

<b>Committee(s)</b>	<b>Dated:</b>
Streets & Walkways Sub Committee Police Authority Board Policy & Resources Committee	7 March 2023 22 March 2023 20 April 2023
<b>Subject:</b> Anti-Terrorism Traffic Regulation Order	<b>Public</b>
<b>Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?</b>	<b>1</b>
<b>Does this proposal require extra revenue and/or capital spending?</b>	<b>No</b>
<b>If so, how much?</b>	<b>N/A</b>
<b>What is the source of Funding?</b>	<b>N/A</b>
<b>Has this Funding Source been agreed with the Chamberlain's Department?</b>	<b>N/A</b>
<b>Report of:</b> Executive Director, Environment Department	<b>For Decision</b>
<b>Report author:</b> Ian Hughes, City Operations Director	

### Summary

The City's permanent Anti-Terrorism Traffic Regulation Order (ATTRO) authorises the City Police to potentially control the movement of pedestrians and vehicles on City streets for counter terrorism purposes and was originally requested as part of a package of measures aimed at both improving the security of people in crowded places & preventing damage to buildings from a potential terrorist attack.

Members approved the ATTRO in 2016 on the basis that the City Corporation's area was particularly vulnerable to terrorism due to its highly dense nature and the concentration of high profile, historic, prestigious and financial targets that can be found throughout the Square Mile. Matters since would suggest this assessment has not changed, albeit the use of the ATTRO has been limited to a small number of high-profile special events.

From a City Police perspective, retaining the permanent ATTRO remains important because it affords them the ability to react quickly, if the intelligence necessitates it, to protect the public. For the City Corporation, having a permanent ATTRO allows it to be implemented for specific requests in a more timely manner where speed of response may be important.

The ATTRO was made as a permanent traffic order but subsequently Members requested that in addition to annual reports on its usage, the continuing need for the ATTRO to remain in place would be reviewed every three years. As a result, this year's report is For Decision.

### Recommendation(s)

Members are recommended to approve the continuation of the ATTRO subject to a further review in three years' time.

## **Main Report**

### **Background**

1. In September and October 2016, the Planning & Transportation Committee (for decision), the Police Committee (for information) and the Policy & Resources Committee (for decision) discussed and agreed to the creation of an Anti-Terrorism Traffic Regulation Order (ATTRO) in the City Corporation area.
2. This was in response to a request from the Commissioner of the City Police in July 2015 to introduce such an order and followed a statutory public consultation.
3. The Commissioner's request was informed by advice received from his counter-terrorism security advisors, including the Centre for the Protection of National Infrastructure (CPNI). The advice related to the whole administrative area of the City and was in the context of the potential impact of terrorism due to the City's intensely crowded nature and its role as a high-profile world centre of economic activity.
4. The ATTRO is a counter terrorism measure pursuant to the provisions of the Civil Contingencies Act 2004, which allows traffic orders to be written by the Traffic Authority under s6, s22C and s22D of the Road Traffic Regulation Act 1984. These orders can only be made on the recommendation of the Commissioner of Police and are for the purposes of:
  - Avoiding or reducing the likelihood of, or danger connected with, terrorism, or;
  - Preventing or reducing damage connected with terrorism.
5. On the basis of a security assessment or an intelligence threat, the ATTRO gives a City Police Inspector or above the discretion to restrict traffic and / or pedestrians to all or part of any street in the City. That discretion must be exercised in accordance with an agreed protocol so that any interference is proportionate and that such restrictions are in place for the minimum extent and time necessary.
6. The Commissioner requested the ATTRO be put in place on a permanent basis, but that its use be contingent on it only being used as a proportional counter terrorism response to the needs of an event, incident or item of intelligence. Transport for London also agreed to allow the City Corporation to include their streets within the Square Mile as part of the ATTRO area.
7. The permanent ATTRO allows the controls to be activated at any time, albeit in accordance with an agreed protocol that reflects the statutory requirements for making such an order. Nevertheless, its permanent nature enables quicker activation of security measures to meet operational requirements given the unpredictability of the current terrorist threat.

8. Members agreed to making the ATTRO on two key conditions, namely that an annual review be presented to Members, and as part of that review, there should be confirmation that the ATTRO had been used in a proportionate way.

### **Current Position**

9. The protocol established for using the ATTRO allowed for two main types of scenario. The first of these was for intelligence-based police led urgent situations, however, since it's introduction the permanent City ATTRO has yet to be used to implement controls resulting from advance intelligence.
10. The second scenario was in relation to pre-planned special events where the ATTRO could be used to supplement the City Corporation and TfL's existing event planning process. Such events typically have a separate pre-advertised temporary traffic regulation order (TTRO) granted to the organiser to close roads just to facilitate the event, but if deemed appropriate, the ATTRO could be used to authorise additional protective security measures, particularly in response to emerging information regarding the terrorist risk to that event. These could include the control of pedestrian movements which would not typically form part of the standard event TTRO, and / or additional road closures that might be deemed appropriate nearer the event.
11. In between its introduction in 2016 and the large scale suspension of mass spectator events due to Covid, the City Police Commissioner requested the ATTRO to be used on eight separate occasions, all in relation to a particular special event. Four of those requests involved the annual New Year's Eve celebrations as part of the Metropolitan Police-led operation across Central London. The other four were all in 2017 and related to:
  - The funeral of PC Keith Palmer at Southwark Cathedral
  - The IAAF Marathon
  - The Lord Mayor's Show & Fireworks
  - The Grenfell Tower Memorial Service at St Paul's Cathedral
12. During 2022 and following the return of mass spectator events after Covid, the Commissioner requesting its use for three events, namely:
  - Her Majesty the Queen's Platinum Jubilee Service at St Paul's Cathedral
  - Events related to the passing of Her Majesty Queen Elisabeth II and the accession of His Majesty King Charles III
  - New Year's Eve celebrations
13. Post-event feedback would suggest the additional powers contained in the ATTRO were used sparingly, but where used, they proved helpful in ensuring the mitigation of terrorism risk. There was no noticeable or negative impact on the general public and none of their uses exceeded 48 hours, which would have otherwise triggered a review by the Town Clerk & Commissioner as per the standing protocol.

14. The City Police therefore wish the ATTRO to be retained as they consider it affords them the ability to react quickly to protect the public if the intelligence or the manner in which events unfold necessitates it.

### **Considerations for Retention**

15. From a City Corporation perspective, having the permanent ATTRO allows requests to be implemented in a more timely manner compared to the time involved in processing individual applications in circumstances where delay could prejudice the ability to remove or reduce threat. However, to be clear, individual requests to implement measures under the ATTRO are carefully considered and only agreed if they are considered to have sound reasons and strike a proportionate and fair balance between public interest and private rights.

16. The retention of an ATTRO to cover the whole City (rather than piecemeal ATTROs for smaller areas) is also considered appropriate to current and future potential threats given the widespread nature of potentially high profile targets within the Square Mile and the fast changing nature of the City and the security environment.

17. In terms of the wider use of ATTRO legislation, during the course of last year a Judicial Review was brought against Westminster City Council and the Metropolitan Police regarding their use of ATTRO powers in relation to an event at the Royal Albert Hall. The issues raised were generally around:

- The timely consideration and processing of requests for the ATTRO
- The balance between the public's right of access and the ability to limit that access for counter terrorism purposes, in particular the need to consider each request on its merits

18. For the City Corporation, City Police and TfL, the first of these issues is best addressed by having the standing power in place that can be implemented via an agreed protocol, allowing it to be used in an agreed and timely fashion.

19. In terms of the proportionality of using the ATTRO, the City Corporation already applies a significant degree of challenge (at Town Clerk level) to each request made by the Commissioner, ensuring the case being made is specific to that request and takes into account the balance of other legislative rights and powers.

20. It should be noted the operational protocol to oversee how the ATTRO is triggered and operated remains subject to review between the City Corporation, City Police and TfL under 'Business as Usual' protocols to ensure it remains fit for purpose. In addition, although the authority to implement the ATTRO has been delegated to the Town Clerk, the Chairmen of your respective Committees are made aware when requests are made and this delegation is used.

21. Although the ATTRO itself has no defined end date, Members felt it appropriate to reconsider retaining these powers on a standing basis every three years. The last such occasion was in 2020, so this year's report on the ATTRO's usage and retention is appropriately for decision.

## **Proposal**

22. Retaining the permanent ATTRO allows requests to be considered in a timely manner where any delay involved in approving and making individual ATTROs could undermine the reason for making the ATTRO. It is therefore proposed that the ATTRO be retained for the reasons set out above.

## **Corporate & Strategic Implications**

23. Counter Terrorism is graded as a tier one threat against our country as per the National Strategic Policing Requirements set by the Home Office. Nationally and locally, there is an appropriately strong expectation that the threat of terrorism is met by an equally appropriate and proportionate response by the police and their partners.

24. The Government's Contest Strategy aims to reduce the risk to the UK and its interests overseas from terrorism, so people can go about their daily lives freely and with confidence. The City of London Police, part of the London counter terrorism region, supports the Contest Strategy through the four P's approach of Pursue, Prevent, Protect and Prepare. Protective Security as a theme, and therefore the ATTRO, fits firmly under Protect element of the Government's Contest Strategy.

25. The number one ambition of the City of London Police's Corporate Plan is 'to make the City of London the safest place in the world'. This includes having all the tools available to rapidly mitigate risk and to protect the public.

26. The City of London's historical, cultural and economic importance means it will always be an attractive target for those who are intent on causing high profile disruption. By continuing to protect the City of London from terrorism we will continue to protect the UK's interests as a whole. In terms of prevention, the City of London Police plan states 'we will continue to develop different ways to engage and work with partners in a coordinated way to deter, detect and disrupt terrorist activity'.

27. The City of London Local Plan 2015 aims to ensure that the City remains a safe place to live, work and visit. Core Strategic Policy CS3 makes specific provision for implementing measures to enhance the collective security of the City against terrorist threats. It seeks to apply those measures to broad areas, including the City as a whole, encouraging the development of area-based approaches to implementing security measures. The Local Plan is now under review but is likely to continue that approach.

28. The risk of terrorist attack remains at the top of the current Corporate Strategic Risk Register because of the City's concentration of high profile, historic, prestigious and financial targets. In addition, the City's Corporate Plan 2018-2023 reiterates the key aims of ensuring people are safe & feel safe and that we protect the users of our buildings, streets & public spaces.

29. Otherwise, the legal implications on the use of the ATTRO remain unchanged from the original 2016 report and are repeated in Appendix 1 for reference.

### **Risk Implications**

30. Although the risk of further terrorist attacks in the Square Mile cannot be eliminated, the potential availability of the ATTRO to the City Police forms part of the measures available to help mitigate that risk.

### **Legal & Equalities Implications**

31. See Appendix 1.

### **Financial, Resource & Climate Implications**

32. None

### **Conclusion**

33. Given the Square Mile's exceptional environment, its 'attractiveness' as a terrorist target has not changed. The evidence would suggest the use of the ATTRO is carefully considered and is used proportionately, balancing public interest against individual rights. Feedback does not suggest any noticeable or negative impact on the general public and a significant but appropriate degree of challenge is made by the City Corporation to the requests from the Commission to use it.

34. As a result, it is recommended that the City's permanent ATTRO is retained as an appropriate measure to enable the Commissioner of Police to more readily and better protect the City community.

### **Appendices**

#### **Appendix 1 - ATTRO Legal Considerations**

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## Appendix 1 - ATTRO Legal Considerations

1. Statutory power to make the ATTRO – Sections 6, 22C and 22D of the Road Traffic Regulation Act 1984 (as amended by the Civil Contingencies Act 2004) enables traffic orders to be put in place by the traffic authority for the purposes of avoiding or reducing the likelihood of danger connected with terrorism, or preventing or reducing damage connected with terrorism.
2. Statutory duties of traffic authority - As traffic and highway authority, the City Corporation has the duty to secure the expeditious, convenient and safe movement of traffic (having regard to the effect on amenities) (S122 Road Traffic Regulation Act 1984) and the duty to secure the efficient use of the road network avoiding congestion and disruption (S16 Traffic Management Act 2004). The Schedule to the ATTRO sets out requirements aimed at meeting these duties by ensuring that any restrictions will be the minimum necessary to remove or reduce the danger and are consistent with the statutory requirements for making such Orders. In implementing the ATTRO the traffic impacts of restricting or prohibiting traffic to roads within the City, including, potentially, pedestrian traffic, should be considered. In the event of a threat, the disruption to traffic flow would also have to be weighed against the threat of more severe disruption and greater risk being caused due to failure to prevent an incident.
3. Further controls - The Schedule to the draft ATTRO requires that in most cases at least seven days' notice of any restrictions must be given to persons likely to be affected (unless this is not possible due to urgency or where the giving of notice might itself undermine the reason for activating the ATTRO), and notice must also in any event be given to the City, TfL and other affected traffic authorities. The requirement for notice is intended to mitigate adverse traffic impacts by enabling alternative transport arrangements to be put in place.
4. Human Rights and Proportionality - In considering the request for the ATTRO, there is a duty to act in accordance with the European Convention on Human Rights. In relation to possible restriction of access to property, any interference with Article 1 rights to enjoyment of property must be justified. Interference may be regarded as justified where it is lawful, pursues a legitimate purpose, is not discriminatory, and is necessary. It must also strike a fair balance between the public interest and private rights affected (i.e. be proportionate). It is considered that the public interest in being protected by the existence and operation of the ATTRO can outweigh interference with private rights which is likely to occur when restrictions are in operation. The scope of restrictions must be proportionate and should only last until the likelihood of danger or damage is removed or reduced sufficiently in the judgment of a senior police officer. The Schedule to the ATTRO sets out arrangements (further expanded in the Protocol) for ensuring that any interference is proportionate. Given the risks to life and property which could arise if an incident occurred, and the opportunity provided by the ATTRO to remove or reduce the threat of and/or impacts of incidents, it is considered that the ATTRO can be justified and any resulting interference legitimate.