

Meeting	Policing Performance Committee
Date	9 March 2021
Location	Video Conference
Title of Paper	TTRO Lessons Learned Report
Presented By	COSLA/ Police Scotland
Recommendation to Members	For Information and Comments
Appendix Attached	No

PURPOSE

To provide members of the committee with a summary of the organisational learning from the TTROs resolution process. As well as proposed actions and an overview of engagement mechanisms that can be used to prevent similar issues in the future.

1. BACKGROUND

1.1 Temporary Traffic Regulation Orders (TTROs) - Resolution Process

- 1.2 PPC members will recall that a legal impasse on TTROs emerged between Local Government and Police Scotland in October, 2017 on the use of Temporary Traffic Restriction Orders (TTROs). This occurred after Police Scotland communicated through correspondence to Local Authority Chief Executives that they would be changing their role in relation to TTROs, based on a legal opinion they had obtained.
- 1.3 In response a number of COSLA's member councils were highly concerned about this matter in relation to the organisation of local events across the country and public safety. As a result, COSLA with the support of key advisers from SOLAR (LA Heads of Legal Services) and SCOTS (LA Heads of Transport), along with Police Scotland managed to resolve this contentious issue collaboratively by agreeing to establish a tripartite group with the Scottish Govt.
- 1.4 The tripartite group was set up to address the legal stand off between Local Government and Police Scotland through the development of a shared position. Progress from this group was reported to the COSLA Community Wellbeing Board, COSLA Police Scrutiny Conveners Forum and the SPA till completion.
- 1.5 The TTROs Tripartite group agreed to jointly seek an independent legal opinion that all would comply by through enlisting the services of Gerry Moynihan QC. This was a first move of this type, and enabled a consensual position to be reached, one which validated the concerns of local authorities.
- 1.6 Following on from this legal opinion a position statement was drafted by SOLAR with lawyers from Police Scotland. This included a great deal of the legal opinion provided by Gerry Moynihan QC, as well as extracts from the report produced by Dr Michael Rosie on Marches and Parades (2016).
- 1.7 Due to the unprecedented impact of the COVID 19 pandemic from March, 2020 there was hiatus on work to complete the documentation produced by SOLAR and Police Scotland, until

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further comments and feedback were received in September from the Scottish Govt.

- 1.8 The finalised position statement on TTROs was agreed by the TTROs Tripartite Group in October, 2020 and was politically approved by COSLA's Community Wellbeing Board in November, 2020. The completion of this collaborative position statement document by Police Scotland and Local Government marked the conclusion of a lengthy piece of work by the TTROs Tripartite Group over a considerable period of time.
- 1.9 Further to this collaborative work, a short life working group chaired by Michael Rosie on behalf of the Scottish Govt was established in late 2020 with the task of revising Scottish Govt guidance on marches and parades that Local Govt and Police Scotland both participated on.

2. Organisational Learning from the TTROs Legal Impasse

- 2.1 The consequences of the TTROs dispute between public sector partners meant that a considerable amount of senior officer time and legal costs were incurred by Police Scotland/SPA, Local Govt and the Scottish Govt to resolve the issue over a three year period. However, the measured collaborative approach averted likely damaging court action and in resolving this out with the public forum avoided escalation of existing tensions with the marching community.
- 2.2 Some of the lessons learned from the TTROs dispute include the following:
 - Full engagement by all public sector partners with each other is required, before any legal advice is procured on a matter that has significant implications, including potential resource transfers for other public sector partners.
 - Engagement is conducted in a style that accommodates the organisational cultures of other partners, before any significant decisions are made that impact on other partners and the communities that they jointly serve.
 - The opinion of Gerry Moynihan QC answers a number of issues of wider significance for administrative law. For example, it highlighted the wider significance of Section 32

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(b) of the Police and Fire Reform (Scotland) 2012 which states 'police should work in collaboration with others, where appropriate'. This is a useful model for any future legislative review which is relevant to multiple partners.

- The resultant position, supported by senior counsel opinion, is not dissimilar to that which often applies in local partnership arrangements, where Local Authorities and Police possess 'overlapping powers' in this case concerning road traffic at pre-planned events, marches and parades. The wider message is that the selection of powers should depend on circumstances, and this depends on constructive local dialogue, which is outcome focussed, rather than restrained by national policy and with the overall aim of 'making the best, most efficient and efficacious use of the powers available to each of them'.
- Scottish Police Authority (SPA)/Police Scotland consider existing governance arrangements concerning the development of policy which could impact on partners and communities, such as the TTRO legal opinion and further consider the introduction of safeguards, which enable matters to be fully discussed and considered before executive action is taken.
- Moving forward, new and previously established engagement structures are effectively utilised by Police Scotland/SPA and Local Government in relation to any potential contentious or high-risk issues.
- The collaborative approach through the TTROs Tripartite Group was instrumental in helping to identify and resolve a number of other outstanding issues relative to traffic regulation, and helped to emphasise the importance of taking an ECHR-led approach to marches and parades. This has in turn led to further joint work to revise the Scottish Government's Guidance on Marches and Parades (completed) and is currently enabling the review of the specific implications of the TTRO opinion for commercial event operators. Furthermore, it has generated a live action, directed to Scottish Government, to consider the practicalities of potential legislative changes in a number of areas related to the statutory powers for traffic regulation, including to whom those powers are afforded.

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- Given the ongoing tensions amongst marching organisations in Glasgow, which eventually led to a review of parades by both Glasgow City and the Scottish Government and to unsuccessful court action by the Orange Order against Glasgow City Council, it was essential that underlying sectarian tensions were not inadvertently provoked. Resolving this in private and then using the lessons to inform the Scottish Government review of the Guidance was successful in avoiding this.
- 2.3 COSLA and Police Scotland may also suggest other elements of organisational learning at the meeting, after a version of this paper is considered by the COSLA Police Scrutiny Conveners Forum on 4 March for their feedback. As a result, a verbal update will be provided to the committee.

3 Proposed Actions to Prevent Future Similar Issues

- 3.1 To avoid future legal impasses or disputes on issues of shared interest similar to TTROs, it is proposed that some form of protocol is in place to enable issues to be dealt with at an Executive officer level between Police Scotland/SPA and Local Government through initial strategic engagement.
- 3.2 In addition, the following engagement mechanisms and structures are fully utilised locally and nationally where appropriate to avoid another costly and time consuming dispute occurring between partners escalating again.

Local Officer Structures

- Community Safety Partnership or Community Planning Partnership

Local Political Structures

- Local Police Scrutiny Forum

National Officer Level Structures

- Police Scotland-SOLACE-COSLA Senior Officer Engagement Meetings
- SPA Board and relevant committee

- SOLAR Steering Group

National Political Level Structures

- COSLA Police Scrutiny Conveners Forum
- COSLA Community Wellbeing Board
- COSLA Leaders

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications in this report.

5. PERSONNEL IMPLICATIONS

5.1 There are no personnel implications associated with this paper.

6. LEGAL IMPLICATIONS

6.1 There are no legal implications in this paper to those listed above.

7. REPUTATIONAL IMPLICATIONS

7.1 There are no reputational implications associated with this paper.

8. SOCIAL IMPLICATIONS

8.1 There are no social implications associated with this paper.

9. COMMUNITY IMPACT

9.1 There are no community implications associated with this paper.

10. EQUALITIES IMPLICATIONS

10.1 There are no equality implications associated with this paper.

11. ENVIRONMENT IMPLICATIONS

11.1 There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are requested to note and provide any comments or views on the paper.