

Report on	Consultation on the Review of the Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010
Date of Meeting	8 th September 2020
Reporting Officer	Fiona McClements

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	X

1.0	Purpose of Report
1.1	To inform Members of the Department for Infrastructure's consultation exercise on a review of the legislation associated with road closures for special events and to seek agreement for the draft consultation response to be forwarded to DfI.
2.0	Background
2.1	Further to many previous reports over the last few years, Members will be aware that <i>The Roads Miscellaneous Provisions Act (NI) 2010</i> was enacted by the Department for Infrastructure (DfI) in August 2010 and commenced on 4 September 2017.
2.2	<p>The above legislation enables Council to deal with requests to close public roads for special events in its area. Special Events are defined as:</p> <ul style="list-style-type: none"> Any sporting event, social event or entertainment which is held on a public road; or The making of a film on a public road (including making TV programmes, films or advertisements). <p>Special Events do not include the following:</p> <ul style="list-style-type: none"> Public processions; Motor road races; Cycle races or trials; or Road works
2.3	<p>The underlying principle in relation to special events on roads is that it would not be reasonably practicable to hold the event elsewhere. The restriction or prohibition of traffic using the public road will only be permitted for:</p> <ul style="list-style-type: none"> Facilitating the holding of a special event, or Enabling members of the public to watch a special event, or Reducing traffic disruption in adjacent streets
2.4	The enactment of this legislation, which permits the closure of roads for the holding of special events as outlined above, pre-dates the reform of local government in Northern Ireland when it was anticipated that the management of road

	infrastructure would be transferred to local government as an additional function under their control.
2.5	With this transfer of responsibility in mind, the aforementioned legislation was subsequently developed and drafted in a similar vein to the arrangements that were in operation in GB at that time, where roads infrastructure and traffic management was very different to the situation within Northern Ireland.
2.6	One of the reasons there was a very lengthy delay in the commencement of this legislation within Northern Ireland was that despite comprehensive engagement with stakeholders on the draft Order, considerable criticism from Councils remained. In fact, such was the continued opposition to the proposal that the then “Minister for Regional Development” deferred the commencement order amidst continued concerns from Council representatives.
2.7	In January 2017, the commencement order for the <i>Roads Miscellaneous Provisions Act (NI) 2010</i> was passed without further review or consultation with affected parties and Councils were left to implement the requirements of the legislation.
3.0	Main Report
3.1	Members will be aware that following the commencement of this particular piece of legislation, the issue of road closures for special events has been the subject of numerous committee papers and discussions arising from not only from the concerns of affected members of the public, sports clubs and other ‘not for profit’ organisations but also from council officers tasked with administering the road closure process.
3.2	Given the negative impact that the implementation arrangements started and continued to have on those wishing to promote and manage local events, the Council wrote to the Permanent Secretary in August 2018 seeking an urgent review of the legislation and its administration procedures in order to address the complexity of the application process, the costs associated with the implementation of traffic management plans and the financial burden that it places on event organisers. As similar issues and problems with the implementation of the road closure legislation was evident across Northern Ireland, a range of stakeholders continued to lobby the Department for Infrastructure for a review into its administration.
3.3	At the end of July 2020, the Department for Infrastructure launched a consultation exercise and review of the <i>Roads Miscellaneous Provisions Act (NI) 2010</i> (Appendix 1). The review letter seeks views on how specific special events on roads provisions are operating in practice, together with a request for supporting data as outlined therein.
3.4	The Department will accept responses either to an online survey monkey questionnaire (Appendix 2) or in writing via post or email. All responses must be submitted no later than 24 th September 2020.

3.5	Given that the survey monkey questionnaire is designed to capture general information across all stakeholders and does not facilitate Council in addressing our main concerns with respect to the legislation, a draft written response has therefore been prepared in preference to responding via the online form.		
3.6	In addition to stakeholder views on the implementation of the legislation, the Department's review letter requests a range of data on road closures from each Council.		
3.7	The draft response in Appendix 3 sets out the MUDC data requested by the Department for Infrastructure in addition to highlighting the key concerns that remain following Council's experience of administering the road closure process over the last few years, as summarised below.		
	<u>Requested Data for MUDC (1 January 2018 – 20 August 2020)</u>		
	Total number of enquiries received about special events	118	
	Total number of applications received for special events	33 <i>(this includes 1 event transferred to DfI in line with their guidance)</i>	
	Number of road closure orders made for special events	25	
	Types of events	Sporting	18
		Social / Entertainment	14
		Film	0
		Other	1
	Information on costs, as this is a fundamental difficulty being cited by those with concerns about events.	Average admin cost to Council in producing Order	£320 <i>(This cost is not fully recovered by Council, however the council's fee structure, £165 is recovered from a small percentage of applicants)</i>

		<p>Average advertising costs of Notice</p> <p>£221</p> <p><i>(this cost is recovered from all applicants by way of a fee)</i></p>	
	<p>Additional Work that is not cost recovered but absorbed by Council</p> <ol style="list-style-type: none"> 1. The costs of all Council work associated with dealing with enquiries – to date 118 have been received, many of which were complex and required research and liaison with other statutory agencies. <p>No fee is charged for advice and assistance.</p> <ol style="list-style-type: none"> 2. The time and costs associated with organising and chairing a Safety Advisory Group (SAG) involving officers from multiple council departments and statutory agencies for events. 		
	<p><u>Key Areas of Concern</u></p> <ol style="list-style-type: none"> 1. Council Role <p>The purpose of the legislation is to close roads to facilitate the holding of special events activities such as sporting and social activities; fun runs; street parties; Christmas lights switch on and the making of films etc. in a safe manner.</p> <p>This purpose is akin to the traffic management process already operated by Department for Infrastructure to control / manage the closure of roads for utility and other works associated with the public road, thereby not only ensuring the safety of other road users but also minimising the disruption to others who may be affected by proposed works.</p> <p>Council's role in making road closures for special events within the current legislative framework is purely administrative in nature, with very limited decision-making. The Council's administrative role is time consuming and involves:</p> <ul style="list-style-type: none"> • Assisting with pre-application queries • Validating and processing applications; • Drafting and publishing public notices in the local press to specify restrictions, highlight alternative routes and invite representations from members of the public; • Undertaking statutory consultation process with the relevant agencies; • Collating representations from interested parties and liaising with affected parties 		

- Seeking final consent from DfI for each application
- Drafting and issuing road closure orders

Whilst it is recognised there is a clear need for road safety on a public road and that all work associated with live traffic is a serious issue, it is Council's view that this legislative remit should fundamentally remain both with DfI (Roads) who have the necessary road safety and traffic management expertise to assess and process each application for closure and also with the PSNI who have the associated enforcement responsibility.

2. Costs and impact on event organisers

There has been considerable representation made to council officers and elected members by potential applicants in relation to the costs associated with applying for a road closure for special events.

There are significant costs to event organisers in seeking a road closure application, namely traffic management costs which can be significant; public liability insurance and advertisement fees. As many applicants are community groups and other organisations who operate on a not for profit basis, the council has now waived their administration fee so the cost is now absorbed on behalf of these applicants.

3. Costs to Councils

The resource implications to Council in administering the scheme are considerable and are not fully cost recovered through the process, as mentioned above. Additional costs exist over and above those associated with actual applications (as outlined in the table above) and they primarily relate to the queries and questions in relation to the process. These costs to Council not only include the time spend on dealing with the queries but also include the wider impact of diverting officer resource away from statutory and other functions that Council do have a clear legislative or enforcement role and input to.

4. Public Notification in the press

The road closure legislation prescribes that public notification be undertaken by way of advertisement in the public press. Although this element of the process is cost recovered by Council, it contributes to the significant costs that applicants, many of whom are operating on a not-for-profit basis for the benefit of the local community can ill afford. This cost could be eliminated through the use of advertisement via relevant websites of statutory agencies.

5. Inconsistency of approach

The process involved in DfI's remit for issuing road closure orders for utility works and closures to facilitate "off-road" special events, is much more streamlined and expedited than the more onerous one that Councils are

expected to complete under the *Roads Miscellaneous Provisions Act (NI) 2010* and associated guidance. Elected members may wish to consider whether DfI are better placed to administer the closure of roads in its entirety, rather than to split the administration with Councils.

6. Enforcement

Enforcement associated with road closures for special events is the remit of PSNI. As Councils do not have any decision making, monitoring or enforcement role under the legislation it is the Environmental Health department's opinion that local government may not be the best placed agency to administer the process.

7. Appeal Mechanism

Should final consent for an application for a road closure order be refused by the DfI following consultation with other agencies facilitated by Council, applicants have no redress via an appeal's mechanism. Given that Council engage with applicants and are responsible for informing them of the outcome of applications, Council may receive poor press and reputational damage in connection with a decision that they have not made.

8. Equality or Good Relations impact

The legislation although initially subject to an equality assessment in 2009/10 was enacted in 2017 without further assessment despite the revision of equality legislation. Given the representations made to council from various sectors of the community it would appear that the legislation has had more than a minor adverse impact on certain groups and further assessment and potential mitigations are likely to be necessary to reduce this inequality.

9. Small Scale Events

The DfI Guidance refers to exemptions for small events, however the scope of this exemption is sufficiently narrow to exclude many small scale community events that require a road closure for a very limited time or section of road.

Similarly, the implementation of the DfI guidance appears to have had a disproportionate effect on certain sporting organisations and events, such as small charity runs and regular sessions organised by small running clubs. A number of these road running events have either been relocated off-road or have not taken place due to the prohibitive nature of the traffic management and other costs.

4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: N/a
	Human: N/a
	Risk Management: N/a
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications:
	Rural Needs Implications:
5.0	Recommendation(s)
5.1	It is recommended that Members review the correspondence received from the Department of Infrastructure seeking views on the road closure legislation and agree the draft response.
6.0	Documents Attached & References
6.1	Appendix 1 – Letter of Consultation from Department for Infrastructure to Council - dated 24 July 2020
6.2	Appendix 2 – Hard copy of the survey monkey questionnaire
6.3	Appendix 3 – Draft Council response to the Department for Infrastructure’s review of the <i>Roads Miscellaneous Provisions Act (NI) 2010</i>