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WELSH STATUTORY INSTRUMENTS

2007 No. 1712 (W.149)

HIGHWAYS, WALES

The Traffic Management (Guidance on Intervention Criteria) (Wales) Order 2007

Made - - - -	*13 June 2007*
Laid before the National Assembly for Wales - -	*14 June 2007*
Coming into force - -	*10 July 2007*

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by section 27 of the Traffic Management Act 2004(**1**) and now vested in them(**2**), make the following order:

Title, commencement and application

1. The title of this Order is the Traffic Management (Guidance on Intervention Criteria) (Wales) Order 2007, it comes into force on 10 July 2007, and applies in relation to Wales(**3**).

Guidance on intervention criteria

2. The guidance about the criteria which the Welsh Ministers propose to apply for the purpose of deciding whether to give an intervention notice or make an intervention order under Part 2 of the Traffic Management Act 2004 is appended in the Schedule to this order.

Brian Gibbons
Minister for the Economy and Transport

13 June 2007

(**1**) 2004 c. 18.
(**2**) By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
(**3**) *See* definition of "appropriate national authority" in section 31 of the Traffic Management Act 2004.

SCHEDULE Article 2

TRAFFIC MANAGEMENT ACT 2004 NETWORK MANAGEMENT DUTIES GUIDANCE ON INTERVENTION CRITERIA FOR WALES

INTRODUCTION

1. Section 16 of the Traffic Management Act 2004 ("the Act") introduced a new network management duty for local traffic authorities. Such authorities are required to manage their road network to secure the expeditious movement of traffic on that network and to facilitate the same on the networks of others.

2. Section 17 of the Act requires a local traffic authority ("an authority") to make appropriate arrangements for planning and carrying out the duty and these arrangements must include provision for the appointment of a traffic manager.

3. Section 19 empowers the Welsh Ministers to direct an authority to provide them, within a specified period, with information connected with any aspect of the performance of its duties under sections 16 and 17.

4. Section 20 enables the Welsh Ministers to give an "intervention notice" to an authority if they consider that the authority may be failing to properly perform any of its duties under sections 16 and 17.

5. Section 21 empowers the Welsh Ministers to make an "intervention order" making provision for or in connection with the appointment of a traffic director if they are satisfied that an authority is failing to properly perform any duty under those sections.

6. The intervention notice is the first formal stage in the enforcement of the network management duties. It will give brief particulars of the grounds for giving the notice, offer the authority the opportunity to make representations or proposals and may require the authority to provide certain information.

7. Further action may not be necessary, but if it is, intervention in the strictest sense will occur when provision is made by way of an intervention order for or in connection with the appointment of a traffic director. The traffic director will be given such objectives and powers as the Welsh Ministers consider will secure the proper performance of the duty in question. Section 21(5) sets out the general powers which may be conferred on a traffic director and these will allow him or her to monitor and report on any matter, intervene in activities of an authority and carry out any of its functions.

8. In November 2006 the National Assembly for Wales(**4**) published guidance under section 18 of the Act entitled "*Network Management Duty Guidance*". This sets out in more detail, guidance about the techniques of network management and other matters relating to the performance of the duties imposed by sections 16 and 17. In particular Annex A to the guidance, which is headed "*Good Practice Advice on Techniques and Approach*", describes how an authority may achieve effective improvements to the management of road networks. In performing the duties under sections 16 and 17, authorities must have regard to this guidance.

9. Section 27 of the Act requires the Welsh Ministers, as the appropriate national authority as respects Wales(**4**), to give guidance about the criteria they propose to apply for the purpose of deciding whether to give an intervention notice or make an intervention order and to append that guidance to an order made by statutory instrument. This Schedule sets out that guidance which

(**4**) Functions of the National Assembly for Wales under the Traffic Management Act 2004 now vested in the "Welsh Ministers" by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

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applies in relation to all authorities in Wales. It should be read in conjunction with the **Network Management Duty Guidance** and Part 2 of the Act.

THE CONTEXT

10. Efficient movement on our road networks is essential for both society and a successful economy. A number of shared priorities have been agreed which provide a focus for central and local government in terms of improving public services and, in relation to transport, reducing the problems of congestion. If network issues need to be addressed, central and local government can work together, in their respective roles, to deliver policies and programmes that are effective in managing or mitigating the impacts of congestion at local level.

11. The Act itself, which is seen as a spur for the better management of the road network, provides a built-in opportunity for engagement and recovery, by enabling an authority to work together with the Welsh Ministers, at an early stage, with the aim of making improvements. Making an intervention order to appoint a traffic director will be a situation reached only after serious efforts have been made to raise the standard of an authority that may not be properly managing its road network.

12. It is hoped that the potential for intervention will encourage authorities to ensure that they carry out their network management duties. Nevertheless, if concerns develop that an authority may not be addressing the duties imposed by sections 16 and 17 of the Act, the Welsh Ministers intend to work with that authority, through an engagement process, to encourage the authority to recover so as to avoid reaching the stage where a traffic director has to be appointed. However, if it becomes clear that recovery is not being achieved, or is not an option, to the extent that they are satisfied that an authority is failing properly to perform any duty, they may make an intervention order making provision for or in connection with the appointment of a traffic director.

FUNDAMENTAL PRINCIPLES

13. The network management duty, as set out in section 16 of the Act, is qualified to the extent that each authority has other obligations, policies and objectives which they must also address. Accordingly, the duty should not take precedence over everything else that they do. The Welsh Ministers recognise that all authorities face different challenges and have their own obligations, policies and objectives which will have to be taken into account when performing the duty. In addition, in assessing an individual authority's performance, they will also consider its approach to the duty within the wider circumstances in which traffic presents itself on its network. The sort of circumstances envisaged could be projects involving economic regeneration, house building or special events. The Welsh Ministers will not expect every authority to approach the duty in exactly the same way.

14. Under the Act, it is for individual authorities to determine how they will frame the duty within the broader range of their responsibilities. For example, it should not undermine an authority's road safety objectives. Indeed, authorities should plan for both the expeditious and safe movement of all traffic, including pedestrians and cyclists. Each authority should set their own objectives for the expeditious movement of traffic within the context of their other obligations, policies and objectives.

15. By virtue of section 17 of the Act, an authority must make such arrangements as it considers appropriate for planning and carrying out the action to be taken in performing the network management duty. These arrangements must be put in place, regardless of the authority's other obligations, policies and objectives, and must include provision for a number of matters specified in that section and their effectiveness must be kept under review.

16. Each authority should aim to show that their approach to securing the expeditious movement of traffic, both on their own network and the networks of others, is challenging but realistic. The Welsh Ministers will be looking for all authorities to demonstrate a robust strategy which integrates

with their other responsibilities and has been adopted wherever it is relevant throughout their organisation.

17. In terms of priorities for keeping the network moving efficiently, the same level of activity is not expected in relation to every road in an authority's area. Authorities need not concentrate on roads where there is relatively little traffic movement and where this is unlikely to change in the foreseeable future. However, they should know which of their roads fall into this category and which roads are important for the movement of people and goods. Authorities should pay careful attention to the latter category by, for example, facilitating the efficient movement of traffic on key public transport routes and ensuring that the operation of any bus priority measures (such as bus lanes) is subject to minimal disruption.

THE NETWORK MANAGEMENT DUTIES

18.—(1) The network management duties are as set out in sections 16 and 17 of the Act and for the purposes of determining the nature and extent of each duty, reliance should only be placed on the precise wording of the legislation. However it may assist to explore the duties in more detail and accordingly they are set out as follows in a slightly expanded format.

(2) Under section 16 (the network management duty), an authority must manage its road network with a view to achieving two objectives, so far as may be reasonably practicable having regard to its other obligations, policies and objectives. These two objectives are—

(a) to secure the expeditious movement of traffic on that network, and

(b) to facilitate the expeditious movement of traffic on road networks for which another authority is the traffic authority.

(3) Section 17 (arrangements for network management) sets out a number of additional duties for an authority which are single duties for the purposes of sections 20 and 21 but which nevertheless underpin the main duty under section 16. These are more particularly set out in the following sub-paragraphs.

(4) An authority has a duty to make such arrangements as it considers appropriate for-

(a) planning the action to be taken in performing the network management duty, and

(b) carrying out that action.

(5) An authority has a duty to ensure that these arrangements include provision for the appointment of a traffic manager.

(6) An authority has a duty to ensure that the arrangements also include provision for establishing processes for ensuring (so far as may be reasonably practicable) that it—

(a) identifies things which are causing—

(i) road congestion on its road network, or

(ii) other disruption to the movement of traffic on that network;

(b) identifies things (including future occurrences) which have the potential to cause—

(i) road congestion on its road network, or

(ii) other disruption to the movement of traffic on that network; and

(c) considers any possible action that could be taken—

(i) in response to, or

(ii) in anticipation of,

anything so identified,

but this does not require the identification or consideration of anything appearing to have only an insignificant effect (or potential effect) on the movement of traffic on its network.

(7) An authority has a duty to ensure that the arrangements also include provision for ensuring that it—

(a) determines specific policies or objectives in relation to—

(i) different roads in its road network, or

(ii) different classes of road in that network;

(b) monitors the effectiveness of—

(i) its organisation,

(ii) its decision making processes, and

(iii) the implementation of its decisions; and

(c) assesses its performance in managing its network.

(8) An authority has a further duty to keep under review the effectiveness of the arrangements it has in place under section 17 of the Act.

PROCESSES AND OUTCOMES

19. Section 17 of the Act focuses on the importance of making arrangements for network management. The emphasis on process reflects the fact that management of the road network is not something that an authority should simply add on to its existing operations, but should integrate seamlessly within its wider arrangements to tackle congestion.

20. Moreover, it is not always possible to identify direct links between individual actions by an authority through the arrangements and processes it has in place and the outcomes of these actions in terms of network performance. In some cases the results might have been worse but for the actions of an authority, while in others, events will have been entirely beyond its control. In any event, an authority should have the arrangements and the review in place, as required under section 17.

21. When Part 2 of the Act came into effect, the first steps were to set up arrangements for developing the duties. Attention in this initial phase has been placed on whether an authority has established the arrangements and review required under section 17. These are always required, regardless of local circumstances.

22. However, the Act indicates that authorities may take any action to avoid, eliminate or reduce congestion or other disruption to movement on the network. Such action may involve the exercise of any power to regulate or coordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority). It is the outcomes of the action taken that are important in the longer term, especially as performance indicators become agreed and adopted more widely. Authorities should make every effort to focus on taking new action as required, adopting appropriate performance indicators, whether developed centrally or locally and on improving the outcomes as quickly as circumstances allow.

23. The core of the duty is for authorities to manage their network better by tackling road congestion. This is important in large urban areas and many other locations also. In order to demonstrate performance and improvements, authorities should adopt the mandatory indicators used in the Local / Regional Transport Plan process. Performance indicators are continually being developed centrally with advice from local government; for example, those associated with congestion. All authorities are expected to keep in step with national transport policies and centrally developed indicators as they are published. Authorities should adopt targets and indicators that show the full range of their performance against their network management duties. For some authorities this will mean that a number of their performance indicators will be determined locally.

24. The Welsh Ministers will expect to see evidence, within the reporting process, of authorities accomplishing their targets, or at least being on course to do so. However, it is recognised that even

where outcomes can be measured, the action which an authority takes will vary depending on local needs.

DEMONSTRATING THE PERFORMANCE OF THE NETWORK MANAGEMENT DUTIES

25. Section 18(2) of the Act requires an authority to have regard to the *Network Management Duty Guidance*. Paragraph 47 of the guidance obliges an authority to reflect the arrangements it has established for fulfilling the network management duty in its Regional Transport Plan ("RTP")(**5**).

26. An authority should report on how it is managing its network and tackling congestion within current reporting procedures. Arrangements for, and evidence associated with, network management should not only be reflected in its RTP, but also in any interim monitoring reports. While this guidance necessarily reflects the current reporting regime, different reporting methods may develop in the future.

27. It is intended that any reporting process should not impose an unnecessary burden upon authorities. They are not expected to develop free-standing network management plans for submission to the Welsh Ministers, although it is recognised that some authorities are finding it useful for their own purposes to produce such a plan.

28. It is the responsibility of each authority to provide clear evidence that the network management duty is being properly performed and this should include details of the progress made in respect of the priorities that each authority has set itself. The reporting process provides opportunities for authorities to demonstrate their ability to carry out their network management duties and their successful progress in doing so.

29. Where authorities participate in a joint RTP, each should ensure that sufficient evidence has been presented to demonstrate that it is properly performing each of its network management duties.

ASSESSMENT OF EVIDENCE

30. The Welsh Ministers will assess reports from authorities, as well as any supporting documents, to determine how they have performed their network management duties. They will also take into account any serious issue about traffic movement on a road network, of which they become aware through means other than normal reporting. In conducting the assessment, the Welsh Ministers will, in particular, address five primary questions as follows. In relation to each primary question, although not exhaustive, paragraphs 31 to 43 set out examples of subordinate questions that the Welsh Ministers may consider.

TO WHAT EXTENT HAS AN AUTHORITY HAD REGARD FOR THE NETWORK MANAGEMENT DUTY GUIDANCE IN PERFORMING ITS NETWORK MANAGEMENT DUTIES? (See section 18(2) of the Act)

31.—(1) Local circumstances will have a significant influence not only on how an authority manages its network, but also on how it goes about making arrangements for the performance of that duty and which traffic management techniques it chooses to adopt. It is, therefore, for each individual authority to decide how it plans to perform its duties relating to traffic management.

(2) However, some features of the *Network Management Duty Guidance* are common to all authorities, albeit to differing degrees. All of the following considerations need to be adequately addressed as a minimum indication that an authority has had regard to the *Network Management Duty Guidance* ("NMDG")—

(**5**) The term Regional Transport Plan or RTP is used in this guidance (and in the NMDG) to describe a local transport plan prepared by a group of local transport authorities in respect of their collective area in accordance with the Transport Act 2000 and the Regional Transport Planning (Wales) Order 2006.

(a) considering the needs of all road users;

(b) co-ordinating and planning works and known events;

(c) gathering and providing information needs;

(d) incident management and contingency planning;

(e) dealing with traffic growth;

(f) working with all stakeholders — internal and external;

(g) ensuring parity with others; and

(h) providing evidence to demonstrate network management.

Considering the needs of all road users. (See NMDG paragraphs 26, 51, 76-79 and 117)

32.—(1) How does an authority manage the road space for everyone?

(2) Has the authority set out a clear understanding of the problems facing the different parts of its network?

(3) Is it aware of the needs of different road users?

(4) Has it balanced policies for addressing these problems and needs?

(5) Has the local authority identified and grouped roads according to their location and the activities on them?

(6) How has the authority shown that it has balanced competing demands while continuing to manage its network efficiently?

(7) In reaching decisions on competing demands, has it taken account of its policies and the particular circumstances of the part of the network being considered?

(8) Is the authority working together with local businesses, retailers, representatives of the freight and road haulage industry, public transport operators and statutory undertakers?

(9) Is it developing means for ensuring economic and efficient servicing of premises and deliveries, whilst mitigating adverse problems?

Coordinating and planning works and known events. (See NMDG paragraph 27)

33.—(1) To what extent has the authority promoted pro-active coordination of activities on the network?

(2) To what degree has it adopted a planned, evidence-led approach to known events?

(3) Has it developed, or is it developing, contingency plans for unforeseen events?

Gathering and providing information needs. (See NMDG paragraphs 28, 89, 90, 126 and 127)

34.—(1) How effective are the arrangements the authority have in place to gather accurate information about planned works and events?

(2) How does the authority organise planned works and events to minimise their impact and agree or stipulate their timing to best effect?

(3) Does the authority provide access on demand to information, from the authority's systems for recording and coordinating utilities' works and road works, to utility companies, contractors and adjoining authorities?

(4) Does the authority have, or aim to have, a good and timely source of travel information for road users and the community?

(5) Does this allow road users to choose a different route or mode of travel or to delay or defer their proposed journey?

(6) Does the authority work with a variety of travel information providers and do they communicate through a wide range of channels?

(7) What evidence has been provided to show how well the authority is providing information to other street authorities and meeting existing statutory obligations such as its duty to keep a street works register?

Incident management and contingency planning. (See NMDG paragraphs 29 and 50)

35.—(1) Has the authority established contingency plans for dealing with situations outside the authority's control promptly and effectively, as far as is reasonably practicable?

(2) Has the authority provided evidence to demonstrate that it has ensured that all parties involved in making these contingency arrangements work, have been, or are, fully consulted during their development?

(3) Have these parties the information they need to put the plans into practice quickly?

Dealing with traffic growth. (See NMDG paragraph 30)

36.—(1) What evidence has been given to show that an authority has identified trends in traffic growth on specific routes?

(2) What policies have been put in place for managing incremental change?

Working with all stakeholders — internal and external. (See the Act and NMDG paragraphs 31 to 33 and 57 to 62)

37.—(1) What evidence is there to show that those responsible within the authority for exercising any power to regulate or coordinate the uses made of any road or part of a road in the road network are aware of, and act upon, the authority's responsibilities arising in relation to the network management duty?

(2) Do authorities that are in two-tier areas liaise with all the relevant departments in the second tier organisations whose work affects the road network?

(3) Does the authority ensure that other bodies (e.g. planning authorities) are aware of the duty and their impact on the movement of traffic?

(4) What evidence is there to show that an authority takes actions that include consultation on initiatives, the sharing of information needed to meet the duty, processes for ensuring that policies are consistent and agreeing joint working arrangements, including particularly with the Welsh Ministers.

(5) Has the authority involved the police, statutory undertakers, Passenger Transport Executives, bus operators, the Traffic Commissioners, residents and local businesses and different road users where appropriate in decision-making processes?

Ensuring parity with others. (See NMDG paragraphs 67 and 88)

38.—(1) Does the authority apply the same standards and approaches to its own activities as it does to those of others and does it provide evidence of this, particularly in relation to utilities' street works and developers' works?

(2) Does it use locally determined indicators and where relevant any centrally developed key performance indicators?

Providing evidence to demonstrate network management. (See NMDG paragraph 47)

39.—(1) Have the arrangements established by an authority for performing the duty been reflected in its RTP or any other interim monitoring report?

(2) Do reports about the duty performed by an authority provide clear evidence to demonstrate how it manages its road network?

TO WHAT EXTENT HAS THE LOCAL TRAFFIC AUTHORITY CONSIDERED AND WHERE APPROPRIATE TAKEN ACTION AS ENVISAGED BY SECTION 16(2) OF THE ACT?

40.—(1) Does the report from the authority about its performance demonstrate what action the authority has considered in order to perform the network management duty and the outcomes of those deliberations?

(2) Has the authority shown evidence that it has taken action that it considers will contribute to securing the more efficient use of its road network or the avoidance, elimination or reduction of congestion or other disruption to the movement of traffic on its road network or a road network for which another authority is the traffic authority?

(3) Has the authority shown evidence that it has taken any other action that it considers to be relevant?

TO WHAT EXTENT HAS THE LOCAL TRAFFIC AUTHORITY EXERCISED ANY POWER IN SUPPORT OF THIS ACTION?

41.—(1) Does the report show what powers have been considered in support of the action taken to perform the network management duty?

(2) Has any power been exercised so as to regulate or coordinate the uses made of any road, or part of a road, in the road network, whether or not the power was conferred on it in its capacity as a traffic authority?

TO WHAT EXTENT HAVE INDICATORS AND TARGETS TO REDUCE CONGESTION BEEN USED?

42.—(1) Has the authority established performance indicators and relevant targets to enable it to measure expeditious movement of traffic?

(2) Has it established effective monitoring systems?

(3) Is there evidence that an authority has used such indicators, targets and systems to develop its plans, drive its delivery and report on performance?

TO WHAT EXTENT DO INDIVIDUAL CIRCUMSTANCES ACCOUNT FOR AN APPARENT FAILURE OF A DUTY?

43. To what extent is the apparent failure of a duty a consequence of—

(a) the authority having paid regard to its other obligations, policies and objectives (see section 16(1) of the Act);

(b) the action or inaction of another authority (see section 16(1)(b) of the Act); or

(c) actions, or a lack of them, that could be considered reasonable when compared with a sample of—

(i) neighbouring authorities,

(ii) authorities of a similar type,

(iii) authorities with similar circumstances, or

(iv) all authorities?

REQUEST FOR INFORMATION

44. If the Welsh Ministers consider that they do not have sufficient information to fully address any particular question, they may contact an authority informally and request further information within a specified period.

45. While the informal approach will probably be the main method of obtaining further information, section 19 of the Act nevertheless enables the Welsh Ministers to formally direct an authority to provide them, within a specified period, with specified information connected with any aspect of the performance of its network management duties. This power may be exercised at any time but is more likely to be used where an authority fails to provide sufficient or satisfactory information, or simply does not respond to an informal request within any period specified.

46. A direction under section 19 may be given to a single authority, to two or more authorities or to authorities of a description specified in the direction and authorities should respond within the period specified in the direction.

CRITERIA FOR DECIDING WHETHER TO GIVE AN INTERVENTION NOTICE

47. The Welsh Ministers propose to apply the following criteria for the purpose of deciding whether an authority may be failing properly to perform any of its duties under sections 16 and 17 of the Act and whether to give an intervention notice.

CRITERION No.1 (Section 17 duties)

48. The extent to which—

(a) the evidence (**see paragraphs 31 to 43 above**) that an authority has or has not—

(i) had regard to the *Network Management Duty Guidance* in performing its network management duties;

(ii) considered, and where appropriate, taken action, as envisaged by section 16(2) of the Act;

(iii) exercised any power in support of that action;

(iv) adopted indicators;

(v) met targets to reduce congestion; and

(vi) been the subject of individual circumstances which account for an apparent failure of a duty;

(b) any specified information obtained under section 19 of the Act; and

(c) any other relevant evidence available,

seem to indicate to the Welsh Ministers that the authority may not have complied with one or more of the requirements of section 17 of the Act and as a consequence may be failing properly to perform any of its duties under that section.

49. In applying this criterion, the Welsh Ministers will address the following questions.

(a) Has the authority considered what arrangements might be appropriate for—

(i) planning the action to be taken in performing the duty under section 16 of the Act; and

(ii) carrying out that action;

and where considered appropriate has it made such arrangements? (See section 17(1)).

(b) Do the arrangements include provision for the appointment of a traffic manager? (See section 17(2)).

(c) Do the arrangements include provision for establishing processes for ensuring, so far as may be reasonably practicable, that the authority—

(i) identify things which are causing road congestion on its road network, or other disruption to the movement of traffic on that network;

(ii) identify things (including future occurrences) which have the potential to cause road congestion on its road network, or other disruption to the movement of traffic on that network; and

(iii) consider any possible action that could be taken in response to, or in anticipation of, anything so identified? (See section 17(4)).

In addressing this question the Welsh Ministers will not expect to see provision for establishing processes for the consideration or identification of anything appearing to have only an insignificant effect (or potential effect) on the movement of traffic on the authority's road network.

(d) Do the arrangements include provision for ensuring that the authority—

(i) determines specific policies or objectives in relation to different roads or different classes of road in its road network;

(ii) monitors the effectiveness of its organisation and decision-making processes and the implementation of its decisions; and

(iii) assesses its performance in managing its road network? (See section 17(5)).

(e) Has the authority kept under review the effectiveness of these arrangements? (See section 17(6)).

CRITERION No.2 (Section 16 — the network management duty)

50. The extent to which—

(a) the evidence (**see paragraphs 31 to 43 above**) that an authority has or has not—

(i) had regard for the *Network Management Duty Guidance* in performing its network management duties;

(ii) considered and where appropriate taken action as envisaged by section 16(2) of the Act;

(iii) exercised any power in support of that action;

(iv) adopted indicators;

(v) met targets to reduce congestion; and

(vi) been the subject of individual circumstances which account for an apparent failure of a duty;

(b) any specified information obtained under section 19 of the Act;

(c) the conclusions reached after applying Criterion No.1; and

(d) any other relevant evidence available,

seem to indicate to the Welsh Ministers that the authority may not be managing its road network with a view to achieving, so far as may be reasonably practicable having regard to its other obligations, policies and objectives, the objectives of securing the expeditious movement of traffic on its road network and facilitating the expeditious movement of traffic on road networks for which another

authority are the traffic authority and as a consequence may be failing properly to perform its network management duty under section 16 of the Act.

51. In applying this criterion the Welsh Ministers will address the following questions.

(a) What action, if any, is the authority planning to take in performing its network management duty?

(b) What action, if any, has the authority actually taken in the performance of its network management duty?

(c) What evidence is there to show that the authority consider that such action includes action which will contribute to securing—

(i) the more efficient use of its network; or

(ii) the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on its road network or a road network for which another authority are the traffic authority?

(d) What powers to regulate or co-ordinate the uses made of any road (or part of a road) in the road network, if any, do the authority propose to exercise as part of any planned action?

(e) Has the authority exercised any such powers as part of any action taken?

(f) Has the authority appointed a traffic manager?

(g) If so, is the traffic manager performing such tasks as the authority consider will assist it to perform its network management duty?

(h) What things have the authority identified which are causing—

(i) road congestion on its road network; or

(ii) other disruption to the movement of traffic on that network?

(i) What things have the authority identified (including future occurrences) which have the potential to cause—

(i) road congestion on its road network; or

(ii) other disruption to the movement of traffic on that network?

(j) What possible action has the authority considered could be taken in response to, or in anticipation of, anything so identified?

(k) To what extent has any such action been taken?

(l) What specific policies or objectives have the authority determined in relation to different roads or classes of road in their road network?

(m) What is the outcome of the authority's monitoring of the effectiveness of its—

(i) organisation;

(ii) decision-making processes; and

(iii) the implementation of its decisions?

(n) What is the outcome of the authority's assessment of its performance in managing their road network?

(o) What is the outcome of the authority's review of the effectiveness of the arrangements it has in place under section 17 of the Act?

CRITERIA FOR DECIDING WHETHER TO MAKE AN INTERVENTION ORDER

52. The Welsh Ministers propose to apply the following criteria for the purpose of deciding whether an authority is failing to properly perform any of its duties under sections 16 and 17 of the Act and whether to make an intervention order.

CRITERION No.1 (Section 17 duties)

53. The extent to which—

(a) the evidence (**see paragraphs 31 to 43 above**) that an authority has or has not—

(i) had regard for the *Network Management Duty Guidance* in performing its network management duties;

(ii) considered and where appropriate taken action as envisaged by section 16(2) of the Act;

(iii) exercised any power in support of that action;

(iv) adopted indicators;

(v) met targets to reduce congestion; and

(vi) been the subject of individual circumstances which account for an apparent failure of a duty;

(b) any specified information obtained under section 19 of the Act;

(c) any representations or proposals made, and any specified information provided, in response to an intervention notice; and

(d) any other relevant evidence available,

satisfy the Welsh Ministers that the authority have not complied with one or more of the requirements of section 17 of the Act, is, as a consequence, failing properly to perform any of its duties under that section and is unlikely to be able to rectify such failure within a reasonable time.

54. In applying this criterion, the Welsh Ministers will re-address the questions set out in paragraph 49.

CRITERION No.2 (Section 16 — the network management duty)

55. The extent to which—

(a) the evidence (**see paragraphs 31 to 43 above**) that an authority has or has not—

(i) had regard for the *Network Management Duty Guidance* in performing its network management duties;

(ii) considered and where appropriate taken action as envisaged by section 16(2) of the Act;

(iii) exercised any power in support of that action;

(iv) adopted indicators;

(v) met targets to reduce congestion; and

(vi) been the subject of individual circumstances which account for an apparent failure of a duty;

(b) any specified information obtained under section 19 of the Act;

(c) any representations or proposals made, and any specified information provided, in response to an intervention notice;

(d) the conclusions reached after applying Criterion No.1 at paragraph 53; and

(e) any other relevant evidence available,

satisfy the Welsh Ministers that the authority is not managing its road network with a view to achieving, so far as may be reasonably practicable having regard to its other obligations, policies and objectives, the objectives of securing the expeditious movement of traffic on its road network and facilitating the expeditious movement of traffic on road networks for which another authority are the traffic authority, is, as a consequence, failing properly to perform its network management duty under section 16 of the Act and is unlikely to be able to rectify such failure within a reasonable time.

56. In applying this criterion the Welsh Ministers will re-address the questions set out in paragraph 51.

EXPLANATORY NOTE

(This note is not part of the Order)

As part of the process of enforcing the network management duties imposed by sections 16 and 17 of the Traffic Management Act 2004 ("the Act"), the Welsh Ministers may give an intervention notice if they consider that a local traffic authority in Wales may be failing properly to perform any of those duties.

If they are satisfied that such a local traffic authority is failing properly to perform any of those duties they may make an intervention order making provision for, or in connection with, the appointment of a traffic director.

In accordance with section 27 of the Act, this Order sets out, in relation to Wales, guidance about the criteria which the Welsh Ministers propose to apply for the purpose of deciding whether to give an intervention notice or make an intervention order.

A Regulatory Impact Assessment has been prepared for this Order. This is available from The Welsh Assembly Government, Crown Buildings, Cathays Park, Cardiff, CF10 3NQ.