

**CYNGOR SIR POWYS COUNTY COUNCIL.**

**CABINET EXECUTIVE**

**3<sup>rd</sup> March 2020**

**REPORT AUTHOR:** County Councillor Aled Davies  
Deputy Leader and Portfolio Holder for Finance,  
Countryside and Transport

**REPORT TITLE:** Revised Protocol for authorising motor vehicle events  
affecting footpaths, bridleways and restricted byways  
under s.33 Road Traffic Act 1988

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**REPORT FOR:** Decision

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**1. Purpose**

- 1.1 The purpose of this report is to recommend revisions to the protocol for authorising motorsport events affecting footpaths, bridleways and restricted byways.

**2. Background**

- 2.1 The Council recognises that motorsport events bring benefits to the local economy and that mid-Wales has a reputation as an excellent venue for hosting such events. These motorsport events will frequently need to utilise footpaths, bridleways and restricted byways as part of their routes.
- 2.2 The Council has a direct role in providing section 33 Road Traffic Act 1988 (s.33 RTA88) authorisations to motorsport events that cross or pass along public footpaths, bridleways and restricted byways. That includes authorisations for the parts of the Brecon Beacons National Park area that are within Powys.
- 2.3 In 2012 the Cabinet approved a protocol for the authorisation of motorsport events (Appendix 1). Issues have been raised by officers, members and the motor sport industry as to the effectiveness and operation of that protocol. It was agreed that there should be a review of the protocol, so as to safeguard the future of motor sports within the county, whilst at the same time ensuring statutory compliance. The concerns about the existing protocol relate to management of public safety during an event and the associated liabilities.
- 2.4 The purpose of this report is to recommend revisions to the protocol which address those issues raised. The revised protocol has been drafted following the receipt of independent legal advice and discussions with Welsh Government. There has been extensive consultation with the

Motorsport UK, Auto Cycle Union (ACU) and the Land Access Recreation Association (LARA) as motorsport representatives.

- 2.5 Races and trials of speed are subject to a separate process under section 12(A) of the Road Traffic Act 1988. This allows for the making of 'motor race Orders.' In addition to a 'motor race Order', authorisation under section 33 of the Road Traffic Act 1988 will be required for these events, if they affect a public footpath, bridleway or restricted byway. This protocol will apply to the section 33 authorisation aspect of a race or trial of speed. Any temporary closure that is needed for a race or trial of speed will be dealt with separately.

### 3. **Advice**

- 3.1 A timetable and guidance note will be issued to guide prospective organisers in procedures for making their applications. An application form will be made available on the Council website (appendix 3.)
- 3.2 Organisers will need to comply with a number of requirements and procedures, as set out in appendix 4.
- 3.3 If authorisation is granted under section 33 of the Road Traffic Act 1988, in the majority of circumstances the Council will suspend public use of the public right(s) of way affected. However, the Council will exercise its discretion, as this may not always be necessary; an example would be where a public right of way is coincident with a county road that remains open for public use during an event, where drivers and pedestrians would normally expect to encounter each other. The public rights of way will be temporarily closed to the public under Section 14(2) Road Traffic Regulation Act 1984. This prevents other highway users from using the highway at the same time as the motorsport event.
- 3.4 There will be a stepped fee structure for these authorisations. The fee level will be determined by:
- The number of public rights of way impacted by the event; and
  - Whether the applicant undertakes to erect and remove the statutory notices.

These costs are set out in paragraph 2.5 below; the fees will be reviewed periodically and revised in the light of current costs.

- 3.5 **Application fee if the Council erects and remove s.14 RTRA84 notices.**

	<b>s.14 Costs</b>	<b>s.33RTA Costs</b>	<b>Total Costs</b>
Band One	£240	£30	£270
Band Two	£750	£30	£780

Application fee if the **Organisers** erect and remove s.14 RTRA84 notices.

	<b>s.14 Costs</b>	<b>s.33RTA Costs</b>	<b>Total Costs</b>
Band One	£50	£30	£80
Band Two	£117	£30	£147

Band One: Where no more than two public rights of way are affected.

Band Two: Where three or more public rights of way are affected.

- 3.6 The s.33 RTA88 authorisation will contain conditions (as set out in Appendix 3) that will be reviewed from time to time.
- 3.7 In the event of a breach of the conditions, then the following will apply:
- (i) A report will be made to Motorsport UK; or
  - (ii) In the event that Motorsport UK is not the authorising body, to the authorising body first and then to Motorsport UK if the issue is not satisfactorily resolved.
  - (iii) A report will be made to the Portfolio Holder, who will decide on the appropriate action or approach to future applications.
- 3.8 The options are that:
- One - The Council could choose not to review the current protocol relating to authorising motoring events under section 33 of the Road Traffic Act 1988. This option would not resolve the issues being brought forward by Officers and motorsport organisers, and it would not streamline and provide clarity on the processes involved; or
- Two - The Council could review the protocol as described above.
- 3.9 The preferred choice is Option Two as it provides a reasonable balance, to ensure that motorsport and motoring events are able to take place safely, whilst ensuring the Council is able to discharge its legal obligations when authorising events under section 33 of the Road Traffic Act 1988. There will be a 6-month grace period following the adoption of the new protocol, to allow event organisers time to plan for and implement the changes. The implementation date will be 6 months from the date of a Cabinet decision to adopt the protocol.
- 3.10 Motoring events that require section 33 of the Road Traffic Act 1988 authorisation can have local, regional or international importance, providing a direct link to developing a vibrant economy. Use of public rights of way also has a link to developing a vibrant economy, through tourism and contributes to improved physical and mental wellbeing. The protocol aims to reach a balance between allowing motorsport events to

be managed effectively, and ensuring that users of the public rights of way network have safe alternative routes to follow during an event.

- 3.11 This impacts on the Highways, Transport and Recycling Service due to the crossover with the Motor Race Orders process. The Traffic and Travel Manager has been consulted and no concerns have been raised.
- 3.12 HR comment that there is unlikely to be any foreseeable impact on employees of the council based on the report. However, any changes to terms or conditions that may subsequently occur would be managed through the appropriate employment policies of the council.
- 3.13 Communications comment is that the report is of public interest and requires proactive communications action to publicise the recommendation/decision.

#### **4. Resource Implications**

- 4.1 The additional costs that will be incurred in making traffic regulation Orders are covered by the charges proposed. The Council is already required to consider requests for authorisation for motorsports events under section 33 of the Road Traffic Act 1988 and processes 30-45 applications per year; the revised protocol is not anticipated to incur any additional costs in relation to that element.
- 4.2 The Finance Business Partner notes the contents of the report and confirms that the proposal does not have any budgetary implications as the additional costs incurred will be covered by the charges proposed.
- 4.3 The Head of Finance (Section 151 Officer) notes paragraph 4.2 of the report and the comment of the Finance Business Partner.

#### **5. Legal implications**

- 5.1 Queen's Counsel advice was sought in relation to these proposals. It should be noted that the Queen's Counsel (QC) advised that temporary closure of the affected public rights of way could be achieved under either section 16(A) or section 14(2) of the Road Traffic Regulation Act 1984. The QC expressed a preference for use of s.16(A) closures, but did not advise against use of closures under section 14(2.) The proposal to use section 14(2) has been fully considered and is supported by the Solicitor to the Council.
- 4.3 The Queen's Counsel also advised that there should be evidence that the event is "properly authorised" by Motorsport UK, before authorisation could be issued under section 33 of the Road Traffic Act 1988. As this raised significant concerns with event organisers, it is instead proposed that a condition of consent is put in place, whereby the onus is on event organisers to provide "route authorisation" either before the event, or

within three working days after the event. This approach has been fully considered and is supported by the Solicitor to the Council.

- 4.4 Legal Services comment is that the recommendation can be supported from a legal point of view.
- 4.5 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report".

## **6. Data Protection**

- 6.1 The comments of the Data Protection Officer are that:  
The personal data of applicants and respondents will be processed to deliver the proposed service, and as such appropriate notices and documentation will be developed to ensure compliance with data protection legislation.

## **7. Comment from local member(s)**

- 7.1 N/A This report covers the whole county.

## **8. Integrated Impact Assessment**

- 8.1 An Impact Assessment is attached (appendix 6.)

## **9. Recommendation**

- 9.1 That the revised Protocol and Guidance as set out in Appendices 3 and 4 of the Report are approved and to be put into effect on or before 31<sup>st</sup> August 2020
- 9.2 That the fees set out in paragraph 3.5 are approved.
- 9.3 That the further arrangements set out in paragraphs 3.6 and 3.7 of the report are approved.
- 9.4 The reason for the recommendation is to safeguard the future of motor sports within the county, whilst at the same time ensuring statutory compliance and managing public safety during an event.

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**Appendices:**

- Appendix 1 – Cabinet report 17<sup>th</sup> April 2012, Protocol for authorising motor vehicle events affecting footpaths, bridleways and restricted byways.
- Appendix 2 – Application form for authorisation under section 33 Road Traffic Act 1988
- Appendix 3 – Conditions of consent
- Appendix 4 – Requirements and procedures for seeking section 33 consent
- Appendix 5 – Summary of responses to consultation with path user groups and motorsport organisations and representatives
- Appendix 6 – Impact Assessment