities and not solely those related to the TRO process. This in turn facilitates more meaningful community engagement and consultation that is fair, open and transparent.

5.47 That a Guide for Consultation on Traffic Regulation Orders (TROs) for Community Organisations be produced as set out at appendix 7 below and be made available for the public on the Council's webpages.

## **TERMS OF REFERENCE 7 - REVIEW THE APPROACH TO THE IDENTIFICATION OF APPROPRIATE STAKEHOLDER GROUPS TO ENSURE ALL COMMUNITIES ARE ENGAGED**

### **FINDINGS**

5.48 The Review Group carried out a detailed review and benchmarking exercise in relation to its current operational TRO process and it is considered that whilst the process meets statutory requirements, there are revisals that can be made to ensure there is better validation in particular with regard to identification of appropriate stakeholder groups.

5.49 The Review Group benchmarked the TRO process against the National Standards for Community Engagement and considered improvements that could be made under each of the principles.

## RECOMMENDATIONS

It is recommended that:

5.50 The improvements to the Council's current operational TRO process set out at Terms of Reference 1, paragraphs 5.7-5.13 be adopted and in particular that:

- Prior to the statutory consultation, advice is sought from Community Development Officers on possible additional relevant consultees who are affected or who are likely to be affected by a TRO proposal.
- Following completion of the draft consultee list the Assistant Network & Standards Manager (Traffic & Development) shall carry out a further check to ensure that all relevant consultees are captured. This step will build additional quality assurance into the process and ensure that the Council identifies and engages with any relevant stakeholders. When an organisation or other group is included within Consultation 2, justification will be provided explaining their inclusion.

5.51 The recommended improvements to the Council's current community engagement practice set out at Terms of Reference, 6 paragraphs 5.45-5.47 above and appendix 4 be adopted.

### **TERMS OF REFERENCE 8 – CONSIDER COUNCIL'S APPROACH TO IMPACT ASSESSMENTS FOR FUTURE TROs (including review of the EQSEIA template and approach)**

5.52 The purpose of an Equality Impact Assessment (EqSEIA) is intended to ensure compliance with the law taking account equality, human rights and socioeconomic disadvantage implications when making decisions in relation to policy matters. For specific proposals already covered by policy (such as an individual TRO) an EqSEIA is not normally necessary.

5.53 The EqSEIA process is designed to assist the Council on delivering its obligations in relation to equality issues and in particular:

- To assist officers, when designing a new proposal, to consider all equalities implications, including socio-economic inequalities;
- To assist officers to demonstrate that they have considered all equalities implications, including socio-economic inequalities;
- To demonstrate to the community that socio-economic inequality issues have been considered, and how this has been done;
- To enable better/more informed consultation around proposals while they are still in development; and
- To enable greater scrutiny around decision-making as issues relating to equalities and socio-economic inequalities are made more transparent.

5.54 The Council's EqSEIA process was last reviewed in 2018 with the intention of ensuring that the FSD duty and the Islands (Scotland) Act 2018 (set out at paragraphs 4.12 – 4.15 above) were taken into account when impact assessments are carried out.

- 5.55 The Islands (Scotland) Act 2018 impact assessments were taken into account as far as they could at that time on the basis that the law is not yet in force and the Scottish Government Guidance has not yet been released. The Council's EqSEIA process will require to be reviewed in relation to the Island Communities Impact Assessment to ensure it is fit for purpose when the Scottish Government Guidance is published.
- 5.56 Whether an EqSEIA is appropriate will be a matter for the professional judgement of officers who will take into account, amongst other things, the impact and strategic importance of the TRO, resources and the overall nature of the policy decision, thus ensuring that proportionality is taken into account in each individual case.
- 5.57 A further review of the Council's EqSEIA and corresponding guidance was carried out by the Review Group to determine whether the Council's approach to impact assessments delivers on the intended outcomes.
- 5.58 Additionally, as part of the review of the EqSEIA process the Review Group carried out a desktop exercise to benchmark the Council's process against twelve other local authorities.

## **FINDINGS**

- 5.59 It would be helpful to have clearer guidance to assist officers have a better understanding of the EqSEIA process in terms of when they should be completed and when they are unnecessary.
- 5.60 Most other comparator councils have an EqSEIA process which predates the FSD requirement, unlike Argyll and Bute Council.
- 5.61 While the Council's current EqSEIA process generally delivers on its intended outcomes, there are revisals that can be made to improve clarity and provide a greater understanding of when the process is required, and additional information in relation to consultation.

## **RECOMMENDATIONS**

It is recommended that:

- 5.62 That the Council will carry out an EqSEIA assessment in relation to TRO's when required which will be determined by the professional judgement of officers.
- 5.63 The proposed revisals set out at appendix 6 to the current EqSEIA guidance to improve clarity and provide a greater understanding of when the process is required and in relation to consultation be adopted.
- 5.64 That adequate training be provided by Customer Support Services to relevant staff in how to complete and EqSEIA.
- 5.65 That a Q and A resource be provided by Customer Support Services setting out further support in relation to the completing EqSEIAs.

- 5.66 That a statement about the purpose of an EqSEIA and circumstances under which they may or may not be undertaken be placed on the website for reference by the public and be incorporated as part of officer training.
- 5.67 That consideration be given to the provision a LEON online learning module course on how to complete EqSEIA.
- 5.68 That the Council's current EqSEIA guidance and template be reviewed following the publication of the Scottish Government Island Communities Impact Assessment Guidance.

## **TERMS OF REFERENCE 9 – ANY OTHER RELEVANT MATTERS**

### **Misuse of Community Participation Request and Minutes**

- 5.69 The Review Group reviewed the concerns raised by stakeholder parties on Mull and specifically in relation to:
- The Council misusing the Community Participation Request (CPR) as an attempt to demonstrate that there had been community consultation and support for the parking charges on Mull; and
  - The Council failing to accurately record their views at the CPR meeting in February 2018 and in relation to community engagement generally.
- 5.70 The Review Group considered whether there was a requirement for formal minuting of such meetings, or whether the current practice of recording meetings with stakeholder parties could be improved.

### **FINDINGS**

- 5.71 The Review Group was unable to find evidence that the CPR process, which sought to *establish more coherent and coordinated traffic (including pedestrian traffic) management* on Mull, was misused, and were satisfied that officers acted in good faith in relation to proposals put forward as a result of the CPR including the promotion of a TRO to introduce all year charging for car parks on Mull. While the CPR and its outcomes were considered as part of the overall TRO, it was not the primary reason for the Order and should be viewed within the context of the wider statutory consultation that took place in respect of the TRO.
- 5.72 The Review Group was satisfied that the document produced by Roads and Infrastructure Services in relation to the 2018 CPR meeting represented an accurate reflection of their understanding of the discussions which took place and was not intended to be a verbatim record of the meeting or a minute.
- 5.73 However, the Review Group recognised that while formal minutes of community engagement may not always be appropriate, a record of any external meetings with stakeholder parties should be kept in a permanent form and it would be helpful to standardise the manner in which such meetings are recorded. This should be carried out timeously and circulated to all invitees of any specific meeting for their information.

- 5.74 It would be helpful to have clearer guidance about how the CPR process is utilised in any future consultation on TRO's and consideration should be given to whether the CPR process should be utilised in considering any future TRO's.

## RECOMMENDATIONS

It is recommended that:

- 5.75 The Head of Legal and Regulatory Services reviews how meetings are currently recorded and considers:
- Whether there is scope to improve how such meetings are recorded;
  - Whether guidance should be issued to relevant officers in relation to the permanent recording of such meetings when carrying out community engagement with stakeholder parties; and
  - How the CPR process should be utilised in considering any future TRO's and any other community engagement activity.

## Information Pack from Community Councils

- 5.76 The Review Group Considered Mull and Iona Community Council's Information Pack which was submitted to the OLI committee when the Order came before them on 12 June 2019 and which asked the Council to:
- Acknowledge that the mistakes in relation to the TRO were not merely technical or procedural but systemic;
  - Ensure that corporate and systemic failings would be addressed;
  - Guarantee that no future TRO would be considered for Mull and/or Iona without formative, comprehensive engagement with the communities and without thorough assessment of the impacts;
  - Ensure that consultation and impact assessment would take place prior to deciding whether to proceed with a TRO;
  - Demonstrate its stated commitment to the islands in light of its refusal to undertake Island Impact Assessments throughout the TRO process; and
  - Recognise that Car Parks are integral components of island lifeline ferry services and on that basis they should on principle be free.

## FINDINGS

- 5.77 The Review Group was satisfied that there was no systemic or corporate failure in relation to the Mull TRO. However, the Council erred in not recognising the relevance of the TRO to the Iona community and that ICC as *an organisation representing persons likely to be affected by any provision in the [traffic regulation] order*, should have been consulted.
- 5.78 Whilst the Council's current operational TRO process in relation generally met the National Standards for Community Engagement, there are improvements that could be made to enhance the delivery of the national standards and to further encourage a more inclusive and beneficial community engagement and these are set out at Terms of Reference 6 at 5.45 -5.47 and at appendix 4.

- 5.79 While the Council's current EqSEIA process (which is designed and intended to incorporate Island Impact Assessments) generally delivers on its intended outcomes, there are revisals that can be made to improve clarity and provide a greater understanding of when the process is required, and additional information in relation to consultation and these are set out at Terms of Reference 8, 5.62-5.68.
- 5.80 The Review Group considered that whilst the current operation TRO process meets the relevant statutory requirements, there are revisals that can be made to the process to ensure there is better validation in particular to ensure that the relevant stakeholders are consulted and to introduce additional scrutiny and a quality check on the consultation stage of the process and these are set out at Terms of Reference 1 at 5.7-5.13.
- 5.81 The Review Group recognised that while car parks are integral components of island lifeline ferry services, whether charges should be imposed should be considered on a case by case basis.

## **RECOMMENDATIONS**

It is recommended that:

- 5.82 The recommended improvements to the Council's current community engagement practice set out at Terms of Reference 6, paragraphs 5.45-5.47 above and appendix 4 be adopted.
- 5.83 The recommended improvements to the Council's current operational TRO process set out at Terms of Reference 1, paragraphs 5.7-5.13 be adopted.
- 5.84 The recommended improvements to the Council's current EqSEIA process set out at Terms of Reference 8, 5.62-5.68 be adopted.

## **6.0 KEY FINDINGS AND RECOMMENDATIONS**

It is recommended that the Audit and Scrutiny Committee:

- 6.1 Agree to the findings and recommendations set put above and as summarised at appendix 2.

## **7.0 IMPLICATIONS**

- 7.1 Policy – Potential policy considerations in proposing TRO's and changes in process
- 7.2 Financial – None
- 7.3 Legal – Recommendations in line with relevant legislation
- 7.4 HR - None
- 7.5 Fairer Scotland Duty: Recommendations in line with statutory requirements
- 7.5.1 Equalities - protected characteristics – Recommendations in line with statutory requirements
- 7.5.2 Socio-economic Duty: Recommendations in line with statutory requirements

- 7.5.3 Islands – Recommendations in line with statutory requirements
- 7.6. Risk – Risk to the Council continuing to utilise current TRO process
- 7.7 Customer Service – None

**Executive Director with responsibility for Legal and Regulatory Support:**  
Douglas Hendry

**Policy Lead:** Robin Currie

**For further information contact:**

David Logan, Head of Legal and Regulatory Support, 01546 604 322  
Anne MacColl Smith, Procurement and Commissioning Manager, 01546 604 194  
Michael Nicol, Solicitor, Special Projects, 01546 604 468

**APPENDICES**

- Appendix 1 – Terms of Reference
- Appendix 2 - Summary of Key Findings and Recommendations
- Appendix 3 - Consultation Comments and Responses
- Appendix 4 - Community Engagement Benchmarking against national standards.
- Appendix 5 - Proposed Amendments to Statutory Consultation Letter
- Appendix 6 - Proposed revisals to EqSEIA Guidance
- Appendix 7 - A Community Guide for Consultation on TROs

## **APPENDIX 1 – TERMS OF REFERENCE**

1. Undertake a comprehensive review of the current operational TRO process utilised by the Council. The review will examine the current process against the statutory requirements
2. Engage with stakeholder parties involved in the challenge to the Mull TRO to ensure their views are appropriately captured and considered in responding to the terms of reference of this review. Stakeholder groups in relation to other recent or current TRO processes should also be engaged to contribute their views on what works well and where there have been issues.
3. Take into consideration the issues raised in the legal challenge of the Mull TRO process
4. Consider whether future TRO's should be sought on a multiple or geographical basis
5. Consider how best to ensure that there is adequate validation and quality assurance of the various technical inputs required in the process and that decisions are taken by the most appropriate council committee.
6. Consider what improvements can be made to community engagement so that we work jointly with communities when we identify the need to regulate traffic in a locality and on the introduction of any provisions including charging. The presumption will be on early engagement, utilising local knowledge prior to any formal steps being initiated and wherever possible will involve local stakeholders in the formulation of any proposals that come forward.
7. Review the approach to the identification of appropriate stakeholder groups to ensure all communities are engaged (noting the island to island impact arising from the Mull TRO)
8. Consider the councils approach to impact assessments for future TROs – noting relevant legislation and guidance around equalities, fairer Scotland duties and as appropriate Island impact assessment. This will include a full review of the EQSEIA template and approach to ensure there is an appropriate and proportionate consideration impacts from proposals – the findings will have wider applicability beyond those of TROs.
9. Consider any other matter the team or board consider relevant and appropriate
10. Produce a report for consideration ultimately by SMT and the Audit and Scrutiny Committee

## APPENDIX 2 – SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

### TERMS OF REFERENCE 1:

#### FINDINGS

- 1.1 The Review Group determined that the Council erred in not consulting with Iona Community Council (ICC). While the current operational TRO process utilised by the Council complies with statutory requirements, the Council should have recognised the relevance of the Mull TRO to the Iona community and therefore ICC as *an organisation representing persons likely to be affected by any provision in the [traffic regulation] order* should have been consulted.
- 1.2 The benchmarking exercise determined that the Council's current operational TRO processes are broadly similar to those of comparator councils and in line with the statutory requirements. However the following points relating to community consultation and notification were noted:
- Argyll and Bute Council generally consults with a wider range of consultees than the comparator councils at the statutory consultation phase of the process and local community councils are automatically included;
  - Not all comparator councils published TROs on [Tell Me Scotland](#) (the national website for public notices) unlike Argyll and Bute Council;
  - Argyll and Bute Council informs the public on its Traffic Order webpage which not all comparator Councils did;
  - The consultee list of one comparator council includes '*relevant* community council(s)'; and
  - One comparator Council refers to "feedback and improvement" from consultees and the general public to identify opportunities for improving services.
- 1.3 On the basis of the review and benchmarking exercise, the Review Group considered that whilst the Councils current operational TRO process meets the relevant statutory requirements, there are revisals that can be made to ensure there is better validation and in particular to ensure that relevant organisations are consulted, and to introduce additional scrutiny and quality checks at the consultation stage of the process. The recommended revisals are set out below.

#### RECOMMENDATIONS

In looking at the recommendations, it's helpful to note that Roads and Infrastructure Services use the following terminology:

**Consultation 1:** is the term used to describe the consultation stage carried out prior to the statutory LATORS consultation as outlined in paragraph 4.7 above;

**Consultation 2:** is the term used to describe the statutory consultation required by Regulation 4(1) of LATORS and as set out at paragraph 4.8;;

**Public Notification:** is the term used to describe the public consultation required by the process whereby the TRO proposal is advertised and objections can be made.

It is recommended that the Council's current operational TRO process is amended on the following basis:

- 1.4 The list of consultees at Consultation 1 is amended to ensure that the only parties consulted at this stage are Police Scotland (as required by law) and selected internal council consultees specifically:
  - Strategic Transport and Infrastructure Manager;
  - Development Policy & Housing Strategy Manager;
  - Fleet Waste and Infrastructure Manager;
  - Operations Manager, Development and Infrastructure;
  - Ward Members (which may be extended dependent on extent of TRO); and
  - Chair of the relevant Area Committee.
- 1.5 The statutory consultees required by Regulation 4(1) of LATORS that are currently consulted during Consultation 1 should be moved to Consultation 2 to ensure that all relevant consultees are consulted at the same time during the process, specifically:
  - Scottish Fire and Rescue Service; and
  - Scottish Ambulance Service.
- 1.6 Following completion of Consultation 1, officers shall circulate a draft Consultation 2 (statutory consultation) list to the Council's Community Development Officer for consideration. Thereafter, the Community Development Officer should respond with additional groups or organisations that they consider should be consulted with in relation to the TRO. This additional step will assist the Council to ensure that it identifies and engages with any relevant stakeholders and provides additional quality assurance to the process.
- 1.7 Following completion of the consultee draft list, the Assistant Network & Standards Manager (Traffic & Development) shall carry out a further check to ensure that all relevant consultees are captured. This step will build additional quality assurance into the process and ensure that the Council identifies and engages with any relevant stakeholders.
- 1.8 In cases where Consultation 1 & 2 are combined, the draft consultee lists will also be sent to the Community Development Officer prior to consultation commencing.
- 1.9 That consultees for each TRO process shall include *relevant* instead of local community councils which will include all local community councils served and/or affected by any TRO, and contiguous community councils, be consulted as a minimum.

The methodology by which the Council carry out public notification is satisfactory therefore it is also recommended that:
- 1.10 No changes are made to the Council's current operational TRO procedures in relation to the Public Notification.

## **TERMS OF REFERENCE 2:**

### **FINDINGS:**

- 2.1 The outcome from the consultation process indicated that stakeholder parties wish to be engaged in a meaningful consultation that is fair open and transparent, and where their views are given due consideration and addressed in some form during the consultation process.

### **RECOMMENDATIONS**

It is recommended that:

- 2.2 The proposed changes to the Council's current operational TRO process set out at Terms of Reference 1, paragraphs 5.7-5.13 be adopted.
- 2.3 The proposed changes to the Council's current community engagement practices recommended as a result of the benchmarking exercise carried out by the Review Group against national community engagement standards set out at Terms of Reference 6, paragraphs 5.45- 5.47 and detailed at appendix 4 be adopted.
- 2.4 With specific reference to the recommendations at paragraph 5.45, the suggested improvements to the TRO consultation letters be approved (see appendix 5 for proposed amendments to Consultation Letter) to facilitate a fair and transparent process;
- 2.5 The suggested responses to stakeholders who participated in the consultation set out at appendix 3 be approved.

## **TERMS OF REFERENCE 3:**

### **FINDINGS:**

- 3.1 The Review Group determined that the Council erred in not consulting with Iona Community Council (ICC). While the current operational TRO process utilised by the Council complies with statutory requirements, the Council should have recognised the relevance of the Mull TRO to the Iona community and therefore ICC, as *an organisation representing persons likely to be affected by any provision in the [traffic regulation] order*, should have been consulted.
- 3.2 The Council carried out an Equality and Socio Economic Impact Assessment (EqSEIA) process for the Mull TRO. The EqSEIA is intended and designed to incorporate both the FSD duty and the Island Communities Impact Assessment under S8 of the Islands (Scotland) Act 2018 as far as it currently can on the basis that the law, as it relates to Island Communities Impact Assessments, is not yet in force and the Scottish Government Guidance has not been released.

- 3.3 A number of findings and recommendations in relation to the Council's Equality and Socio Economic Impact Assessment process and these are set out below at Terms of Reference 8 from paragraphs 5.59-5.68 above.
- 3.4 The Council is required by LATORS to consider all objections made and not withdrawn. However, it is a matter for the Council to determine the weight to be attached to those and is not considered that the Council behaved unreasonably when considering to objections to the Mull TRO.
- 3.5 Councils have powers to raise income to support delivery of their services. In relation to TROs, information on which the budget decision on car parking charges was made in February 2018, should have stated legal basis and purpose under which the Council was entitled to act.
- 3.6 Councils have powers to change and vary existing car parking charges. In line with s.35C or s.46A of the RTRA 1984 while the scale of change can reflect changes to council's fees and charges generally, a separate process should be followed for varying car parking charges.

## RECOMMENDATIONS

It is recommended that:

- 3.7 The suggested amendments to the Council's current operational TRO process set out at Terms of Reference 1 paragraphs 5.7-5.13 above be adopted including:
- That consultees for each TRO process shall include *relevant* instead of local community councils, which will include all local community councils served and/or affected by any TRO and contiguous community councils as a minimum.
  - That advice is sought from Community Development Officers on possible additional relevant consultees who are affected or who are likely to be affected by a TRO proposal.
- 3.8 That the recommendations to the Council's approach to Equality Impact Assessments in the future set out at Terms of Reference 8 paragraph 5.62-5.68 be adopted.
- 3.9 That the Council's operational TRO process be reviewed to ensure that the legal basis and purpose for every TRO is stated at an initial stage and that any decision in relation to making a TRO should be separate from the budget setting process.
- 3.10 That where there is a proposed variation of charges relating to car parking places which are the subject of an existing TRO, the Council utilises the provisions contained within S35C and/or S46A of the RTRA84 which enable the charges to be raised via notification to the public.

## **TERMS OF REFERENCE 4:**

### **FINDINGS**

- 4.1 The Review Group determined that the current process is already flexible in terms of its approach to the geographical element of TROs and that a “one size fits all” approach where multiple TROs in a common geographical area are grouped together in the process or Order is not always appropriate.
- 4.2 It is a matter for the professional judgement of officers to weigh the various considerations required in order to determine whether an Order for a TRO should contain more than one Order, or cover multiple TROs in a geographical area.

### **RECOMMENDATIONS**

It is recommended that:

- 4.3 The Council’s current operational TRO process should actively require officers to consider and justify how TRO’s should be sought on a case by case basis. The inclusion of the Community Development Officer to ensure appropriate community stakeholders are engaged and subsequent approval by the Assistant Network and Standards Manager (Traffic & Development) will introduce a quality check to ensure that cognisance of community views will be included when the Council is considering whether TROs should be on a multiple or geographical basis. Officers may also chose to split a proposal into multiple TROs to ensure that a single issue likely to generate objections doesn’t unreasonably impact the whole proposal.

## **TERMS OF REFERENCE 5**

### **FINDINGS**

- 5.1 While the Council’s current operational TRO process met the statutory requirements there are revisals that could be made to ensure there is better validation and quality assurance and in particular to ensure that all relevant stakeholders are consulted.
- 5.2 As part of developing best practice in TROs, the Review Group considered that the Planning Protective Services and Licensing Committee may be the most appropriate forum to make decisions on TROs, with reports going to the relevant Area Committee for information. Having all TROs considered by the same Committee would better facilitate the sharing of good practice in TROs across different areas of Argyll and Bute and develop member knowledge and expertise in relation to TROs.

### **RECOMMENDATIONS**

It is recommended that:

- 5.3 The proposed revisions to the Council's current operational TRO process set out at Terms of Reference 1 paragraphs 5.7-5.13 are adopted to ensure there is better validation and quality assurance including:
- That advice is sought from Community Development Officers on possible additional relevant consultees who are affected or who are likely to be affected by a TRO proposal.
  - Following completion of the draft consultee list the Assistant Network & Standards Manager (Traffic & Development) shall carry out a further check to ensure that all relevant consultees are captured. This step will build additional quality assurance into the process and ensure that the Council identifies and engages with any relevant stakeholders. When an organisation or other group is included within Consultation 2, justification will be provided explaining their inclusion.
- 5.4 As part of developing best practice in TROs, it is suggested that a similar approach be taken to the decision making process for planning applications and that consideration be given to utilising the Planning Protective Services and Licensing Committee to make decisions on TROs, with reports going to the relevant Area Committee for information. Having all TROs considered by the same Committee would better facilitate the sharing of good practice in relation to TROs across different areas of Argyll and Bute. It would also ensure a consistent approach to resolving TRO matters across Argyll and Bute. Any changes to the current governance arrangements would require a change to the Council's constitution.

## **TERMS OF REFERENCE 6:**

### **FINDINGS**

- 6.1 Whilst the Council's current operational TRO process generally met the National Standards for Community Engagement, there are improvements that could be made to enhance their delivery and to further encourage more inclusive and beneficial community engagement. These are set out below, and at appendix 4.

### **RECOMMENDATIONS**

The following recommendations have been arrived at with significant input from Community Development and will have wider application.

With specific reference to consultee feedback set out at appendix 3 and the National Standards for Community Engagement it is recommended that:

- 6.2 The proposed improvements to the Council's current operational TRO process against the National Standards for community engagement set out at appendix 4 be adopted including:

- Community Development Officers to be included in the process of validating consultees to ensure that all relevant stakeholders are included and to facilitate a fair and transparent process;
- Improvements to be made to consultation letter to encourage more participation ( as detailed at appendix 5)
- Roads and Infrastructure Services in consultation with Community Development will meet with community groups as appropriate;
- With reference to the consultee feedback, improve letters and early engagement (including non-statutory engagement where appropriate) to facilitate a fair and transparent process;
- More informative/less technical language should be used during TRO consultations; and
- Carry out a plain English check on consultation letters;

6.3 The Council's guidance on consulting, which is available on the Council's intranet, is based on the National Standards for Community Engagement. These should also be included in the Council's Community Engagement Strategy which is currently being developed. This should be made available on the Council's intranet, so that officers can refer to the standards and use them as a guide when planning any community engagement activities and not solely those related to the TRO process. This in turn facilitates more meaningful community engagement and consultation that is fair, open and transparent.

6.4 That a Guide for Consultation on Traffic Regulation Orders (TROs) for Community Organisations be produced as set out at appendix 7 below and be made available for the public on the Council's webpages.

## **TERMS OF REFERENCE 7:**

### **FINDINGS**

- 7.1 The Review Group carried out a detailed review and benchmarking exercise in relation to its current operational TRO process and it is considered that whilst the process meets statutory requirements, there are revisals that can be made to ensure there is better validation in particular with regard to identification of appropriate stakeholder groups.
- 7.2 The Review Group benchmarked the TRO process against the National Standards for Community Engagement and considered improvements that could be made under each of the principles.

### **RECOMMENDATIONS**

It is recommended that:

- 7.3 The improvements to the Council's current operational TRO process set out at Terms of Reference 1, paragraphs 5.7-5.13 be adopted and in particular that:
- Prior to the statutory consultation, advice is sought from Community

Development Officers on possible additional relevant consultees who are affected or who are likely to be affected by a TRO proposal.

- Following completion of the draft consultee list the Assistant Network & Standards Manager (Traffic & Development) shall carry out a further check to ensure that all relevant consultees are captured. This step will build additional quality assurance into the process and ensure that the Council identifies and engages with any relevant stakeholders. When an organisation or other group is included within Consultation 2, justification will be provided explaining their inclusion.

7.4 The recommended improvements to the Council's current community engagement practice set out at Terms of Reference, 6 paragraphs 5.45-5.47 and appendix 4 be adopted.

## **TERMS OF REFERENCE 8**

### **FINDINGS**

- 8.1 It would be helpful to have clearer guidance to assist officers have a better understanding on the EqSEIA process in terms of when they should be completed and when they are unnecessary.
- 8.2 Most other comparator councils have an EqSEIA process which predates the FSD requirement, unlike Argyll and Bute Council.
- 8.3 While the Council's current EqSEIA process generally delivers on its intended outcomes, there are revisals that can be made to improve clarity and provide a greater understanding of when the process is required, and additional information in relation to consultation.

### **RECOMMENDATIONS**

It is recommended that:

- 8.4 That the Council will carry out an EqSEIA assessment in relation to TRO's when required which will be determined by the professional judgement of officers.
- 8.5 The proposed revisals set out at appendix 6 to the current EqSEIA guidance to improve clarity and provide a greater understanding of when the process is required and in relation to consultation be adopted.
- 8.6 That adequate training be provided by Customer Support Services to relevant staff in how to complete and EqSEIA.
- 8.7 That a Q and A resource be provided by Customer Support Services setting out further support in relation to the completing EqSEIAs.
- 8.8 That a statement about the purpose of an EqSEIA and circumstances under which they may or may not be undertaken be placed on the website for reference by the public and be incorporated as part of officer

training.

- 8.9 That consideration be given to the provision a LEON online learning module course on how to complete EqSEIA.
- 8.10 That the Council's current EqSEIA guidance and template be reviewed following the publication of the Scottish Government Island Impact Assessment Guidance.

## **TERMS OF REFERENCE 9 – ANY OTHER RELEVANT MATTERS**

### **Misuse of Community Participation Request and Minutes**

#### **FINDINGS**

- 9.1 The Review Group was unable to find evidence that the CPR process, which sought to *establish more coherent and coordinated traffic (including pedestrian traffic) management* on Mull, was misused, and were satisfied that Officers acted in good faith in relation to proposals put forward as a result of the CPR including the promotion of a TRO to introduce all year charging for car parks on Mull. While the CPR and its outcomes were considered as part of the overall TRO, it was not the primary reason for the Order and should be viewed within the context of the wider statutory consultation that took place in respect of the TRO.
- 9.2 The Review Group was satisfied that the document produced by Roads and Infrastructure Services in relation to the 2018 CPR meeting represented an accurate reflection of their understanding of the discussions which took place and was not intended to be a verbatim record of the meeting, or a minute.
- 9.3 However, the Review Group recognised that while formal minutes of community engagement may not always be appropriate, a record of any external meetings with stakeholder parties should be kept in a permanent form and it would be helpful to standardise the manner in which such meetings are recorded. This should be carried out timeously and circulated to all invitees of any specific meeting for their information.
- 9.4 It would be helpful to have clearer guidance about how the CPR process is utilised in any future consultation on TRO's and consideration should be given to whether the CPR process should be utilised in considering any future TRO'S.

#### **RECOMMENDATIONS**

It is recommended that:

- 9.5 The Head of Legal and Regulatory Services reviews how meetings are currently recorded and considers:
- Whether there is scope to improve how such meetings are recorded;
  - Whether guidance should be issued to relevant officers in relation to the permanent recording of such meetings when carrying out community engagement with stakeholder parties; and
  - How the CPR process should be utilised in considering any future TRO's

and any other community engagement activity.

## Information Pack from Community Council's

### FINDINGS

- 9.6 The Review Group was satisfied that there was no systemic or corporate failure in relation to the Mull TRO. However, the Council erred in not recognising the relevance of the TRO to the Iona community and that ICC should as *an organisation representing persons likely to be affected by any provision in the [traffic regulation] order*, should have been consulted.
- 9.7 Whilst the Council's current operational TRO process in relation generally met the National Standards for Community Engagement, there are improvements that could be made to enhance the delivery of the national standards and to further encourage a more inclusive and beneficial community engagement and these are set out at Terms of Reference 6 at 5.45 -5.47 and at appendix 4.
- 9.8 While the Council's current EqSEIA process (which is designed and intended to incorporate Island Impact Assessments) generally delivers on its intended outcomes, there are revisals that can be made to improve clarity and provide a greater understanding of when the process is required, and additional information in relation to consultation and these are set out at Terms of Reference 8 5.62-5.68.
- 9.9 The Review Group considered that whilst the current operation TRO process meets the relevant statutory requirements, there are revisals that can be made to the process to ensure there is better validation in particular to ensure that the relevant stakeholders are consulted and to introduce additional scrutiny and a quality check on the consultation stage of the process and these are set out at Terms of Reference 1 at 5.7-5.13.
- 9.10 The Review Group recognised that while car parks are integral components of island lifeline ferry services, whether charges should be imposed should be considered on a case by case basis.

### RECOMMENDATIONS

It is recommended that:

- 9.11 The recommended improvements to the Council's current community engagement practice set out at Terms of Reference 6, paragraphs 5.45-5.47 above and appendix 4 be adopted.
- 9.12 The recommended improvements to the Council's current operational TRO process set out at Terms of Reference 1, paragraphs 5.7-5.13 be adopted.
- 9.13 The recommended improvements to the Council's current EqSEIA process set out at Terms of Reference 8, 5.62-5.68 be adopted.

**APPENDIX 3 – CONSULTATION COMMENTS AND PROPOSED RESPONSES  
(FOR ISSUE FOLLOWING CONSIDERATION BY THE AUDIT AND SCRUTINY  
COMMITTEE).**

**PROPOSED RESPONSE TO POLICE**

Comment	Response
<p>Consultation about these matters is quite lacking and many TROs are created without any notice to those who have an interest in them.</p>	<p>We follow all regulations in consulting on TROs. This review has identified that we are already exceeding requirements. However we are keen to build on this and will draw on the local knowledge of our community development officers to add relevant groups to TRO consultations.</p> <p>Police Scotland is a standard consultee, and is consulted from the very beginning of a TRO.</p>
<p>Suggest that the Council identify all possible stakeholders and bring them together at a meeting to discuss the subject of TROs. Maybe a meeting could be held say every six months.</p>	<p>As mentioned above, we follow regulations in contacting stakeholders and are taking steps to exceed requirements more than we already do.</p> <p>We welcome interest from stakeholders in giving time to considering TROs. The timescale and frequency of TROs would not match a six monthly cycle. As public safety can be a key driver for TROs we must have a process that enables TROs to be in place in a timely manner. The steps we are taking to develop involvement in TROs are outlined in this report.</p>
<p>As different stakeholders have different areas of expertise, as mentioned above, bringing them together at regular meetings would be useful.</p>	<p>We very much welcome in-put from a range of stakeholders. Our consultation process is based on regulations, and we are taking steps to exceed requirements further than we already do, in order to benefit from a wide ranging in-put as possible.</p>
<p>Identify representatives from various organisations that can bring different areas of expertise to the table.</p>	<p>As above.</p>
<p>Work with community councils and get them involved so that they can give a voice to local residents</p>	<p>Community councils are not a statutory consultee however when proposals are likely to affect persons they represent they will be included within our list of stakeholders for consultation 2.</p>
<p>Improve engagement with communities by working with community councils</p>	<p>See above</p>

and get them involved so that they can give a voice to local residents

## PROPOSED RESPONSE TO SPT

Comment	Response
<p>SPT officers ascertained from traffic regulation orders their impact to bus service provision and seek to work collaboratively with local authorities in this regard. SPT seek to be consulted on any works which may perhaps affect provision prior to the issuing of any respective traffic regulation orders, to mitigate for detrimental effects to bus service passengers during the planning of these works, which in turn holds the originator of the works accountable for any solutions to maintain links lost.</p> <p>Where prior consultation is not an option, <a href="#">Argyll and Bute Council</a> must take cogniscence that bus operators require to provide a minimum of 70 days notice to the Office of the Traffic Commissioner of any changes to bus service routes/timetables of over 21 days. Notification of works must permit this for either SPT subsidised bus services or commercial bus services except in circumstances outwith their control.</p>	<p>We have sought and welcomed SPT's in-put on regular, numerous TROs, and will continue to involve them in all relevant future TROs.</p> <p>SPT are consulted at the consultation 2 stage of the TRO process. This allows adequate notice as per the timescale highlighted</p>
<p>SPT seek engagement with emergency services and unelected members</p>	<p>Noted. We welcome the support of partners in reaching those potentially affected by TRO proposals.</p>

## PROPOSED RESPONSE TO OBAN AND DISTRICT ACCESS PANEL

Comment	Response
<p>Despite the existence of the Oban and District Access Panel (formerly Oban and District Disability Forum) being highlighted to various officers over the years and legislation being in place to liaise with such groups, up-to-date we have not been formerly consulted. We did give comments when the Draft Order was made public on a recent proposal but initially our comments were apparently ignored. Only intervention by a Councillor led to the requested dialogue taking place and our reasonable objections being addressed.</p> <p>Only recently has the Council agreed that we should be on the list of Consultees. This is a positive step and we look forward to having early involvement. Further, we particularly wish to have our observations properly considered and discussed and not summarily ignored.</p>	<p>We previously consulted with Oban and District disability forum on disabled bay orders, and would welcome their in-put into TROs more widely. We will include the group in TRO consultation where the proposals will affect those that the group represents.</p> <p>We appreciate groups taking time to consider and comment on TROs and fully consider all responses submitted. There can be differing views submitted to TROs, therefore it is not always possible to accommodate all views. We will make any reasonable adjustments possible.</p>
<p>The criteria setting out those who should be consulted are clearly set out in the Scottish Government procedures. It is important that these are fully complied with.</p> <p>Essential that the Officers promoting an order do not live in a remote bubble and liaise with local Argyll and Bute employees, possibly in other services, local Members to be made aware of all relevant groups which should be considered for consultation in a local area. Each local area will possibly have a unique list of more local groups which may not operate in other areas.</p>	<p>Officers follow all legislative requirements in progressing TROs. The legislation detailing who should be consulted with is set out in the 1999 Regulations.</p> <p>The review of the council's TRO process has highlighted that we already consult more widely than required by legislation.</p> <p>We are nonetheless keen to build on this and, subject to approval by the Audit and Scrutiny Committee, will include additional organisations in consultations.</p> <p>We already engage with relevant internal departments and local Members. As proposed within the review, linking in with the Community Development Officers will identify any relevant, additional groups that should be included.</p>
<p>There appears to be a number of possible steps missing in the current arrangements which, if addressed, could</p>	

<p>lead to a more “smooth” process.</p> <ol style="list-style-type: none"> <li>1. When considering a new Order the Officer should carry out an initial assessment as to who may be affected.</li> <li>2. A brief preliminary discussion with these parties can lead to salient points being highlighted at an early stage.</li> <li>3. The initial preliminary version of the Order should be prepared and circulated to a number of groups for their initial comments. These should be fully considered and if reasonable, be incorporated into the draft proposal.</li> <li>4. When the Draft Order is published for public comment the consultees should automatically be contacted at this stage and not left to find out second hand.</li> <li>5. Proper and full consideration of the observations made is required and this may lead to face-to-face discussions rather than receiving a remote email acknowledgement/dismissal.</li> <li>6. There must be clear and transparent evidence that all observations/objections have been fully and properly considered rather than the precise method which is currently employed</li> </ol>	<ol style="list-style-type: none"> <li>1. Officers already carry out an assessment as to who may be affected under the current TRO process.</li> <li>2. This is the purpose of consultation 2 in the Councils current TRO process.</li> <li>3. Under consultation 2 we issue schedules and plans and any further information where appropriate. This has proven sufficient for groups to submit comments on proposals. It would create inefficiencies if we issued a draft order only to receive comments that changed the proposals and the order had to be redrafted.</li> <li>4. As per the Regulations, all Consultees are provided with a copy of the public notice and are advised where the draft order will be available to view. Consultees are advised that objections are invited at this stage.</li> <li>5. Except where there are small numbers of objections, it would not be possible to meet individual objectors face to face. For example, Pier Road Dunoon, we received circa 8 objections and the local officer met with each objector to discuss and agree mitigation to the proposals. This process would be, within current resource, almost impossible to do for something like the Mull TRO which received 258 objections.</li> <li>6. When responding to objections, we make every attempt to ensure that every valid point raised is responded to. Not all objections received can be addressed by officers, however if considered valid, officers may recommend to the Area Committee that changes are made to the draft TRO.</li> </ol>
<p>They bring a real local appreciation of local issues which Officers should listen to and not dismiss/ignore as being awkward/irrelevant as appears to be the situation on occasion in the recent past.</p>	<p>Comments noted. We would further comment that all submitted comments or objections are considered. Where comments and objections are submitted and changes are feasible and within the delegated authority of officers, the TROs are amended to reflect the request.</p> <p>Where objections are submitted and they are out with the delegated authority of officers it is for the Area Committee Members to decide whether or not to take these forward or not.</p>

<p>I would respectfully suggest that this question has been posed the wrong way. As previously indicated we consider that when the Council has done the preliminary order preparation it should liaise with various parties to see if there are any obvious reasonable tweaks which should/could be incorporated in to the published Draft.</p> <p>It is important that there is full discussion between the Community Representatives and Officers in respect of these issues and these are addressed at this stage rather than separate email discussions. It can be enlightening that local groups actually understand local issues being highlighted by others eg, only last week at a meeting to discuss the issues at Mossfield Park Oban, three groups separately all raised issues which were of concern to the access panel – significantly improved toilet provision, a safe disabled friendly route round the park perimeter and a viewing area set aside for those with a disability.</p>	<p>If it's considered appropriate for more complex TROs a meeting may be held, otherwise consultations will be carried out by letter or email where comments will be invited from relevant groups.</p>
<p>The Council has many fine words on its website as to what they think they do but the reality is actually different.</p> <p>When comments have been asked for then full consideration should be given. Officers must accept that the community can be correct in some instances. Further, they must on occasion accept that they have "got it wrong" and instead of arguing and defending their initial case and look for sensible solutions which may well have been outlined in the community's correspondence.</p>	<p>Where the proposal is officer led then we are open to discussions and incorporating proposals from groups where they are considered technically feasible.</p> <p>Where proposals arise as instructions from Council (for example parking charges), it is not always possible for officers to make significant changes to these proposals as they may include Council Policy, e.g. Fees &amp; Charges.</p>

## PROPOSED RESPONSE TO BID4OBAN

Comment	Response
<p>As far as BID4Oban Ltd are concerned we have not been involved in any consultations regarding TRO's in Oban over past years. As the Business Improvement District of Oban we would request that we are consulted on all TRO's going forward.</p>	<p>We follow statutory regulations on consultees, and included Bid4 Oban in the TRO consultation for the proposed on street no waiting Order, within which they did offer comment on the proposals. We would welcome increased input from the group so going forward will consult with Bid4 Oban where proposals are likely to affect their members.</p>
<p>Communication is key to the above. We would happily support the council in communicating any future TTRO's to our levy payers. We would also be happy to attend any meetings where parking issues are discussed and provide relevant feedback.</p>	<p>For TTROs the correspondence is provided for information only, and it's not consultation, in line with regulations. Notwithstanding this, where it is considered that proposals will affect any Bid4Oban members, we will engage with them.</p>
<p>Improved communication is essential. It would also be beneficial if as much information as possible is issued prior to any proposed changes. A positive dialogue and discussion around changes is also required. Communities do not like having changes imposed on them and would rather work together to resolve issues.</p>	<p>In consultation 2 we provide as much information as possible to the consultees to allow them to make an informed contribution. To build on this, it is proposed that the consultation letter will include the reasons and the rationale behind the proposal. If it's considered appropriate for more complex TROs a meeting may be held, otherwise consultations will be carried out by letter or email where comments will be invited from relevant groups, in line with regulations.</p>
<p>We can provide quality feedback and identify any risks and issues prior to issuing TTRO's.</p>	<p>Feedback would be welcome. Consultation 2 provides the opportunity to get involved prior to TTROs being published.</p>
<p>By engaging and having a meaningful dialogue both the council and stakeholders can have a united front thus ensuring that any changes can be quickly implemented.</p>	<p>Note the comments, however when dealing with groups with differing views experience shows that it is incredibly difficult to come to a single view on any topic. From experience in the past, even where public meetings have</p>

	<p>been held, we have been unable to achieve a single proposal which every group was accepting of. It is inevitable that some sort of compromise will be required. It's rare that the compromise is accepted by all.</p>
<p>The council does engage relatively well with communities. Improved use of social media is key.</p>	<p>We want to do all possible to ensure that people potentially affected by proposals have an opportunity to influence them. We would therefore not promote TROs on social media given the reach of these channels (to high numbers of geographically wide-spread people), this risks influence of people unaffected by the proposed changes outweighing the influence of the communities who would be affected by the proposed change.</p>

## PROPOSED RESPONSE TO INDIVIDUAL CONSULTEE 1

Comment	Response
Officers need to get Members and the public to understand that a properly prepared Traffic Order is a lengthy process and cannot be achieved in a few weeks	We will take steps to explain the TRO process, by putting information on our website, and promoting this to employees and the public.
Officers must question if a TO is an actual solution or appropriate	Agreed – TOs are only progressed where there is a clear and appropriate purpose.
Officers must consider the justification for the promotion of an Order and that it must be for a genuine reason and not hide behind the glib phrase 'Traffic Management', as some recent proposals are basically a means to gain revenue	We will revise the consultation letter template to include the purpose of the TRO.
Officers need to accept that sometimes the public and consultees are correct and their concerns need to be listened to, and not swept aside.	We appreciate and consider views put forward by our communities, and make adjustments to TROs where possible. Where there are differing views among communities, it is not possible to accommodate all perspectives.
Officers need to accept that there can be consequences of their proposals which they may not have recognised. An example may be the introduction of exorbitant parking charges which can create a significant increase in non-charging street congestion ( as was forecast by many respondents ) but the level of displacement has led to more dangerous situations regularly occurring ie Rockfield Road, Oban.	Where proposals arise as instructions from Council (for example parking charges), it is not always possible for officers to make significant changes to these proposals as they may include council policy.
Officers carry out an independent initial assessment of the alleged problem and determine what may be required to be addressed	This happens in line with regulations
Contact a few relevant local groups or organisations, Community Council, Bus Company etc., to determine their initial thoughts on a proposal.	We follow the Regulations when contacting consultees for comments in relation to proposals. This review has identified that we already exceed legislative requirements;

	however we are keen to build on this and propose to draw on the local knowledge of community development officers in identifying relevant groups for inclusion in consultations.
Prepare a Draft Order which should, if possible incorporate the points raised from the above consultation.	Wherever possible, we make adjustments in line with responses to consultations. Where we receive differing views, it will not be possible to accommodate all perspectives.
Publish notice of the above Draft Order and simultaneously contact all the required statutory consultees which have been established in a local area.	This step already takes place in the Council's current operational TRO process.
Properly assess objections from the individual responses and determine if there are solutions. To have transparency there needs to be full dialogue and not the process which currently exists.	Except where there are small numbers of objections, it would not be possible to meet individual objectors face to face. For example, for Pier Road in Dunoon, we received circa 8 objections and the local officer was able to meet with each objector to discuss and agree mitigation to the proposals. This process would be, with the current resources, impossible to do for a TRO such as Mull which received 258 objections.
Often this dialogue leads to a greater understanding by both the Objector and the Officer and acceptable common ground can often be found. Assuming that the compromise does not lead to a more onerous Order being considered the agreement of parties can lead to the Order proceeding.	We would be very keen to reach agreement with all concerned with a TRO and will take the steps outlined in this report to ensure this happens wherever possible.
The current arrangement of objections being assessed and considered by Members on a précis form in private is not acceptable. I am also aware of a recent Order where objections had been summarised and the objector did not consider them to be fair and reflect the points he was trying to make	All objections submitted are considered fully, in line with regulations. Unresolved objections are summarised and a report is submitted to the Area Committee with recommendations. Members may, if they wish request copies of all the objections for their consideration.
To fully consider objections in a transparent manner there is a need to have a system similar to those applied by the Planning Service and have a type of Hearing. This could ideally be a panel of Councillors from out with the area and local Members would be allowed to speak, either in favour or against, all the elements of the proposed Order which are being considered	The Planning Protective Services and Licensing Committee is being considered as more appropriate committee for TROs to be considered.

**RESPONSE TO INDIVIDUAL CONSULTEE 2**

Comment	Response
<p><b>Reason for Traffic Regulation Orders (TROs)</b></p> <p>TROs are an exercise of the Roads Authority’s legal power to limit the freedom of drivers, for example, to drive at excessive speed, or to park in a way that adversely affects other road users. They can also be used to introduce charges for parking in order to influence how parking spaces are used. The underlying reason for these powers is to improve safety and traffic flow. There are two locations where TROs may apply.</p> <ul style="list-style-type: none"> <li>• On roads, which the public have a legal right to use. The TRO can limit that right.</li> <li>• On land owned or leased by the Roads Authority to form off street car parking for traffic management reasons. The TRO establishes management rules which may include charges for the use of the parking places.</li> </ul>	<p>Agreed. The key drivers for introducing a TRO are road safety, and efficient traffic management.</p>
<p><b>Procedure for Promoting TRO</b></p> <ul style="list-style-type: none"> <li>• Identify issue to be addressed: usually a traffic or road safety issue.</li> <li>• Consider policy and strategy. Eg parking strategy usually encourages long stay parking on periphery of towns with short stay parking in town centres.</li> <li>• Officers design TROs to meet objectives. This may require consultation with affected groups.</li> <li>• Draft Traffic Regulation Orders implementing the strategy should be assessed against the strategy and against the requirements of Sections 32 and 45 of the Road Traffic Regulation Act 1984.</li> <li>• In order to do this in a consistent manner across the council area promotion of TROs should be</li> </ul>	<p>Agreed. TROs must have clear aims and comply with all legislative requirements.</p> <p>Agreed too that TROs should be considered consistently, and that a single committee would support this: to support this, the proposal is that TROs are considered by the PPSL Committee.</p>

<p>approved by the Environment, Development and Infrastructure Committee (EDIC)</p>	
<p><b>Consultation on Draft TROs</b></p> <ul style="list-style-type: none"> <li>• Consultation 1 goes to Emergency Services, public transport officer and Head of Planning(?) (Access Panel?)</li> <li>• If necessary draft TROs are modified until consultees are content.</li> <li>• Consultation 2 goes to wide list of consultees and is advertised for public comment.</li> <li>• Officers consider objections and write to objectors either (a) explaining why the objection is not considered sufficient to modify the order or, (b) detailing how the TRO will be modified (made less onerous) to take account of their objection or, (c) withdraw the part of the TRO being objected to.</li> <li>• Where objectors choose to maintain their objection there should be a hearing by a committee of between six and eight Members appointed from a standing panel of twelve Members nominated for that purpose by the EDIC. This committee can decide to make the TRO unaltered, make the TRO with changes to reduce the impact, or to abandon the TRO.</li> </ul> <p><b>The Importance of Procedure</b>  Consulting prior to drafting the TRO and considering objections should not be considered an inconvenient delay. Rather it is an important tool for improving the quality of the final TRO. It is far better to take the time to get the TRO right than to plough on with measures which worsen traffic and safety outcomes, damage the Authority's reputation and eventually have to be undone.</p>	<p>Agreed that TROs benefit from in-put from a wide range of relevant contributors.</p> <p>We have identified proposals for developing our approach to consultation.</p>

**APPENDIX 4 - NATIONAL ENGAGEMENT STANDARDS SUGGESTED IMPROVEMENTS**

STANDARDS	CURRENT PRACTICE	IMPROVEMENTS
<p><b>Inclusion:</b> We will identify and involve the people and organisations that are affected by the focus of the engagement.</p>	<p>As per current procedure and consultee lists. Community councils and other relevant organisations that the department are aware of are invited to comment at Stage 2 of the process.</p>	<p>Include Community Development Officers to validate non prescribed consultees where relevant to facilitate a fair and transparent process</p>
<p><b>Support:</b> We will identify and overcome any barriers to participation.</p>	<p>Allow additional time to respond and provide further detail on proposals, if requested.</p> <p>No requirement to carry out an EQSEIA at TRO stage</p>	<p>Improve consultation letter to encourage participation.</p> <p>EQSEIA process at strategic and policy level to be strengthened and promoted.</p>
<p><b>Planning:</b> There is a clear purpose for the engagement, which is based on a shared understanding of community needs and ambitions.</p>	<p>Plan proposals based on Officer knowledge, data (traffic/speed surveys, accident analysis etc.) Local Member input or Community Council requests.</p> <p>The engagement always has a clear purpose i.e. to consult on the proposed TRO.</p>	<p>Include Community Development Officers to validate non prescribed consultees where relevant to facilitate a fair and transparent process.</p>
<p><b>Working Together:</b> We will work effectively together to achieve the aims of the engagement.</p>	<p>Consultations inviting comments on proposals.</p>	<p>If required, meetings with community groups. Note that this will depend on what the proposal is (e.g. for a road safety issue additional engagement may not be appropriate) and must be proportionate.</p>
<p><b>Methods:</b> We will use methods of engagement that are fit for purpose.</p>	<p>Engagement is planned as appropriate for each TRO but can include Letters, plans, and website. Occasionally drop-in events &amp; leaflets.</p>	<p>Improved letters, early engagement. Additional non-statutory engagement (where appropriate).</p>

		The level of pre-engagement will be determined by the extent or complexity of the proposed TRO and must be proportionate.
<b>Communication:</b> We will communicate clearly and regularly with the people, organisations and communities affected by the engagement.	Letters, plans, tables (schedules) etc. normally by letter. At stage 2 letters are sent out to key groups and organisations notifying them of the details of the proposed TRO, any proposed tariffs, vehicles affected etc. and is accompanied by a map which outlines the proposed affected areas.	Be more informative when consulting. Provide the details in more of a story form than legal/technical.  Poor response rate at this stage – communities have been asked to comment on suggested improvements.  Carry out plain-English check on consultation letters.
<b>Impact:</b> We will assess the impact of the engagement and use what we have learned to improve our future community engagement.	TROs are kept under review post implementation by a variety of officers. If it becomes evident that there are issues with a TRO then they may be amended or withdrawn.  As we have become aware of local groups (e.g. Friends of Loch Lomond) these have been added to our list of consultees.	TRO Review currently being undertaken assessing how to improve community engagement by the Council. Community input is being sought re improvements

## APPENDIX 5 – PROPOSED AMENDMENTS TO CONSULTATION LETTER

- Removal of the objections sentence '*when you will have an opportunity to lodge .... Procedures*' to see if this encourages a greater response at this stage of consultation.
- Inclusion of a paragraph making it clearer that comments received at this stage may contribute to the further development of the proposals prior to the draft TRO being finalised.
- Additional text to be incorporated within the consultation letter to better inform the consultees on the reasons for the proposals.

**APPENDIX 6 – PROPOSED REVISALS TO EQSEIA GUIDANCE (REVISALS  
SHADED YELLOW)**

**Argyll and Bute Equality and Socio-Economic  
Impact Assessment**

**[Insert revision date]**  
**Version 2.3**

**Contact: Jane Fowler**  
**Head of Customer Support Services**

<b>Version</b>	<b>Date</b>	<b>Amended</b>
2.0	25 June 2018	Complete review of EqIA (approved by SMT 25 June) in light of new legislation and scheduled review of policy
2.1	6 July 2018	Guidance includes Islands (Scotland) Act (2018)
2.2	18 January 2019	Edited to ensure protected characteristic of 'sex' is used instead of 'gender'
2.3	[Insert revision date]	Updated to provide additional guidance around the circumstances when an EqSEIA is required. Provide guidance and to signpost to resources to effective consultation. Clarification around publication of EqSEIAs. Additional wording around elimination of discrimination, inequality of opportunity and fostering good relations. Updated references to Services aligning to 2019 management restructure. Minor changes to EqSEIA form.

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## 1.0 Introduction

- 1.1 This guidance sets out the council's Equality and Socio-Economic Impact Assessment (EqSEIA) process, why we have one, and how it is used. The guidance is designed mainly for officers who are required to complete an EqSEIA but may also be of use to anyone else who has a role to play or an interest in the EqSEIA process or equalities, more generally.
- 1.2 People with roles to play include:
  - Chief Officers and Senior managers
  - Elected Members
  - Third Tier Managers
  - Fourth Tier Managers
  - Members of the HROD Performance and Improvement team
- 1.3 This guidance and associated documents replace the EqIA guidance and forms, approved by Council in December 2012.

## 2.0 Why do we do Equality and Socio-Economic Impact Assessments?

- 2.1 The EqSEIA process enables the council to demonstrate that it delivers on its obligations to pay due regard to issues relating to equalities and island communities.
- 2.2 The Equality and Socio-Economic Impact Assessment serves the following purposes:
  - It helps the officers who are designing a new proposal **to check** that they have considered all equalities implications, including socio-economic inequalities, as well as impacts on island communities.
  - It helps officers **to show** that they have considered all equalities implications, including socio-economic inequalities, as well as impacts on island communities.
  - It helps people who are interested in equalities, socio-economic inequalities, and island impacts **to see** that these have been considered, and how.
  - It **enables better / more informed consultation** around

proposals while they are still in development.

- It **enables better scrutiny** around decision making as issues around equalities and socio-economic inequalities are made more transparent.

2.3 To ensure that public authorities can demonstrate that they have paid 'due regard' to equalities issues, a record of the assessment process should be made publicly available. Thus, at the end of the EqSEIA process, a document is produced that can be clearly and quickly understood by people reading it; **this document will be published on the Council's website.**

### 3.0 Background

3.1 The Equality Act (2010) sought to harmonise discrimination law that previously had been covered in a range of separate pieces of legislation, and to strengthen the law to support progress on diversity. However, not all legislation contained within the Equality Act (2010) was enacted in 2010.

3.2 **Those parts of the** Equality Act (2010) **that relate to people** with 'protected characteristics' was enacted in 2010. **The** 'protected characteristics' are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Race
- Religion or belief
- Sex
- Pregnancy and maternity
- Sexual orientation.

3.3 Part 1 of the Equality Act (2010) was enacted by Scottish Government in late 2017, and came into force on 1 April 2018. Although in the legislation Part 1 is referred to as the Socio-Economic Duty, it is more commonly referred to as the **Fairer Scotland Duty**. The Fairer Scotland Duty seeks to tackle socio-economic disadvantage and reduce inequalities of outcome.

3.4 As a public authority, the council must consider equality issues when making **strategic certain types of** decisions. **See Section 6.** In addition

to considering the impact the council's activities might have on people with one or more of the nine protected characteristics listed above, there is now a requirement for the council to take into account socio-economic disadvantage. To that end, the impact strategic decisions have on the following should be considered:

- Mainland rural population
- Island populations
- Low income
- Low wealth
- Material deprivation
- Area deprivation
- Socio-economic background
- Communities of place
- Communities of interest

- 3.5 For more information see the Scottish Government's [Fairer Scotland Duty Interim Guidance](#)
- 3.6 In addition, we have a duty, which is set out in the Island (Scotland) Act (2018), to consider the impact of proposals on island communities. Thus, the EqSEIA incorporates consideration of island communities within the wider impact assessment process.
- 3.7 The council has carried out Equality Impact Assessments for a number of years. Equality and Diversity Impacts were developed and approved in the 2000s. These were subsequently updated in light of the Equality Act (2010) and the updated EqIA was approved by council in December 2012.
- 3.8 In light of changes to the Equality legislation and the introduction of the Islands (Scotland) Act, the EqIA process has been reviewed and updated again, in 2018. This review has resulted in the EqSEIA process.

## 4.0 What has changed?

- 4.1 Key changes between the previous and current versions of the impact assessments are:
- The content of the impact assessment has been altered to take account of the Fairer Scotland Duty and the Islands (Scotland) Act (2018).
  - Instead of having two forms (Rapid Impact Assessment and Full EqIA), there is now a single form to be completed.

- The guidance and form have been produced as separate documents. This is intended to increase the readability of the **completed EqSEIA form**.
- HROD no longer has a quality assurance role in the process, although completed EqSEIAs should be sent to HROD (Performance and Improvement) once a proposal has been approved for collation as evidence for audits **and publication on the council's website**.

## 5.0 How to use this guidance

- 5.1 This guidance is designed to help you to understand the council's EqSEIA process and roles and responsibilities within it. This section summarises the steps to be followed when carrying out a EqSEIA and should be read in conjunction with Appendices 1 to 4:
- Appendix 1: Glossary.
  - Appendix 2: Sample form, with annotated notes.
  - Appendix 3: Process Map for EqSEIA.
  - **Appendix 4: Consultation and the EqSEIA.**
- 5.2 Work on the EqSEIA should take place in parallel with your proposal as it is designed to ensure that active consideration is given to equalities and island communities throughout the development and decision-making processes.
- 5.3 Carrying out an Equality and Socio-Economic Impact Assessment is an iterative process. Depending on the answers you develop at any particular step in the process, you may find that you have to return to an earlier step to revise or refine your proposal and EqSEIA.
- 5.4 The amount of effort put into completing the EqSEIA should be proportionate to the intended impact of the proposal being assessed.
- 5.5 The steps involved in following the EqSEIA process are outlined in Table 1. See also Appendix 3.

**Table 1: Summary of steps involved in carrying out EqIA**

Step 1	<p>Determine whether an EqSEIA is required for the proposal. <b>See Section 6.</b></p> <p><b>If officers are of the opinion that an EqSEIA is not required, a note to this effect must be put in the implications section of any covering report against the Equalities / Fairer Scotland Duty heading. A <b>similar</b> statement must also be included in any consultation <b>report</b> that is produced in connection to the</b></p>
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	<b>proposal.</b>
Step 2	Identify the purpose of the proposal and who should be involved in carrying out the assessment
Step 3	Identify the evidence needed to carry out the EqSEIA
Step 4	Assess the impact(s) that the proposal will have on the various groups covered by the Equality Act (2010), including those covered by the Fairer Scotland Duty. These include island communities. Consider both service users and employees. (You may wish to consider, for example, how specific groups are affected by the accessibility of facilities and information, or the availability of transport.)
Step 5	Identify any negative impacts the proposal is likely to have, and consider how these will be addressed.
Step 6	Develop monitoring and evaluation plans.
Step 7	Complete the EqSEIA documentation. <ul style="list-style-type: none"> <li>Officers may find it easier to complete the form as they work through the previous steps, or they may wish to leave completion until this point.</li> </ul>
Step 8	Sign off the EqSEIA by the appropriate officer, and attach it to the proposal. <ul style="list-style-type: none"> <li>Normally the appropriate officer will be the Head of Service.</li> <li><b>The EqSEIA must accompany the proposal through the approval process.</b></li> <li>If consultation is carried out after initial approval, as further iterations of a proposal are developed, the EqSEIA must be included as part of any documentation provided as part of that consultation.</li> </ul>
Step 9	When a decision regarding the proposal has been made, send a copy of the completed EqSEIA to HROD (Performance and Improvement): <a href="mailto:equality@argyll-bute.gov.uk">equality@argyll-bute.gov.uk</a> .
Step 10	Carry out a review of your EqSEIA whenever your proposal is reviewed and / or updated.

## 6.0 When is an EqSEIA required?

6.1 You **must** carry out an EqSEIA for the following things:

- **Policy:** new or reviewed
- **Strategy:** examples of when an EqSEIA is required include:
  - Preparation of the Local Development Plan

- City deals or other major investment plans
- Preparing legislation
- Development of new strategic frameworks
- Development of significant new policies or proposals
- Preparation of an annual budget
- Major procurement exercises
- Decisions about the shape, size and location of the estate
- Preparing a Local Outcomes Improvement Plan as part of a CPP
- Preparing locality plans
- Preparation of a Corporate Plan
- Commissioning of service
- Note that this list is not exhaustive. Even if your strategy is not listed here, you may still need to carry out an EqSEIA.

- **Changes to service design and the way services are delivered**

**6.2** If you are not sure whether you need to complete an EqSEIA, you should think about:

**(1) Is your proposal a strategy that is of equivalent scale to those listed above?**

If yes, then you must complete an EqSEIA.

**(2) Is your proposal covered by an EqSEIA that has previously been completed at policy or strategy level?**

If the answer is 'yes', you may not need to carry out an EqSEIA.

However, it is still good practice to consider whether specific groups will be adversely affected by your proposal and its implementation. It is also good practice to check that the policy/strategy has an up-to-date EqSEIA.

**6.3** Across the organisation, there is confusion about how we describe things. Some plans are strategies; some policies are procedures. This is confusing and may make it hard to decide when EqSEIAs are required. To further clarify when EqSEIAs are required, see Table 2.

**Table 2:**

Type of proposal/document	Is an EqSEIA required?
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Type of proposal/document	Is an EqSEIA required?
<p><b>Policy</b></p> <p>An explanation of how we, as an organisation, will behave, and the rationale for that behaviour.</p>	EqSEIA required.
<p><b>Strategy</b></p> <p>What we want to achieve, usually over an extended period of time. A strategy may give an indication of the types of things we wish to do to reach our goal.</p>	EqSEIA required.
<p><b>Service redesign and changes to the way a service is delivered</b></p>	EqSEIA required.
<p><b>Plan</b></p> <p>Sets out detailed actions we will take to deliver our policy / strategy.</p>	<p>An EqSEIA may be required, depending on whether there is a separate strategy document.</p> <p>Note, though, that specific types of plans must have EqSEIAs done: these include the Argyll and Bute Outcome Improvement Plan and the Local Development Plan.</p>
<p><b>Procedure</b></p> <p>The steps we go through to deliver a policy. This is not a plan. This is more likely to be a description of the tasks that are involved in delivering a plan.</p>	EqSEIA is not usually required.
<p><b>Process</b></p> <p>Step-by-step instructions to carry out a task or tasks to deliver on a procedure.</p>	EqSEIA not required.
<p><b>Framework</b></p> <p>Usually a broad overview of something we do. Probably sits between policy and procedure.</p>	EqSEIA may be required.
<p><b>Progress reports, performance reporting and similar</b></p>	EqSEIA is not required.

**6.4** If you are still not sure whether you should carry out an EqSEIA, it is probably better to be on the safe side and do one.

Remember, if you decide that an EqSEIA is NOT required, you must be able to defend your position, and you are expected to record your reasoning in the relevant 'implications' section of any

**committee report.**

## 7.0 Roles and responsibilities

7.1 Members of each of the following groups have roles to play in the EqSEIA process:

- Chief Officers and Senior Managers
- Elected Members
- Third Tier Managers
- Fourth Tier Managers
- Members of the HROD Performance and Improvement team

These roles are described in more detail in Table 3.

**Table 3: Roles and responsibilities**

Who	What
Third Tier Managers	<ul style="list-style-type: none"><li>• May act as lead officer responsible for developing / reviewing the proposal. Lead officers are responsible for completing EqSEIA.</li></ul>
Fourth Tier Managers and other officers	<ul style="list-style-type: none"><li>• May act as lead officer responsible for developing / reviewing the proposal. Lead officers are responsible for completing EqSEIA.</li><li>• May provide input into the EqSEIA where there is relevant experience.</li></ul>
HROD	<ul style="list-style-type: none"><li>• May provide input into the EqSEIA where there are implications affecting staff</li></ul>
HROD Performance and Improvement	<ul style="list-style-type: none"><li>• Copies of completed EqSEIAs should be sent to HROD P&amp;I, where they will be retained as corporate evidence <b>and published on the council's website.</b></li></ul>
Chief Officers and Senior Officers	<ul style="list-style-type: none"><li>• Heads of Service act as 'appropriate' officers for the sign off of the EqSEIA document.</li></ul>

	<ul style="list-style-type: none"> <li>Other Chief Officers / Senior Officers may have scrutiny and approval roles.</li> </ul>
Elected Members	<ul style="list-style-type: none"> <li>Have scrutiny and approval roles where proposals go to committee or council for approval.</li> </ul>
Trades Union representatives	<ul style="list-style-type: none"> <li>May provide input into the EqSEIA where there are implications affecting staff</li> </ul>
Stakeholders	<ul style="list-style-type: none"> <li>Should be consulted as required as part of the EqSEIA process</li> </ul>
Development and Economic Growth	<ul style="list-style-type: none"> <li>May provide advice with regard to assessing socio-economic impact and impact on island communities.</li> </ul>
Community Development Officers	<ul style="list-style-type: none"> <li>May provide advice around consultation and engagement methods and how to reach stakeholder groups.</li> </ul>
Research and Engagement Officer	<ul style="list-style-type: none"> <li>May provide advice around consultation and engagement methods and how to reach stakeholder groups.</li> </ul>

## 8.0 Further Information

For further information and support around the EqSEIA process, contact HROD (Performance and Information) via: [equality@argyll-bute.gov.uk](mailto:equality@argyll-bute.gov.uk).

For further information and support around consultation and engagement:

- See Appendix 4.
- Contact Community Development Officers and/or Research and Engagement Officer
- Refer to resources available on the Hub (available only within the organisation): How to carry out a consultation: <http://intranet.argyll-bute.gov.uk/communicating/how-consultation> . This page includes a link to the council's consultation toolkit: [http://intranet.argyll-bute.gov.uk/sites/default/files/updated\\_consultation\\_toolkit.pdf](http://intranet.argyll-bute.gov.uk/sites/default/files/updated_consultation_toolkit.pdf) .

## Appendix 1: Glossary

**Active consideration:** Relates to 'due regard'. When making a decision, the public authority should actively think about whether there are opportunities to reduce inequalities caused by socio-economic disadvantage.

**Area deprivation:** Areas where there are concentrations of deprived households.

**Communities of interest:** refers to groups of people who share an identity or an experience. They do not need to live in the same area, however.

**Communities of place:** refers to people who are bound together because of where they live, work, visit, or otherwise spend a continuous portion of their time. This may include rural, remote and island areas.

**Due regard:** Due regard does not mean that there is an obligation to achieve a result. Public bodies are not required to reduce inequalities of outcomes as part of any decision made under the duty. There may be good reasons why it is not desirable or possible to seek to reduce inequalities in a particular case. However, the public authority should be able to demonstrate that it has considered options and why a decision has been made. Where there are no compelling reasons for not doing so, due regard would suggest that changes should be made.

**Inequalities of Outcome:** measurable differences for communities of interest or of place. Socio-economically disadvantaged households have a higher risk of experiencing negative outcomes.

**Low income:** There is no single definition or measure of low income. Some indicators suggest that low income is where individuals living in households receive below 60% of UK median income. Scottish Government's *Children in Families With Limited Resources Across Scotland 2014-2016* defines low income as 'household income below 70% of the Scottish median after housing cost'.

**Low wealth:** not having access to wealth (including for example, financial products, equity from housing, decent pension, accessible saving). People who have low wealth lack protection from socio-economic disadvantage.

**Material deprivation:** Inability to access basic goods and services.

**Proportionality:** How much regard is due will depend on the relevance of the decision to the scale of the socio-economic disadvantage and inequalities of outcome in relation to each strategic issue.

**Proposal:** Within this guidance and related documentation, 'proposal' refers to any decision that requires approval at board level or above.

**Protected characteristics:** The protected characteristics covered by the Equality Act (2010) are: age; disability; gender reassignment, marriage and civil partnership; race; religion or belief; sex; pregnancy and maternity; sexual orientation.

**Socio-economic background:** Relates to the context in which a person has been raised or in which they live. Disadvantage may arise from parents' education, employment and income (social class).

**Socio-economic disadvantage** means living on below average incomes, with little accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services. Socio-economic disadvantage can be experienced in both places and communities of interest, leading to further negative outcomes such as social exclusion.

## **Appendix 2: Sample form, with annotated notes**

## Argyll and Bute Council: Equality and Socio-Economic Impact Assessment

### Section 1: About the proposal

#### Title of Proposal

This should be a written title that has some immediate meaning to the reader.

#### Intended outcome of proposal

Describe in a single sentence what the intended outcome of the proposal is.

#### Description of proposal

This should be no more than a few paragraphs that will give the reader an overview of what the proposal is about.

#### Business Outcome(s) / Corporate Outcome(s) to which the proposal contributes

**Lead officer details:** The lead officer is the person who has been charged with carrying out the EqSEIA. Normally, this would be the person developing the proposal.

Name of lead officer	
Job title	
Department	

**Appropriate officer details:** The appropriate officer is normally the Head of Service for the Service in which the proposal is being developed.

Name of appropriate officer	
Job title	
Department	

Sign off of EqSEIA	Signature of the appropriate officer to confirm they approve the EqSEIA as completed
Date of sign off	

#### Who will deliver the proposal?

List the partners / services / teams that will deliver the proposal.

### Section 2: Evidence used in the course of carrying out EqSEIA

#### Consultation / engagement

Consultation / Engagement (give details of individuals / groups who have been consulted and results of the consultation; when consultation took place and methods used. This section should include details of consultation with partners).

See also Appendix 4.

### Data

Data sources referred to in the process of carrying out the EqSEIA may include those suggested in the **Fairer Scotland Duty Interim Guidance** document or the **Scottish Government Equality Evidence Finder**. These, and any other sources you use (including internal and external data sources) should be referred to here.

### Other information

Other research (data sources consulted/accessed)  
Existing documents that have been used to inform EqSEIA

### Gaps in evidence

Gaps and uncertainties. (Areas for particular attention when monitoring (see below) need to be included in monitoring and evaluation arrangements).

## Section 3: Impact of proposal

In this section, and based on the evidence you have identified in Section 2, you will check the boxes that best describe the impact(s) that you think your proposal will have on the groups listed.

With regard to the protected characteristics, you should consider whether your proposal will have any impact on the:

- Elimination of unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010
- Advancement of equality of opportunity between people who share a relevant protected characteristic and those who do not
- Fostering of good relations between people who share a protected characteristic and those who do not.

In addition to the protected characteristics set out in the Equality Act (2010), there are nine categories that relate to the Fairer Scotland Duty. More information about these is given in the guidance.

The Islands (Scotland) Act requires that, when you consider impacts on island populations, you bear in mind that proposals may affect different island communities in significantly different ways.

### Impact on service users:

	Negative	No impact	Positive	Don't know
<b>Protected characteristics:</b>				
Age				
Disability				
Ethnicity				

	Negative	No impact	Positive	Don't know
Sex				
Gender reassignment				
Marriage and Civil Partnership				
Pregnancy and Maternity				
Religion				
Sexual Orientation				
<b>Fairer Scotland Duty:</b>				
Mainland rural population				
Island populations				
Low income				
Low wealth				
Material deprivation				
Area deprivation				
Socio-economic background				
Communities of place				
Communities of interest				

**If you have identified any impacts on service users, explain what these will be.**

--

**If any 'don't know's have been identified, at what point will impacts on these groups become identifiable?**

Insert information here regarding when you will be able to identify the proposal's impact(s) on those groups where impact is currently unknown.  
 Note that you should consider these groups in more detail when completing Section 5, relating to monitoring and review.

**Impact on service deliverers (including employees, volunteers etc):**

	Negative	No impact	Positive	Don't know
<b>Protected characteristics:</b>				
Age				
Disability				
Ethnicity				
Sex				
Gender reassignment				
Marriage and Civil Partnership				
Pregnancy and Maternity				
Religion				
Sexual Orientation				
<b>Fairer Scotland Duty:</b>				

	Negative	No impact	Positive	Don't know
Mainland rural population				
Island populations				
Low income				
Low wealth				
Material deprivation				
Area deprivation				
Socio-economic background				
Communities of place				
Communities of interest				

**If you have identified any impacts on service deliverers, explain what these will be.**

**If any 'don't know's have been identified, at what point will impacts on these groups become identifiable?**

Insert information here regarding when you will be able to identify the proposal's impact(s) on those groups where impact is currently unknown. Note that you should consider these groups in more detail when completing Section 5, relating to monitoring and review.

**How has 'due regard' been given to any negative impacts that have been identified?**

If you have identified any negative impact(s) on any of the groups listed in the tables above, you need to explain your justification for continuing with the proposal and why it cannot be amended or changed without compromising its intended outcome.

#### Section 4: Interdependencies

<b>Is this proposal likely to have any knock-on effects for any other activities carried out by or on behalf of the council?</b>	Y/N
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**Details of knock-on effects identified**

In addition to describing knock-on effects, you should also include information about how you have engaged with those individuals / groups responsible for delivering activities upon which the proposal will have impact.

#### Section 5: Monitoring and review

**Monitoring and review**

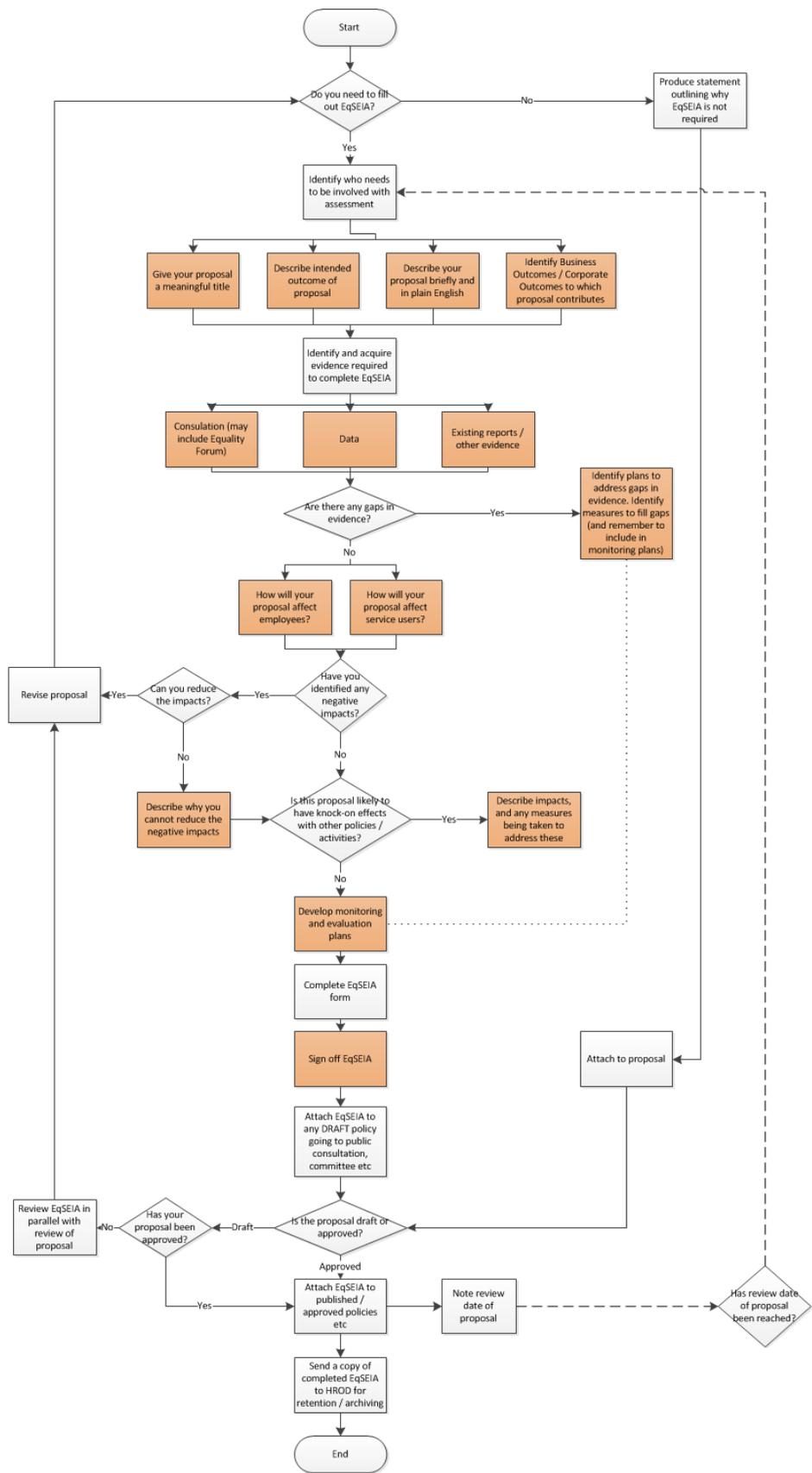
How will you monitor and evaluate the equality impacts of your proposal?

You should monitor your proposal as it is being delivered to ensure that the impacts are as expected. If they are not, what will you do to address the difference?

Include dates of scheduled monitoring activity relating to the EqSEIA.

In your monitoring arrangements, you should pay particular attention to any impacts you can identify on groups where you have recorded 'Don't know' in Section 3.

# Appendix 3: Process Map for EqSEIA



Note:  
Anything in orange relates to fields in the EqSEIA form.

## Appendix 4: Consultation and the EqSEIA

### A4.1 When and how to consult when carrying out an EqSEIA:

For all proposals identified as needing an EqSEIA:

- If you are carrying out a questionnaire or survey as part of the development of your proposal, include a question about the likely impact of the proposal on the various groups included in the EqSEIA. (See Section 3 of the EqSEIA form.)
- If you are not carrying out a questionnaire, you should still consider whose feedback you need and capture their views on the standard EqSEIA form.
- 

### A4.2 Who to consult:

As a minimum, consider if you need these views when consulting:

- Employees
- External/service user groups
- The council's Equality Forum
- Community councils

All policies that involve employees must be considered by Trades Unions.

### A4.3 Encouraging responses:

Avoiding consultation fatigue is vital in encouraging a good level of response to your consultation:

- Contact the council's Research and Engagement Officer to check the best timing for your consultation and to avoid clashes with other council consultation exercises that target the same people.
- If other council services are carrying out similar/same consultations at the same time, consider how to join up or better co-ordinate consultations.

### A4.4 What to do with consultation findings:

- If council officers, based on their knowledge of their service and their service users/delivers, and/or the public believe there would be an impact, this must be reflected in the EqSEIA, particularly in Section 3, relating to 'due regard'.
- If neither council officers nor the public see an impact, complete the EqSEIA to reflect this.

## A Guide for Consultation on Traffic Regulation Orders (TROs) for Community Organisations

### What are Traffic Regulation Orders (TROs)?

Traffic Regulation Orders are legal orders put in place to control speed, movement and parking of vehicles.. You can view any proposed traffic regulation orders we have for our roads at <https://www.argyll-bute.gov.uk/trafficorders>. You can find out about any traffic regulation orders on Trunk Roads on the Transport Scotland website: <https://www.transport.gov.scot/transport-network/roads/road-orders/#>

### Why would a TRO be needed?

The Traffic Regulation Order process is outlined in legislation and there are a number of reasons why they might be required. The following list provides some examples but is not exhaustive:

- To deal with a safety issue
- To improve flow of traffic
- Management of car parks
- Designated parking bays (e.g. disabled bays)
- Speed limits
- Prevent damage to a road (e.g. introduction of a weight limit)
- Preserve or improve the amenities of an area.

**What is the TRO consultation process—what happens before a decision is made?**

The need for a TRO is identified

### **Stage 1 consultation**

Police Scotland are the statutory consultees at Stage 1.

Subject to comments received from Police Scotland, proposals are drafted.

### **Stage 2 consultation**

Other public sector organisations like Scottish Fire & Rescue and key community organisations who represent communities that are likely to be affected are asked for comments. This is a chance for them to feed in their thoughts on the proposal before it goes out for public consultation. The proposals are not set in stone at

this point and community input can help shape the final draft of the TRO. We are keen to work with partners and communities to help make sure we design the best proposal to go out to public consultation. If you are a Stage 2 consultee group then it is really important that you engage at this stage.

Draft TRO is prepared

### **Stage 3 consultation**

The final draft TRO goes out for public consultation and this is open to any organisation, group or person. At this stage objections to the proposal can be submitted.

## Can I comment on a proposed TRO?

If you are part of a community organisation and we write to you as part of our Stage 2 consultation, then your organisation should seek comments from its members before submitting the group response. If we hold workshops as part of the consultation process we will notify community councils of any workshops—they can help publicise the opportunity for the community to engage with us.

At Stage 3, the consultation is opened up to any organisation, group or person. We publicise this by circulating the Notice in a local newspaper, on the Councils' website and Tell Me Scotland. Copies of the draft Order can normally be viewed at the appropriate Council Service Points or Libraries or other public building (e.g. Post Office). The draft TRO is also available for viewing on the Councils website.

## Can I include comments about other traffic issues when commenting on a TRO?

The TRO process is a statutory process followed when a specific action is being proposed. The TRO cannot be altered to include other traffic issues although any concerns may be submitted to the Council through a service request or through the complaints procedure.

## How will I know my comments are listened to?

We consider all suggestions made by all partners during the TRO process—sometimes, at Stage 2, conflicting views might come in from different partners, or there may be a practical reason why a suggestion can't be taken forward. We will consider all community input but it is not always possible to incorporate all suggestions that come in. Stage 3 consultation is open to anyone in the community who wishes to object to the proposed TRO.

## How will I find out what the outcome is

If you are a Stage 2 consultee, then we will send you notification when we move to Stage 3. Permanent Traffic Orders that have come in to place within the last six months, and proposed Traffic Regulation Orders, can all be found on our website: <https://www.argyll-bute.gov.uk/trafficorders>