

DIALOGUE 1

Reporter's question 1 to Council (28 March 2022)

My understanding had been that I am to consider the TRO in the light of all the remaining objections. That seemed to be the implication of the Council's emails of 19 October and 16 November 2021, the second of which referred to 89 extant objections (I appreciate that some of these may be withdrawn). Similarly, my minute of appointment is for me "to hold a public hearing into objections ...". I was therefore surprised to read from the minutes of the Helensburgh & Lomond Area Committee, 16 September 2021) that the Council's decision was "to refer the objection to the Prohibition of Driving to an Independent Reporter." That minute seems to imply that that is the only objection to be so referred and that I am therefore to consider the TRO only in the light of that particular objection on prohibition of driving. Can the Council clarify this as soon as possible?

Council's answer to question 1 (31 March 2022)

The Council has now received advice from Brodies, its external legal agents, in relation to the point which you have raised regarding the extent of your remit.

The Council has previously considered some of the issues that arise around the extent of your remit in the Luss TRO hearing.

The Council remain concerned that there is a risk that should the hearing be limited in scope to a single objection to the prohibition of driving per the minutes of the Helensburgh and Lomond Area Committee of 16th September 2021, Scottish Ministers might not be satisfied that there has been full compliance with the provisions set out in the Road Traffic Regulation Act 1984 or the Local Authorities' Traffic Order (Procedure) (Scotland) Regulations 1999 in that the hearing was not held into the order as a whole as opposed to a specific part of it.

The Council wishes to avoid increasing the risk of Scottish Ministers deciding to "require" the Council to hold a further hearing by withholding their consent until such a (further) hearing had been held by the Council into the entire order. This risk is heightened should the Council receive confirmation that objections are being maintained but the hearing has been restricted to consideration of a single objection to the prohibition of driving per the Committee minutes.

In those circumstances, we think the fairest approach is to adopt the remit set out in the Minute of Appointment.

We would be happy to address any follow-up queries you may have.

Reporter's response to Council's answer (4 April 2022)

I am content to pursue matters in line with the Council's response.