

REPORT FOR RESOLUTION

SUBJECT: WORKING GROUP FOR
TRAFFIC REGULATION ORDERS

REPORT OF: THE LEAD OFFICER

PURPOSE OF THE REPORT

To present the report of the Working Group on Traffic Regulation Orders (Bus Lanes).

RECOMMENDATIONS

It is recommended that the Joint Committee:

- [i] Receives the report (Appendix 1).
- [ii] Approves its circulation to local authorities enforcing or planning to enforce civil bus lane enforcement
- [iii] Notes the arrangements for local authorities to feedback comments between now and September for these to be taken into consideration prior to joint publication with the Parking TRO report which will be presented to the September meeting.
- [iv] Notes that is the responsibility of local authorities to ensure that their traffic regulation orders meet statutory requirements.

FINANCIAL CONSEQUENCES TO THE REVENUE BUDGET

The funding for this initiative is included in the budget for 2011/12.

CONTACT OFFICER

Louise Hutchinson, PATROL, Barlow House, Minshull Street, Manchester, M1 3DZ Tel: 0161 242 5270

1. BACKGROUND

- 1.1 The Bus Lane Adjudication Service Joint Committee approved a proposal to develop specimen articles pertaining to traffic regulation orders (TROs) for bus lanes
- 1.2 The aim of the TRO Review is to provide specimen articles for TROs that individual local authorities can select to compile each of their TROs. By achieving consistency in the terms in which the basic requirements of a TRO are drafted, the perceived benefits are:
 - i) Significant reduction in the resource expenditure of the drafting teams in each local authority.
 - ii) Greater understanding for those members of the public who wish to see the regulations that apply in their area, or to their PCN.
 - iii) Greater efficiency for the Adjudicators for whom deciphering entirely different TRO provisions in each case inevitably takes time.
- 1.3 The Working Group has had representation from local authorities in both England and Wales together with the Department for Transport and Welsh Assembly Government.
- 1.4 The purpose of this report is to present the report of the Working Group in relation to Bus Lanes.

2. WORKING GROUP FOR TRAFFIC REGULATION ORDERS

- 2.1 The report is enclosed at Appendix 1. This represents the work of the Chair of TRO Working Group for Bus Lanes, Kathryn Eldridge from Bath and North East Somerset Council together with a number of officers from England and Wales. The Working Group also liaised with the Department for Transport and the Welsh Assembly Government.
- 2.2 The equivalent report for parking will be presented to the September 2011 Joint Committee meeting following which both reports will be published in a single report.
- 2.3 The Working Group would like to use this opportunity to obtain wider feedback from local authorities using the specimen articles to incorporate into the final report in September.
- 2.4 It will be made clear to local authorities that it is their responsibility to ensure that their TROs meet statutory requirements.

3. RECOMMENDATIONS

It is recommended that the Joint Committee:

- [i] Receives the report (Appendix 1).
- [ii] Approves its circulation to local authorities enforcing or planning to enforce civil bus lane enforcement
- [iii] Notes the arrangements for local authorities to feedback comments between now and September for these to be taken into consideration prior to joint publication with the Parking TRO report which will be presented to the September meeting.
- [iv] Notes that is the responsibility of local authorities to ensure that their traffic regulation orders meet statutory requirements.

Appendix 1

**BUS LANE ADJUDICATION SERVICE JOINT
COMMITTEE**

**WORKING GROUP FOR THE REVIEW OF BUS
LANE TRAFFIC REGULATION ORDERS**

**SPECIMEN ARTICLES AND TRAFFIC
REGULATION ORDER FOR BUS LANES**

Kathryn Eldridge
June 2011

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1. INTRODUCTION

In June 2010 Chris Bramham from Leeds City Council was asked to lead a working group appointed by the PATROL Adjudication Joint Committee and the Bus Lane Adjudication Service Joint Committee to review the drafting of Traffic Regulation Orders (TROs) with a view to publishing some recommended standard clauses and articles that would help local authorities to produce clear, consistent TROs which are easier to understand and enforce.

I, Kathryn Eldridge, was asked to be a member of that working group and to take the lead on the bus lane TROs.

In setting up the working group, it was considered that it should consist of people with traffic regulation and drafting experience to advise on the application and various requirements of TROs and the people listed below were co-opted onto the working group.

The working group has considered current working practices, the statutory provisions, the procedural requirements and the use of plain English and in doing so has taken a broad approach to the review of bus lane TROs. This report sets out the working group's suggested articles which have been drafted using clear, simple language and provides an example of a simple bus lane TRO which shows how these can be arranged to make them easier to understand and enforce.

However, when drafting bus lane TROs, each local authority will need to satisfy itself that, in addition to setting out its own local requirements, the TROs meet the legal requirements.

In conjunction with the TRO review, the Department for Transport (DfT) is undertaking a comprehensive review of road traffic signs and the fundamental relationship between the provisions of a TRO and the use of traffic signs is

recognised and understood. In the circumstances, the review of bus lane TROs is considered timely.

***N.B** The articles suggested in this report are ready for use now. However, if anyone has any further examples to suggest, the working group will be happy to consider these for inclusion when the report is re-issued with the associated parking report.*

The Working Group

Lead Member – Traffic Regulation Orders

Chris Bramham, Principal Legal Officer, (Development), Leeds City

A Principal Legal Officer with Leeds City Council with over 35 years local government experience. A specialist in highways, traffic management and transport related matters. An experienced lecturer he has been involved in the promotion of acts of parliament, numerous public inquiries, as well as advising on all aspects of decriminalised parking enforcement. In 2007/8 he was a member of an independent committee reviewing notices and forms required by regulations made under the Traffic Management Act 2004.

Lead Member – Bus Lanes

Kathryn Eldridge, Legal Adviser with Bath and North East Somerset Council for 8 years with 12 years local government experience. Specialising in road traffic regulation, bus lanes, highway and transportation related issues as well as compulsory purchase order law. Regularly advises on bus lane civil enforcement, parking civil enforcement, road traffic regulation law and all aspects of highway law. A member of the PATROL and Bus Lane Adjudication Service Advisory Board.

Co-opted Members

Caroline Stylianou , Service Manager, Nottingham City Council Traffic and Safety. Chair of the Bus Lane Council User Group

Terry Curtis, TRO Team Leader Hertfordshire County Council

Alan Carpenter, Traffic Management Division, DfT

Andy Clay, Brentwood Borough Council – responsible for TRO's

John Wilson, Draftsman with a range of legislative experience across the Commonwealth

Mike Burnell, Transport and Strategic regeneration, Welsh Assembly Government

Lucinda Cheshire, Parking Manager, Merthyr Council

Steve Carrel, Parking Manager, Cardiff

2. TERMS OF REFERENCE

The Working Group is requested to:

1. Review the fundamental requirements of the traffic regulation orders used by local authorities in England (outside London) and Wales in the course of civil enforcement of parking and bus lanes. These should include:
 - a) Waiting restrictions
 - b) Stopping and keep clear restrictions
 - c) On-street permitted parking
 - d) Off-street parking places
2. Consider issues concerning TROs that have been raised by the Adjudicators in their decisions.
3. Make recommendations for specimen traffic regulation clauses and articles to be used by local authorities in England (outside London) and Wales. These should include specimen provisions for the:
 - a) Exemptions of waiting restrictions
 - b) Requirements of permitted parking e.g.
 - (i) Pay and display
 - (ii) Permit bays
 - (iii) Limited waiting
 - (iv) Suspension

These will be recommendations as to best practice. It will be stressed that individual councils *must* satisfy themselves independently that their TROs meet all the statutory requirements.

4. In particular, consider clauses and articles for use with schedules predicated on maps and plans.

5. Undertake appropriate consultation to ensure clarity and understanding of specimen documents and on any other matter that the Working Group identifies and considers necessary.
6. Produce a progress report for consideration by the PATROL and Bus Lane Adjudication Service Joint Committees at their meetings in January 2011 (this was done).

In making their recommendations, the Working Group is requested to:

Reflect the underlying requirements of the Road Traffic Regulation Act 1984, the Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996, the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000 and the Local Authorities' Traffic Orders Exemptions for Disabled Persons) (Wales) Regulations 2000.

3. THE LEGAL PROVISIONS

Background

The current legislation concerning the civil enforcement of bus lanes is the Transport Act 2000. This enables local authorities that have been granted civil parking enforcement powers to introduce the civil enforcement of bus lane contraventions. To be approved as a bus lane enforcement authority, there must first be an order in place designating all or part of a local authority's area as a permitted or special parking area under the provisions contained in the Road Traffic Act 1991 or as a civil enforcement area for parking contraventions under the provisions contained in the Traffic Management Act 2004. Local authorities that are approved for the purposes of bus lane enforcement are set out in the Bus Lane Contraventions (Approved Local Authorities) (England) Order 2005. An approved local authority must also be a member of the Bus Lane Adjudication Service Joint Committee which appoints and provides facilities for the bus lane Adjudicator.

Section 144 of the Transport Act 2000 provides the powers enabling the Secretary of State to make provision for the imposition of penalty charges for bus lane contraventions and their payment and the current regulations are The Bus Lane Contraventions (Penalty Charge, Adjudication and Enforcement) (England) Regulations 2005.

A penalty charge notice is issued by post on the basis of evidence produced by an approved device which is an approved unattended camera enforcement system or approved equipment for recording the evidence from attended camera systems (see The Bus Lane Contraventions (Approved Devices) (England) Order 2005).

Bus lane offences are not decriminalised in the same way as parking offences and a bus lane traffic regulation order (TRO) may continue to be enforced by the police as a criminal offence as well as through the civil procedure.

However, no one can be penalised under both procedures for the same matter.

A bus lane TRO is made in the same way as any other TRO under powers contained in the Road Traffic Regulation Act 1984.

The Traffic Management Act 2004 also contains provisions relating to the civil enforcement of bus lanes but to date, these are not in force.

The Definition of a Bus Lane

There are currently two definitions of a bus lane: section 144(5) of the Transport Act 2000 and regulation 23 of the Traffic Signs Regulations and General Directions 2002.

Section 144(5) Transport Act 2000 -

An area of road is or forms part of a bus lane if the order provides that it may be used -

(a) only by buses (or a particular description of bus), or

(b) only by buses (or a particular description of bus) and some other class or classes of vehicular traffic.

With regard to "some other class or classes of vehicular traffic", section 142(3) of the Road Traffic Regulation Act 1984 provides that "references in this Act to a class of vehicles or traffic.....shall be construed as references to a class defined or described by reference to any characteristics of the vehicles or traffic or any other circumstances whatsoever".

The interpretation of section 142(3) Road Traffic Regulation Act 1984 has recently been considered in the case of R on the application of Oxfordshire County Council v The Bus Lane Adjudicator and Shaun Duffy (Interested Party) 2010 where it was held that "any other circumstances whatsoever" is

an alternative to "any characteristics of the vehicles or traffic" meaning that classes of vehicular traffic are not limited to the characteristics of the vehicle but can be extended to include activities that the vehicle may be used for e.g. loading/unloading.

Regulation 23 Traffic Signs Regulations and General Directions 2002

(1) In the signs shown in the permitted variants of diagrams 877 and 878 in which the expression "bus lane" appears and in diagram 962, 962.2, 963, 963.2, 964, 1048 and 1048.1, "bus lane" has the meaning given in paragraph (2).

(2) "Bus lane" in the signs referred to in paragraph (1) means a traffic lane reserved for -

(a) motor vehicles constructed or adapted to carry more than 8 passengers (exclusive of driver);

(b) local buses not so constructed or adapted; and

(c) pedal cycles and taxis where indicated on the sign shown on diagram 958 or 959 and pedal cycles where indicated on the sign shown in diagram 960, 962.2, 963.2 or 1048.1.

The Transport Act 2000 has a wider definition for enforcement purposes and the Traffic Signs Regulations and General Directions 2002 (TSRGD 2002) has a narrower definition for signage purposes.

Some existing TROs refer to "bus only streets" and "bus gates" which don't appear to be defined by legislation but are terms used in the Traffic Signs Manual issued by the DfT. In the Traffic Signs Manual, a "bus only street" is a one way or two way road which is for use by buses (cycles and/or taxis) and a "bus gate" is a short length of bus only street. The DfT's approach to signage appears to differ depending on whether there is a bus lane, as defined in the TSRGD 2002, a "bus only street" or a "bus gate".

If the terms “bus only streets” and “bus gates” are to be used in a TRO, in order to ensure that they are enforceable, they would need to be defined as bus lanes in accordance with the Transport Act 2000.

The Traffic Management Act 2004 also contains a definition of a bus lane, which is the same as currently exists in the Transport Act 2000. However, as stated above, these provisions are not yet in force.

Bus Lane Contravention

Section 144(4) of the Transport Act 2000

A bus lane contravention is a contravention of any such provision of -

- (a) a traffic regulation order*
- (b) an experimental traffic order, or*
- (c) a temporary traffic restriction order*

as relates to the use of an area of road which is or forms part of a bus lane.

To date, the following provisions of the Traffic Management Act 2004 are not yet in force but state:

Schedule 7, Part 2 of the Traffic Management Act 2004 - Bus Lane Contraventions

6(1) A bus lane contravention is a contravention of any provision of a traffic order relating to the use of an area of road that is or forms part of a bus lane.

6(2) An area of road is or forms part of a bus lane if the order provides that it may be used –

- (a) only by buses (or a particular description of bus), or*

(b) only by buses (or a particular description of bus) and some other class or classes of vehicular traffic.

6(3) In this paragraph –

“bus” includes a tramcar (within the meaning of section 141A of the Road Traffic Regulation Act 1984 and a trolley vehicle (within the meaning of that section).

In the Department for Transport Provisional Guidance on Bus Lane Enforcement (including tramways) Enforcement in England outside London, it advises that “Councils should ensure that their traffic regulation orders state that the offence is **to be in** (emphasis added) a bus lane rather than to enter or proceed”.

4. EXAMPLES OF CURRENT BUS LANE ARTICLES

Below are examples of the different approaches currently adopted by local authorities in drafting bus lane TRO articles.

Example 1

1. (1) Save as provided in this Article, no person shall, except with the permission of a Police Constable in uniform, cause any vehicle to be in and/or proceed (in any lengths of road specified in Column 2 of Schedule 8 of Part II of this Order) during the times specified in Column 4 of that schedule in
 - (i) the direction specified, or
 - (ii) any direction, where no direction is specified, in relation to a length of road specified in Column 2
- (2) Nothing in Paragraph 1(1) of this Article shall apply to any vehicle, which is of one or more of the categories specified, in Column 3 of Schedule 8 to Part II of this Order, in relation to each road or length of road specified in Column 2 of the said Schedule.
- (3) Nothing in Paragraph 1(1) of this Article shall apply to:
 - (a) a pedal cycle
 - (b) a bus or
 - (c) a tramcar

when it is indicated on the relevant sign and is erected in accordance with the Traffic Signs Regulations and

General Directions, in relation to each road or length of road specified in Column 2 of the said Schedule.

Example 2

- 1, Save as provided in Article 2 of this Order, no person shall cause any motor vehicle to be in a length of road specified in the Schedule to this Order.
- 2, Nothing in Article 1 of this Order shall apply so as to prevent any person from causing any motor vehicle to be in the length of road specified in the Schedule if the vehicle is a bus, a taxi or a pedal cycle

Example 3

- 1, Save as provided in Article * of this Order, no person shall, except upon the direction or with the permission of a constable in uniform, a traffic warden or a parking attendant, cause or permit any vehicle other than a bus to be in the reserved bus lane specified in Schedule 1 to this Order at any time.
- 2, Save as provided in Article * of this Order, no person shall, except upon the direction or with the permission of a constable in uniform, a traffic warden or a parking attendant, cause or permit any vehicle other than a bus or cycle to be in the reserved bus and cycle lanes specified in Schedule 2 to this Order.
- 3, Save as provided in Article * of this Order, no person shall, except upon the direction or permission of a constable in uniform, a traffic warden or a parking attendant, cause or permit any vehicle other than a bus or hackney carriage to be in the reserved bus and hackney carriage lanes specified in Schedule 3 to this Order at any time.

- 4, Save as provided in Article * of this Order, no person shall, except upon the direction or permission of a constable in uniform, a traffic warden or a parking attendant, cause or permit any vehicle other than a bus, hackney carriage or cycle to be in a reserved bus, hackney carriage and cycle lane specified in Schedule 4 to this Order between the hours of 7.00am to 10.00am and 4.00pm and 7.00pm on Monday to Friday.

5. EXCEPTIONS AND EXEMPTIONS TO A BUS LANE TRO

It is understood that the Department for Transport holds the general view that exceptions to a TRO need to be signed whereas exemptions do not. The argument for exemptions not being signed is that they are limited to a local authority's area and as such would be known and understood by the local motorist. However, there may be exceptions to this general view.

Bus Lane Exceptions

The bus lane exceptions provided for by traffic signs prescribed in the Traffic Signs Regulations and General Directions 2002 (TSRGD 2002) are:

- Buses
- Taxis and
- Pedal cycles

In addition to these, an example of a common exception used by local authorities in bus lane TROs is for private hire vehicles as these aren't included in the definition of a "taxi" in the TSRGD 2002. It is understood that these are usually signed as an "authorised vehicle" and a sign would need to be authorised by the Secretary of State because it is outside the scope of the prescribed signs in the TSRGD 2002. In this situation the term "authorised vehicle" will require a definition in the TRO and need to be included in the prohibiting article rather than be treated as an exemption.

Examples of Common Exemptions Used By Local Authorities

It is quite common for local authorities to provide exemptions in their bus lane TROs. A common example is an exemption for police, fire and ambulance vehicles. Whilst there are exemptions common to most bus lane TROs, others will vary between local authorities as they are dependant on local requirements.

Whilst the list is not exhaustive, some examples of how exemptions are currently drafted by local authorities are set out below.

1. The controls specified in.....do not apply in respect of a vehicle being in a bus lane:-

- if it is being used for ambulance, fire brigade or police purposes;
- to such an extent and for such a time as is needed to comply with any requirement resulting from works or an emergency; or
- anything done with the permission or direction of a police constable in uniform.

2. The controls specified in.....do not apply so as to prevent a vehicle being in a bus lane:-

- if and for so long as may be necessary to enable a person to get on or off the vehicle; or to enable goods to be loaded on to or unloaded from the vehicle; or
- to cross that bus lane to get to or from any road adjacent to the bus lane or any vehicular access to premises adjacent to the bus lane.

3. The controls specified in.....do not apply in respect of a vehicle stopping in a bus lane or bus-only route if that vehicle is:-

- a security vehicle being used to transport cash or bullion
- a vehicle being used in the service of a local authority for the purpose of collecting refuse from premises
- a vehicle in the service of a local authority or a water authority in pursuance of statutory powers or duties
- a vehicle which cannot be conveniently used for such purpose in any other road, to be used in connection with any of the following operations, namely –
 - building or demolition purposes
 - the removal of any obstruction to traffic

- the maintenance, improvement or reconstruction of the said lengths of road or
- the laying, erection, alteration or repair in, or in land adjacent to, the said lengths of roads of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, cable television apparatus, or of any telecommunications system as defined in the Telecommunications Act 1984.

4. Nothing in article.....of this Order shall apply to a vehicle being used.....

- for the placing, maintenance or removal of any traffic sign.

5. Nothing in article.....of this Order shall render it unlawful for a person to cause or permit any vehicle to enter the bus or cycle lane for so long as may be necessary to avoid an accident.

6. Nothing in article.....shall prevent a vehicle from being in a bus lane if and for as long as necessary to enable the vehicle to be used for.....

- allowing a person to get or give help in consequence of an accident or emergency or otherwise take action for public safety.

7. Nothing in article.....of this Order shall apply to a marked vehicle which, whilst used by a universal service provided in the course of a provision of a universal postal service, is stationary only for so long as may be reasonably necessary for postal packets to be collected at premises immediately adjacent to the bus lane.

8. Nothing in article.....of this Order shall apply to a vehicle which is part of the Lord Mayor's Parade, a students' rag parade, May Day parade or any other parade or procession or Special Tour which the.....Council may agree to permit from time to time.

6. CONCLUSION

The examples above show the different ways in which local authorities currently approach TRO drafting. For each local authority there can be a different drafting style which is often passed on from officer to officer and dates back many years.

A common criticism of existing TROs is the complicated and inconsistent ways in which they are drafted and the use of an out dated style of language. This means that the TROs are often difficult to understand and hard to enforce.

The introduction of the civil enforcement of bus lanes has meant that bus lane TROs now come under greater scrutiny both by the public and the Adjudicators and ultimately, when faced with an appeal to a bus lane penalty charge notice, it is for an Adjudicator to consider the terms of the TRO and decide if its provisions have been contravened. If the TRO is drafted in ambiguous terms, often the Adjudicator has no option but to allow the appeal.

The suggested articles provided below seek to address these problems by using clear, simple language and the example TRO sets out how these can be arranged in such a way as to make them easier to understand and therefore easier to enforce.

The benefits to be gained from adopting this standard approach are considered to be:

1. a greater understanding by the public of local bus lane TROs
2. the provision of a more robust enforcement regime
3. a reduction in the resources required for drafting bus lane TROs and
4. a time and cost saving for the Adjudicators.

7. SUGGESTED DEFINITIONS, ARTICLES, EXCEPTIONS AND EXEMPTIONS

Definitions

The following are examples of common definitions used in bus lane TROs. However, the list is not exhaustive and local authorities will need to consider their own local requirements and use any other definitions they consider necessary.

“authorised vehicle” - means [a private hire vehicle] [any vehicle provided for in this order other than a bus, taxi or pedal cycle] [a vehicle that has been authorised in writing by the Council/Parking Manager]

The wording in square brackets has been included so that local authorities can include or delete as required. If the “authorised vehicle” is an exception i.e. something that needs to be signed, then it will need to be included in the prohibiting article rather than treated as an exemption in the TRO. It will require a definition and need an authorised sign from the Secretary of State. A common example of an exception is a private hire vehicle which isn’t included in the definition of a “taxi” in the TSRGD 2002.

“bus” - means motor vehicles constructed or adapted to carry more than 8 passengers (exclusive of driver); and local buses not so constructed or adapted to carry more than 8 passengers (exclusive of driver)¹ and includes a tramcar (within the meaning of section 141A of the Road Traffic Regulation Act and a trolley vehicle within the meaning of that section.

“bus lane” - means an area of road that may be used only by buses (or a particular description of bus), or only by buses (or a particular description of bus) and some other class or classes of vehicular traffic²

¹ Regulation 22, TSRGD 2002

² Section 144 Transport Act 2000 and Part 2 of Schedule 7 Traffic Management Act 2004

as provided for in this order and includes the terms “bus gate” and “bus only street”

“**local bus**” means a public service vehicle used in provision of a local service not being an excursion or tour³;

“**local service**” has the same meaning given in section 2 of the Transport Act 1985⁴;

“**pedal cycle**” means a unicycle, bicycle, tricycle, or cycle having 4 or more wheels, not being in any case mechanically propelled unless it is an electrically assisted pedal cycle of such class as is to be treated as not being a motor vehicle for the purposes of the Act of 1984⁵;

“**private hire vehicle**” has the same meaning given in section 80 of the Local Government (Miscellaneous Provisions) Act 1976;

“**public service vehicle**” has the meaning given in section 1 of the Public Passenger Vehicles Act 1981⁶;

“**taxi**” means in England and Wales, a vehicle licensed under section 37 of the Town Police Clauses Act 1847; or section 6 of the Metropolitan Public Carriage Act 1869; or under any similar enactment⁷;

Local authorities to insert any other definitions that are relevant to their local requirements.....

³ Regulation 4, TSRGD 2002

⁴ Regulation 4, TSRGD 2002

⁵ Regulation 4, TSRGD 2002

⁶ Regulation 4, TSRGD 2002

⁷ Regulation 4, TSRGD 2002

Articles

The following are suggested articles for use in bus lane TROs. The list is not exhaustive but shows how articles can be worded using simpler language. However, local authorities will need to consider local requirements when deciding what articles to include in their bus lane TROs.

Prohibitions

24 hours a day

- Subject to Articles *, * and * a [motor] vehicle other than a bus must not be in a bus lane specified in Schedule */shown on Plan * at any time [other than on a public holiday].
- Subject to Articles *, * and * a [motor] vehicle other than a bus or a taxi must not be in a bus lane specified in Schedule */shown on Plan * at any time [other than on a public holiday].
- Subject to Articles *, * and * a [motor] vehicle other than a bus, taxi or pedal cycle must not be in a bus lane specified in Schedule */shown on Plan * at any time [other than on a public holiday].
- Subject to Articles *, * and * a [motor] vehicle other than a bus, taxi, pedal cycle or authorised vehicle must not be in a bus lane specified in Schedule */shown on Plan * at any time [other than on a public holiday].

Between Specified Times

- Subject to Articles *, * and * a [motor] vehicle other than a bus must not be in a bus lane specified in Schedule */shown on Plan * between [...am/pm] and [...am/pm] [other than on a public holiday].

- Subject to Articles *, * and * a [motor] vehicle other than a bus or a taxi must not be in a bus lane specified in Schedule */shown on Plan * between [.....am/pm] and [....am/pm] [other than on a public holiday].
- Subject to Articles *, * and * a [motor] vehicle other than a bus, taxi, pedal cycle or authorised vehicle must not be in a bus lane specified in Schedule */shown on Plan * between [....am/pm] and [....am/pm] [other than on a public holiday].
- Subject to Articles *, * and * a [motor] vehicle other than a bus, taxi, pedal cycle or authorised vehicle must not be in a bus lane specified in Schedule */shown on Plan * between [.....am/pm] and [....am/pm] [other than on a public holiday].

Local authorities to insert any articles that are relevant to their local requirements.....

The words “motor” and “other than on a public holiday” have been included in square brackets so that local authorities can include or delete as required.

Section 3 of the 1984 Act.

[The Council is satisfied that the provisions of section 3(1) of the 1984 Act shall not have effect because the order is required:

- (a) for avoiding danger to persons or other traffic using the road to which the order relates or any other road, or
- (b) for preventing the likelihood of any such danger arising, or
- (c) for preventing damage to the road or building on or near it, or
- (d) for facilitating the passage of vehicular traffic on the road, or
- (e) for preserving or improving the amenities of an area by prohibiting or restricting the use on a road or roads in that area of heavy commercial vehicles.]

This article relating to section 3 of the 1984 Act has been included in square brackets for inclusion or deletion as required and when using it, local authorities will need to consider which reasons apply.

Exemptions

The following is a list of the most common exemptions used in bus lane TROs drafted in a clearer, simpler way.

- Articles *, * and * do not apply to a vehicle that is in a bus lane under the direction or with permission of a police constable in uniform or for the purposes of crossing the bus lane.
- Articles *, * and * do not apply to a vehicle that is in a bus lane if it is necessary for the vehicle:
 - (a) to be used for ambulance, fire brigade or police purposes [if the vehicle is clearly marked as such] [whilst performing its statutory duties] [whilst in use as such];
 - (b) to remove an obstruction;
 - (c) to avoid an accident;
 - (d) to collect or remove refuse or waste;
 - (e) to be used for or in connection with:
 - (i) building, industrial or demolition operations in or on land adjacent to the bus lane or removals from land or buildings adjacent to the bus lane where the prior written consent of the [Council] [Highway] [Parking] [Other] manager has been received;

- (ii) the laying, erection, alteration or repair of a sewer, pipe or apparatus for the supply of water, gas, electricity or telecommunications apparatus in or on land adjacent to the bus lane; or
 - (iii) the maintenance, improvement or reconstruction of the bus lane;
- (f) which is in the service of a universal service provider to deliver or collect postal packets as defined in section 125(1) of the Postal Services Act 2000 to premises adjacent to the bus lane.

Below are some further examples of exemptions that can be used in bus lane TROs. Some of these are variations of those provided above.

- Articles *, * and * do not apply to a vehicle that is in a bus lane to collect goods from or deliver goods to premises adjacent to the bus lane.
- Articles *, * and * do not apply to a vehicle requiring access to off street loading or garage premises adjacent to or accessible only from the bus lane.
- Articles *, * and * do not apply to a highway cleansing vehicle when performing its statutory duties.
- Articles *, * and * do not apply to a highway gritting vehicle when performing its statutory duties.
- Articles *, * and * do not apply to a local authority vehicle or water company vehicle being used on statutory duties.

- Articles *, * and * do not apply to a vehicle being used in the service of a local authority, the Environment Agency, a water undertaker or sewerage undertaker on statutory duties.
- Articles *, * and * do not apply to tram operator vehicles undertaking essential or routine maintenance of the tram system.
- Articles *, * and * do not apply to a vehicle being used to repair or remove a bus or other vehicle that has broken down in the bus lane.
- . Articles *, * and * do not apply to a vehicle being used by a doctor responding to an emergency call if the vehicle is displaying a green flashing light.

This list is not exhaustive and Councils will need to consider local requirements when deciding what exemptions to include in their bus lane TROs.

Some bus lane TROs have been criticised for being difficult to understand and enforce because of the extensive use of exceptions and exemptions. These have caused confusion and misunderstanding with the motorist who, when faced with complicated signage, is unsure about what options are available. This has led to appeals against bus lane penalty charge notices being upheld.

In deciding what exceptions or exemptions to provide in a bus lane TRO, Councils need to consider how they are going to be communicated to the motorist. The more exceptions and exemptions the TRO provides, the greater the potential for confusion, challenge and unenforceability. Therefore, in providing for an excepted or exempted class of vehicle a local authority should consider how effectively it can be signed, whether it undermines the fundamental objective of the bus lane and whether any signage will need authorisation from the Secretary of State.

9. EXAMPLE BUS LANE TRO

Below is an example of how a simple bus lane TRO might look using the some of the suggested articles and exemptions provided above.

ANYWHERE COUNCIL

(DESCRIPTION OF ROAD(S)) (BUS LANES) ORDER 20--

The Anywhere Council ("the Council") in exercise of its powers under sections 1(1), 2(1) to (3) and 4(1) and 4(2) to the Road Traffic Regulation Act 1984 ("the 1984 Act"), and of all other enabling powers, makes the following order:-

1. This order may be cited as the Anywhere Council (*Description of Road(s)*) (Bus Lanes) Order 20-- and comes into operation on the **
***** 20--

Definitions

2. In this order, except where the context requires otherwise:

“authorised vehicle” means a private hire vehicle;

“bus” means motor vehicles constructed or adapted to carry more than 8 passengers (exclusive of driver); and
local buses not so constructed or adapted to carry more than 8 passengers (exclusive of driver) and includes a tramcar (within the meaning of section 141A of the Road Traffic Regulation Act and a trolley vehicle within the meaning of that section;

“bus lane” means an area of road that may be used only by buses (or a particular description of bus), or only by buses (or a particular description of bus) and some other class or classes of vehicular traffic as provided for in this order;

“local bus” means a public service vehicle used in provision of a local service not being an excursion or tour;

“local service” has the meaning given in section 2 of the Transport Act 1985;

“pedal cycle” means a unicycle, bicycle, tricycle, or cycle having 4 or more wheels, not being in any case mechanically propelled unless it is an electrically assisted pedal cycle of such class as is to be treated as not being a motor vehicle for the purposes of the Act of 1984”;

“private hire vehicle” has the meaning given in section 80 of the Local Government (Miscellaneous Provisions) Act 1976;

“public service vehicle” has the meaning given in section 1 of the Public Passenger Vehicles Act 1981;

“taxi” means in England and Wales, a vehicle licensed under section 37 of the Town Police Clauses Act 1847; or section 6 of the Metropolitan Public Carriage Act 1869; or under any similar enactment.

Prohibition

3. Subject to Articles 7 and 8 a vehicle other than a bus, taxi, pedal cycle or authorised vehicle must not be in a bus lane specified in Schedule 1/shown on Plan A at any time.
- 4, Subject to Articles 7 and 8 a vehicle other than a bus or pedal cycle must not be in a bus lane specified in Schedule 2/shown on Plan B between 10am and 4pm.
- 5, Subject to Articles 7 and 8 a vehicle other than a bus, taxi, pedal cycle or authorised vehicle must not be in a bus lane specified in Schedule 3/shown on Plan C between 8am and 6pm other than on a public holiday.
- 6, The Council is satisfied that the provisions of section 3(1) of the 1984 Act shall not have effect because the order is required for avoiding danger to persons or other traffic using the road to which the order relates or any other road.

Exemptions

- 7, Articles 3, 4 and 5 do not apply to a vehicle that is in a bus lane under the direction or with the permission of a police constable in uniform or for the purposes of crossing the bus lane.
- 8 Articles 3, 4 and 5 do not apply to a vehicle that is in a bus lane if it is necessary for the vehicle:
 - (a) to be used for ambulance, fire brigade or police purposes [if the vehicle is clearly marked as such] [whilst performing its statutory duties] [whilst in use as such];
 - (b) to remove an obstruction;
 - (c) to avoid an accident;
 - (d) to collect or remove refuse or waste;

- (e) to be used for or in connection with:
 - (i) building, industrial or demolition operations in or on land adjacent to the bus lane or removals from land or buildings adjacent to the bus lane if the prior written consent of the [Council] [Highway] [Parking] [Other] manager has been received;
 - (ii) the laying, erection, alteration or repair of a sewer, pipe or apparatus for the supply of water, gas, electricity or telecommunications apparatus in or on land adjacent to the bus lane; or
 - (iii) the maintenance, improvement or reconstruction of the bus lane;
- (f) which is in the service of a universal service provider to deliver or collect postal packets as defined in section 125(1) of the Postal Services Act 2000 to premises adjacent to the bus lane.

Given under the Common Seal of Anywhere Council the ** day of ***** 20**.

THE COMMON SEAL of)
ANYWHERE COUNCIL)
was affixed
in the presence of:-)

Authorised Signatory

SCHEDULE 1

24 hours a day

Road	Bus Lane
<i>Name of road</i>	<i>Description of bus lane</i>

SCHEDULE 2

10am to 4pm

Road	Bus Lane
<i>Name of road</i>	<i>Description of bus lane</i>

SCHEDULE 3

8am to 6pm

Road	Bus Lane
<i>Name of road</i>	<i>Description of bus lane</i>

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