



Mr Peter May
Permanent Secretary
Department for Infrastructure
Departmental Co-ordination Unit
Clarence Court, 10-18 Adelaide Street,
Belfast, BT2 8GB

07th August 2017

Dear Mr May

Following detailed discussions at a recent SOLACE NI Meeting, I am writing as Chairperson of SOLACE NI to express concerns identified by local Councils in relation to The Roads (Miscellaneous Provisions) Act (Northern Ireland).

The Roads (Miscellaneous Provisions) Act (Northern Ireland) was enacted in August 2010; however, the provisions dealing with special events on roads were not immediately commenced as Department officials were working with Councils to develop guidance to assist in its implementation. In 2013, the then Minister for Regional Development chose to defer the commencement of the Act in relation to special events on roads amidst a number of concerns expressed by Councils in relation to the statutory provisions. In January 2017, the Commencement Order was enacted to introduce the Special Events on Roads requirements introduced by the Roads (Miscellaneous Provisions) Act (NI) 2010 from 4 September 2017.

Council officers have been engaging Department for Infrastructure staff, local TransportNI staff and PSNI to bring about the smooth introduction of this legislation but this has further raised a number of concerns, which are broadly summarised below:

1. Council Vires

Restricting or prohibiting traffic is essentially the responsibility of Transport NI and/or PSNI in Northern Ireland. Transport NI already have systems and procedures in place for processing applications of this type e.g. by Utility companies wishing to undertake infrastructure works. Although the legislation provides for Councils to be the responsible authority, it is questionable as to whether this is the best 'fit'.

2. Discretionary powers

The legislation states that Councils "may" by Order restrict or prohibit temporarily the use of a road, or any part of it, by vehicles or pedestrians, to such extent and subject to such conditions or exceptions as it may consider expedient or necessary. Councils are currently seeking legal advice as to the extent of the discretion afforded to Councils in relation to determination of applications received.

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3. Financial and Resource Implications

There will be direct financial costs attached to the administration of the new legislation and, whilst such costs may be recovered from applicants, decisions in relation to this, as well as the extent of public notification required and the fee charging option chosen will determine the actual financial implications.

Councils have not had the opportunity to factor the role and costs of administrating this legislation into their budgets for the financial year 2017–2018.

4. Equality or Good Relations impact

Whilst the legislation was subject to an equality impact assessment in 2009/10, the duty to promote equality of opportunity is an ongoing one, and reassessment is required to have cognisance of changes in the intervening years in Northern Ireland's social environment.

The costs for an applicant is likely to be significant without subsidy (newspaper advertising, public liability insurance, and engagement of a traffic management company) and the majority of applicants are likely to be 'not-for-profit' community groups or similar with limited funds. The impact of the legislation therefore may ultimately be prohibitive and result in significant reduction on the positive community impact and social benefit, which such events bring to local communities.

A further equality impact assessment prior to implementation would therefore be appropriate.

The equality implications have also been highlighted by staff from the Parades Commission who have indicated that parades and parade related protests all can take place without a charge or fee being applied, whereas this legislation is potentially creating a difference of approach should Councils apply charges.

5. Reputational risk

Councils are likely to risk potential reputational damage as a result of administering a scheme which may be costly, bureaucratic and time consuming for applicants, yet ultimately controlled by Department for Infrastructure. There is also no appeal mechanism built into the legislation.

6. Impact on Film Industry

NI Screen have advised that the film industry in Northern Ireland has grown ten-fold since 2010, with a £47 million investment planned over the next 4 years. They have indicated that the recommended 12-week processing period is unworkable and could run the risk of them taking their business elsewhere. The same difficulty this presents the industry in England and Wales has resulted in a current Private Members Bill to seek an exemption for filming.

7. Impact of Parades Commission Legislation

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Local Government officers met with PSNI, Northern Ireland Office and the Parades Commission on 23 June 2017 to discuss the implications of the forthcoming legislation and a further meeting took place on the 3 July 2017 with Parades Commission staff and representatives from nine Councils.

The Parades Commission have advised that all public processions notified to them as a public procession are accepted as such and the Commission has no vetting procedure to determine whether the notified parade is a procession or not.

They receive approximately 5,500 applications per year; and events notified include a range of activities, including non-contentious activities such as fun runs, sponsored walks. As applications are accepted by the Commission and processed accordingly, they are therefore deemed to be public processions by the Commission and hence automatically exempt from The Roads (Miscellaneous Provisions) Act (Northern Ireland).

In addition to the equality impact issue identified above, the Parades Commission identified a number of further concerns in relation to this legislation:-

1. The Parades Commission have never been formally consulted on the implementation of this legislation despite it having a huge potential impact upon their remit.
2. The legislation needs amended to ensure that not only public processions but parade related protests are not covered by this legislation
3. The Roads (Miscellaneous Provisions) Act (NI) 2010 introduces the potential to require the promoter to insure against risks, which is a different approach from the approach taken under the Public Processions (NI) Act 1998.
4. It is evident this legislation was lifted and taken from the GB model yet there is no equivalent Public Processions legislation in GB.
5. There is no appeal mechanism within the legislation.
6. The legislation could be used as an alternative mechanism to 'block' a contentious parade, or indeed provide for a parade to take place under the guise of a 'special event'. Councils may then inadvertently become embroiled in a contentious process in relation to the issuing of an Order to restrict or prohibit traffic on a road.

The impact of the above concerns is such that Local Government Staff do not believe that this legislation will have a positive impact on managing local events. If anything it is going to introduce an element of confusion and duplication and, given the more streamlined process in the Public Processions legislation, will create additional workload on that body to deal with applications so as to be exempted under the Roads (Miscellaneous Provisions) Act (NI) 2010. Furthermore, it will not reduce the staffing burden of the PSNI associated with policing such events, as anticipated, and most significantly, this has the potential to undermine the NI Film Industry, which has grown successfully and is contributing to the wider Programme for Government targets of growing our economy.

In view of the above, I would appreciate an early response by you to outline why this Commencement Order was enacted with so many areas of concern not addressed.

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Is it correct that the Parades Commission were not formally consulted on the introduction of this legislation? If so, why was the Parades Commission not formally consulted on these proposals? What was the assessment of the interaction and implication of this legislation on the role of the Parades Commission? What is proposed to deal with the genuine concerns highlighted, by way of suspending or revoking this legislation until fit for purpose events legislation can be developed and introduced?

You may feel it would be beneficial for us to meet and discuss these issues, in which case do please let me know.

Yours sincerely



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