



## REPORT TO PROCEDURES COMMITTEE - APRIL 20<sup>TH</sup> 2018

### DELEGATED POWERS OF AREA COMMITTEES – SPEED LIMITS

#### 1 Recommendations

The Committee is recommended to:

- 1.1 Note the current powers in Section B.11 of Part 2A, List of Committee Powers in the Scheme of Governance as set out in Part A of Appendix 1.
- 1.2 Note the discussion in the report and the comments received from the Head of Roads, Landscape Services and Waste Services and the Head of Transportation.
- 1.3 Agree the addition of the proposed proviso to Section B.11.1 and B.11.3 of the Part 2A – List of Committee Powers in Part B of Appendix 1.
- 1.4 Note that if the revisions in Part B of Appendix 1 are agreed that they will be included in the report to Full Council on June 28<sup>th</sup>, 2018.

#### 2 Background / Discussion

- 2.1 The setting of speed limits in Scotland is a matter for the devolved administration by virtue of Part VI of the Road Traffic Regulation Act 1984 as amended by section 42 of the Scotland Act 2016. Local Authorities act as the Traffic Authority for the setting of local speed limits on the Local Road Network.
- 2.2 Infrastructure Services Committee has the remit for Roads and Transportation and has overall responsibility for the policy and strategy decisions.
- 2.3 Speed limits are set by traffic regulation orders and Area Committees have the delegated power to determine the making of traffic regulation orders in their areas. The procedure for making a traffic order is set out in legislation. The Council must consult certain statutory consultees and then undertake a public consultation. If any objections are received, then these must be considered and either accepted or overruled.
- 2.4 The decision-making process is started with a report to the Area Committee seeking approval for a proposed traffic order, prior to the start of the statutory process. If the Area Committee does not approve the proposed order, the process goes no further. If the Area Committee approves the proposed traffic order, then the statutory and public consultations are undertaken. If no objections are received, then the order is made without further reference to the Area Committee. If objections are received and not withdrawn following engagement with council officers, a further report is put to the Area

Committee listing the objections. These must be considered by the Area Committee which then can decide to: 1. Make the order as advertised; 2. Make the order with less onerous restrictions (for example a higher speed limit than advertised or a shorter length of road within that advertised); or 3. Abandon the order. The legislation does not permit any other options.

- 2.5 A governance issue that has emanated from a recent situation at an Area Committee is whether an Area Committee has the delegated power to depart from Council Policy in respect of speed limits in its Area. At the meeting of the Procedures Committee on January 19<sup>th</sup>, 2018, this was raised, and a report was requested to address this governance query.
- 2.6 The current Aberdeenshire Council policy is in Appendix 2 to this report. The Speed Limit Assessment Procedures for Village Settlements (30mph) and 40 and 50mph are in Appendix 3. The Aberdeenshire Council Permanent Traffic Order Procedure is in Appendix 4.
- 2.7 When acting as Traffic Authority, Aberdeenshire Council considers its own policies and the guidance on the implementation of legislation from the Scottish Government. The main guidance is [ETLLD Circular No.1/2006](#) – Setting of Local Speed Limits. The key points from this guidance are
1. *Speed limits should be evidence led, self-explaining, and seek to reinforce people's assessment of what is a safe speed to travel. They should encourage self-compliance and not be seen by drivers as being a target speed at which to drive in all circumstances*
  2. *Traffic Authorities set 'local speed limits' in situations where local needs and considerations deem it desirable for drivers to adopt a speed which is different from the national speed limit*
  3. *This guidance is to be used for setting all local speed limits on single and dual carriageway roads, other than 20 mph limits, in both urban and rural areas*
  4. *This guidance should also be used as the basis for future assessments of local speed limits and for developing route management strategies.*
- 2.8 Speed limits in the UK and Scotland are used for several purposes. The purposes include the definition of the maximum desirable traffic speeds for the purposes of road safety (to reduce the number of road casualties), the reduction of negative environmental impacts, the increasing of fuel use efficiency and to deal with local requirements.
- 2.9 Aberdeenshire Council covers a large geographical area with a variety of types of road. The Roads Service manage the local road network and to be able do so effectively, a consistent approach is required in the application of policy. Local requirements have been accounted for in the policies as determined by Infrastructure Services Committee (following consultation with Area Committees).
- 2.10 The approach that the Roads Service take is that speed limits are only one element of speed management. This means that local speed limits are not set in isolation, but as part of a process along with other required elements.

The aim of this process is to manage speeds consistently in Aberdeenshire and to deliver speed limits and driven speeds that are safe and appropriate for the road and its surroundings. The process also incorporates that drivers need to be more aware of the road environment and be able to assess their own appropriate speeds at all times. To aid these aims, measures employed include; regularised engineering and landscaping standards, driver information including signage, training and publicity.

- 2.11 If a speed limit is set in isolation, or is unrealistically low, it is likely to be ineffective and to lead to possible disrespect for the speed limit. As well as requiring significant and avoidable enforcement costs, this may also result in substantial numbers of drivers continuing to travel at unacceptable speeds, thus increasing the risk of accidents and injuries.
- 2.12 It was noted at Procedures Committee that similar reasoning for departing from planning policy could be applied when departing from roads policy. The recommendation from officers is that the matters are not comparable. The aims of the legislation are too different, and the processes, procedures and guidance are not analogous. When acting as a planning authority, Aberdeenshire Council do not have to take into account (usually) how that planning application can assist in the prevention of death and injury.
- 2.13 The Acting Head of Legal and Governance has been consulted. Her response is that as the previous Scheme of Delegation was set up, the Scheme of Governance is also set up to ensure that Area Committees do not make decisions that fall outwith a wider council set policy unless the policy committee is content for it to do so. This is achieved by referral of purported decisions by Area Committees that are outwith a council policy to the Policy Committee. Of course, the Policy Committee could equally endorse the Area Committee's attempt to exercise an exception based on locality need. The Council requires its Policy Committees to be able to regulate application of the policy across the six areas but at the same time recognise that for any policy there can be cases made for exceptions and that those could be made in some local circumstances.
- 2.14 The Head of Roads, Landscape Services and Waste Services and the Head of Transportation have been consulted. Their recommendation is that the essence of the case put forward by ETLLC Circular No 1/2006 is that a consistent approach across Scotland, and within a Local Authority area, to the setting of speed limits assists with the acceptance of these speed limits and the self-compliance of motorists. Current Council Policy was developed against this backdrop and it is their view that all decisions made by Area Committees and Infrastructure Services Committee should be in accordance with existing Council Policy. It may be that a move away from the consistent application of national policy, Council Policy and the government guidance could lead to reduced compliance with stated limits and ultimately to an increase in speeding, and the associated negative impacts. While there will always be exceptions to every rule, it should require exceptional circumstances to make a decision regarding speed limits that is outwith policy. If this decision is to be made, then it is their view that the decision should be made by the policy committee.

- 2.15 Transportation Service, Roads Service and Legal and Governance Service all recommend that the Area Committee powers are clarified and that a proviso is added to the powers in Section B.11 that if Area Committees do not comply with officer recommendations and existing Council Policy, then the matter is referred to Infrastructure Services Committee.
- 2.16 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

### **3. Scheme of Governance**

- 3.1 The Committee is able to consider this item as Full Council appointed the Procedures Committee on May 18th, 2017. The established remit of the Committee is to consider proposed changes to Aberdeenshire Council's Scheme of Governance and to make recommendations about required amendments.

### **4. Implications and Risk**

- 4.1 An equality impact assessment is not required because the recommendations in this report do not have a differential impact on any of the protected characteristics.
- 4.2 There are no staffing and financial implications.
- 4.3 The following Risks have been identified as relevant to this matter on a Strategic Level BSSR003 Future Governance. The Council needs to be assured that it has the best fit of decision making so as to make it an agile and efficient body and a governance structure that reflects and serves well the communities whose priorities it is here to deliver. The link is here to the [Directorate Risk Registers.](#)

## **RITCHIE JOHNSON DIRECTOR OF BUSINESS SERVICES**

Report prepared by Ann E Overton, Senior Solicitor (Democratic Services) Legal and Governance  
Date April 10th, 2018

## Appendix 1

### Section B.11 of Part 2A – list of Committee Powers in the Scheme of Governance

#### Part A – current power

#### 11. Roads

11.1 To determine traffic management schemes.

11.2 To:

1. determine all proposed street names which are or were that of individual persons living or dead.
2. determine the naming of streets and buildings within the Council's control where the Local Members and Community Council(s) are not in accord.

11.3 To determine the making of permanent or experimental orders for the regulation of traffic.

#### Part B – proposed power (additions in italics)

#### 11. Roads

11.1 To determine traffic management schemes.

11.2 To determine the making of permanent or experimental orders for the regulation of traffic.

*Provided that if the decision is not in accordance with Officer recommendations or does not accord with existing Council policy then the matter must be referred to the appropriate Policy Committee.*

11.3 To:

1. determine all proposed street names which are or were that of individual persons living or dead.
2. determine the naming of streets and buildings within the Council's control where the Local Members and Community Council(s) are not in ~~accord-~~ agreement.



# Roads Policy Note

**6**

**Subject** ASSESSMENT OF SPEED LIMITS

**Approved By :** Infrastructure Services Committee

**Date :** 24 January 2008

**Revisions :** 4<sup>th</sup> November 2016  
Amended to incorporate changes to national guidance  
Made by – Roads Policy and Asset Manager

## 1 LOCAL SPEED LIMITS

### 1.1 Background

National speed limits are set by national government. They apply by default in the absence of signing to the contrary. At the time of writing, the national speed limits are 70 mph for rural dual carriageways, 60 mph for rural single carriageways and 30 mph for C class and unclassified roads with street lighting. Any other speed limit is a local speed limit. These are the responsibility of the Traffic Authority. The Traffic Authority for trunk roads and motorways in Scotland is the Scottish Government. Local Traffic Authorities are responsible for determining local speed limits on the Local Road Network. Aberdeenshire Council is the Local Traffic Authority for all non-trunk roads within its area. National Government issues guidance to assist Traffic Authorities in undertaking their duties to determine local speed limits. Current guidance is as follows:

[ETLLD Circular No. 1/2006 - Setting Local Speed Limits](#) (except Section 5.1)

[DfT Traffic Advisory Leaflet 1/04 - Village Speed Limits](#)

[Good Practice Guide on 20 mph Speed Restrictions](#)

The Aberdeenshire policies set out below make reference to appropriate sections of these guidance documents.

### 1.2 Legal Requirements

The primary legislation governing speed limits is set out in part VI of the Road Traffic Regulation Act 1984. Local speed limits are made by order under section 84 of this Act. Roads that would otherwise be restricted to 30 mph by virtue of being C class or unclassified roads with street lighting at intervals of less than 185 metres can have this restriction removed (or reinstated) by order under section 82. Speed limits must be signed in accordance with section 85 of the Act and the signs must comply with the Traffic Signs Regulations and General Directions 2016. Schedule 10 of these regulations covers the use of repeater signs. In particular, it should be noted that repeater 30 mph signs must not be used on roads with street lighting not more than 185 metres apart. This allows the general limit of 30 mph in built up areas to be applied with a minimum of sign clutter.

### 1.3 Speed Limits in Urban Areas

The normal speed limit in urban areas is 30 mph. A 40 mph speed limit may be applied on higher quality suburban roads or those on the outskirts of urban areas where there is little development. These should have good width and layout and should not be important routes for pedestrians and cyclists within the settlement. A 50 mph speed limit may exceptionally be appropriate on main traffic routes with a high degree of segregation from the surrounding areas. Subject to the criteria for enforceability set out in Transport Scotland's *Good Practice Guide on 20 mph Speed Restrictions* being

#### **1.4 Speed Limits in Villages**

It is government policy that the standard speed limit in villages should be 30 mph. The national definition of a village is based on simple criteria relating to frontage development and distance. An agglomeration of 20 or more houses over a minimum length of 600m at a minimum density of 3 houses per 100m would be regarded as a village. The full criteria are set out in Traffic Advisory Leaflet 1/04 which will be adopted as Aberdeenshire Council policy for village speed limits.

#### **1.5 Speed Limits in Rural Areas**

The national speed limits will be the norm on rural roads in Aberdeenshire. This will help to preserve the rural character of the area by minimising the sign clutter of repeater speed limit signs. Where the accident history indicates that speed management measures may be required on a particular stretch of road, then an evaluation will be made of possible remedial options. As recommended in Key Point 3 of Section 3 of Circular 1/2006, alternative speed management options will always be considered before a new speed limit is introduced.

#### **1.6 Home Zones**

Home zones should be designed to encourage very low traffic speeds (well below 20 mph). They should not look like “normal” roads and should not have traffic signs except on their entry and exit points. It is not recommended that they should be subject to 20 mph orders as these would have to be signed and would give the misleading impression that it was acceptable to drive that quickly. They will, of course, be restricted roads subject to the legally enforceable national 30 mph speed limit.

#### **1.7 Schools**

Speed limits of 20 mph will be applied outside schools. These will be full time mandatory 20 mph speed limits in locations where the normal criteria for such limits set out in Transport Scotland’s *Good Practice Guide on 20 mph Speed Restrictions* are met. In other locations, they will be part-time limits .

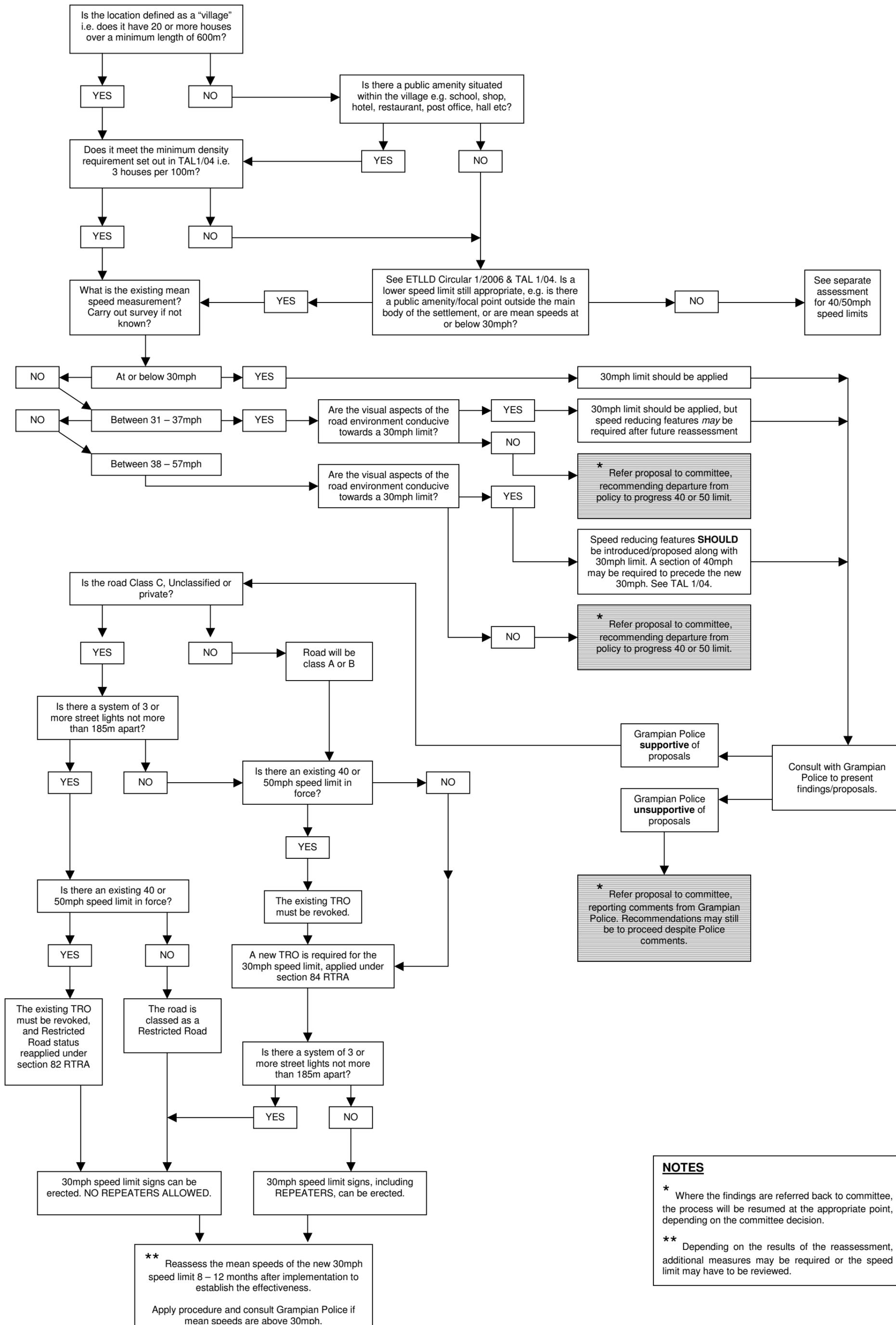
#### **1.8 Supporting Measures**

When a reduction in speed limit is being considered, if the existing 85 percentile speed is significantly above the proposed new limit then it will normally be necessary to implement supporting measures in order to bring speeds down. Police enforcement is expensive and resources are limited so it is important that speed limits should be designed to be effective without the need for heavy enforcement. Aberdeenshire Council will work with Police Scotland to assess the enforceability of proposed new speed limits. Where necessary, supporting measures will be designed into the schemes. A summary of available measures is included in DfT Traffic Advisory Leaflet 1/04.

#### **1.9 Monitoring and Enforcement**

Aberdeenshire Council will work in partnership with Police Scotland on the monitoring and enforcement of speed limits. Vehicle speeds will be checked before and after the introduction of any new speed limits.

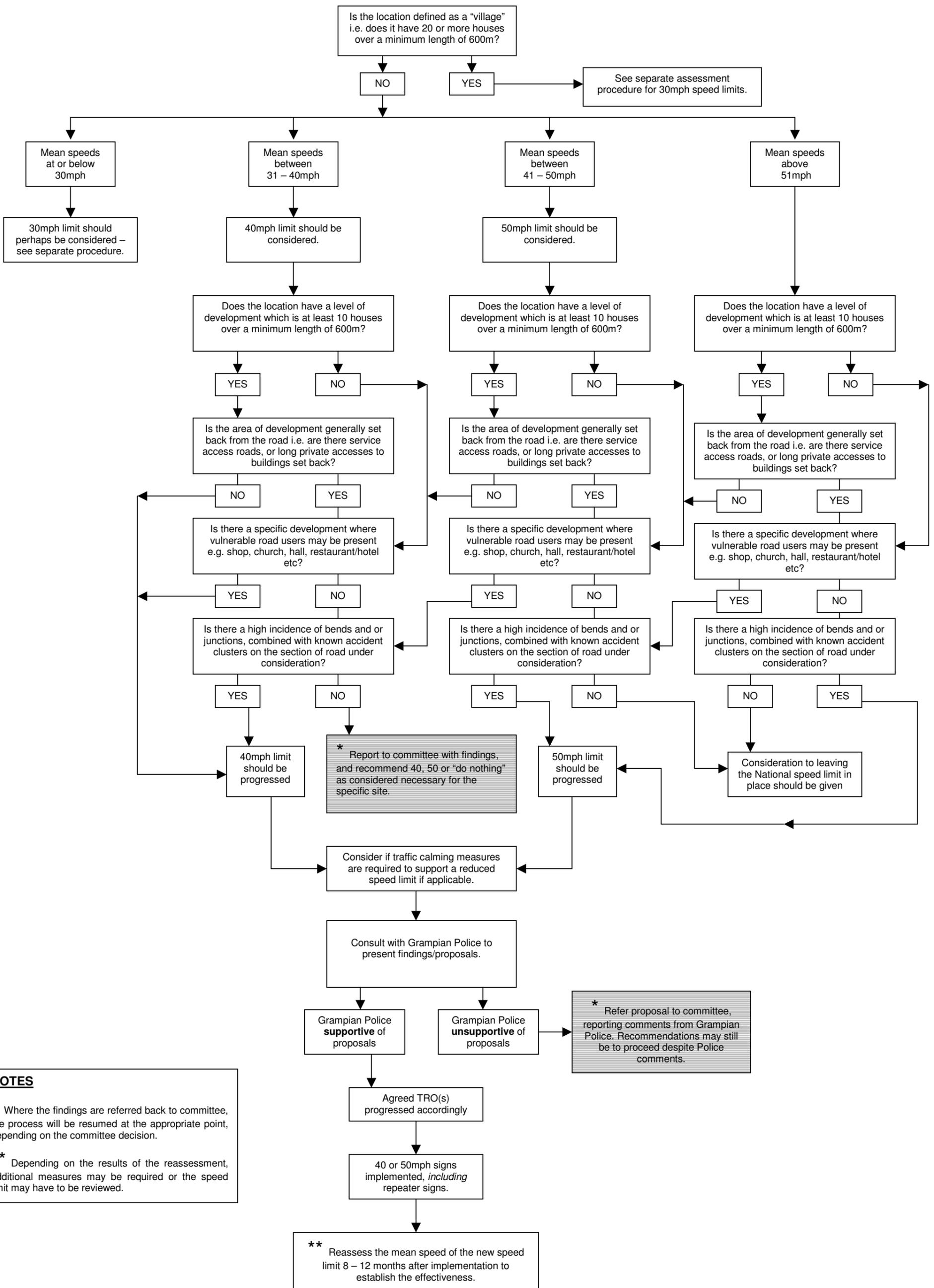
**Speed Limit Assessment Procedure, Village Settlements – 30mph**



**NOTES**

- \* Where the findings are referred back to committee, the process will be resumed at the appropriate point, depending on the committee decision.
- \*\* Depending on the results of the reassessment, additional measures may be required or the speed limit may have to be reviewed.

**Speed Limit Assessment Procedure - 40mph & 50mph**



**NOTES**

\* Where the findings are referred back to committee, the process will be resumed at the appropriate point, depending on the committee decision.

\*\* Depending on the results of the reassessment, additional measures may be required or the speed limit may have to be reviewed.

## PERMANENT TRAFFIC MANAGEMENT ORDERS

### Introduction

This note lists the available documentation relevant to the process of implementing Traffic Regulation Orders. It provides supplementary guidance to promote a consistency of approach across Aberdeenshire and to encourage compliance with national regulations and local practice.

### Legislative Background

Under [The Road Traffic Regulation Act 1984](#), local traffic authorities are empowered to restrict or regulate traffic on their roads through the use of various Traffic Regulation Orders.

[The Local Authorities' Traffic Orders \(Procedure\) \(Scotland\) Regulations 1999](#) as amended sets out the statutory requirements to be met when considering such orders.

### Procedure

The process chart in the Operational Procedure [OP 13: Traffic Orders Procedure](#) itemises the stages to be completed to satisfy both the statutory requirements and Aberdeenshire Council's internal procedures. The notes below should be read in conjunction with OP 13.

(Separate advice is given for 20mph Speed Limit Orders and for traffic calming measures in the [Traffic Calming Consultation Procedure](#))

A Traffic Order may be required in response to a variety of different traffic problems ranging from responding to one specific problem to a full review of the traffic management arrangements in a town or settlement. For Consolidated Area Traffic Reviews reference should be made to the [Checklist for Preparation of Proposals](#).

Early, informal discussions should be held with Police Scotland to establish if they are likely to support the proposed order.

Additional initial consultations may take place with individuals who may be directly affected and organisations representing them if it is felt that this would be beneficial in informing the development of the proposals. In such circumstances 28 days should normally be allowed for consultees to respond.

Police Scotland shall be formally consulted once the draft report, schedule and plans are produced and, if the Police continue to be supportive, the proposals shall then be reported to the relevant Area Committee. (The standard [report template](#) should be used for the report and Ward Pages shall be used when consulting Councillors).

Following Committee approval The Head of Service (Legal & Governance) should be consulted regarding the title for the order prior to carrying out the consultation procedures. The formal consultation procedure is a two-stage process consisting of the Statutory Consultation and Public Advertisement.

### **Statutory Consultation**

A [standard letter](#), schedule and plans of the proposals are sent (by email or post) to the statutory consultees (see Appendix 1) and a 28 day period is allowed for the consultees to respond.

The result of the Statutory Consultation shall be reported to The Head of Service (Legal & Governance).

Should there be any objections received at the end of the Statutory Consultation these will need to be considered prior to carrying out the Public Advertisement. If any of the representations received are likely to result in a significant change to the proposals they should be dealt with at this stage.

Any changes made to the proposals will require to be reported back to the Area Committee. If an amendment is made to reduce all or part of the proposed measures the matter can be referred to Committee for determination. If any new additions are proposed the entire process must start again.

Should no objections be received then arrangements can be made to progress the Public Advertisement stage.

### **Public Advertisement**

Following the Statutory Consultation, The Head of Service (Legal & Governance) is requested to undertake the Public Advertisement period. A letter is sent to The Head of Service (Legal & Governance) including a paragraph detailing the reasons for the proposals. This will be included in the draft Statement of Reasons prepared by The Head of Service (Legal & Governance).

The proposals will be advertised in the local press and publicised through Twitter. The Head of Service (Legal & Governance) will prepare a site notice. This notice must be erected and maintained by Roads and Landscape Services for the duration of the 21-day advertisement period. A copy of the notice must also be sent (by email or post) to each of the Statutory Consultation consultees no later than the date of publication of the notice.

The Public Advertisement period allows the general public to make representations regarding the proposals. The documents relating to the proposals have to be available for public inspection at the locations stated in the advertisement. The proposals are normally displayed at the local Roads office and public library.

A public meeting or public display could be held at this stage if desired. This is not normal practice but may be considered beneficial in some circumstances.

At the end of the Public Advertisement period The Head of Service (Legal & Governance) will advise the Roads Officer dealing with the proposal(s) of any objections that may have been received and request their comments.

If no objections have been received The Head of Service (Legal & Governance) can proceed to make the order.

### **Dealing with Objections**

Any objections received will have to be considered and if possible resolved. It may be necessary to meet with objectors to discuss any concerns raised and to try and agree on a possible solution.

Should any agreement result in alterations to the proposals these will have to be reported to Committee by The Head of Service (Legal & Governance).

If an amendment is made to reduce all or part of the proposed measures the matter can be referred to Committee for determination. If any new additions are proposed the entire process must start again.

Any objection that has not been resolved will have to be reported to the Area Committee by The Head of Service (Legal & Governance) along with recommendations for dealing with the objection.

Should no objections be received it will not be necessary to report back to Area Committee and The Head of Service (Legal & Governance) will resolve to make the order.

### **Implementation**

The Head of Service (Legal & Governance) will require a suitable implementation date (Normally a minimum of 14 days after Committee decision).

It is important to agree a practical date for implementation to allow time for all necessary works to be completed. This will require liaison with any contractor for the works.

On implementation it is important to check works on site to ensure that all work has been completed satisfactorily.

## APPENDIX 1

### STATUTORY CONSULTEES

The following must be consulted for every proposed traffic order:

- Police Scotland
- The Scottish Fire & Rescue Service
- Chief Ambulance Officer, Scottish Ambulance Service
- Royal Automobile Club
- The Freight Transport Association
- The Road Haulage Association
- Aberdeenshire Council's Public Transport Unit (who shall consult with the operators of any affected passenger services)
- Local Right to Ride Officer, Cyclists Touring Club
- The Secretary of local Community Council
- Local area Mobility Access Panel

The following must be consulted in the given circumstances:

- Other traffic authority (where the order may affect traffic on the other authority's network – could be neighbouring local authority or the trunk road manager)

The following may be consulted where considered appropriate:

- Local Business Forum
- Local Traders Association
- Any other body representing persons likely to be affected by any provision in the order.

## APPENDIX 2

### PROCEDURE FOR INTRODUCTION OF TRAFFIC ORDER - CHECKLIST

Dates Complete

#### **PREPARE DOCUMENTS**

Prepare Draft Report  
Prepare Schedule  
Prepare Plan

#### **CONSULTATION**

Send out copy of the above documents to the following :  
Chief Constable  
Local Members (using Ward Pages)  
Head of Finance  
Monitoring Officer (Corporate Services)  
Send Draft Report to the Area Manager for inclusion in agenda

#### **REPORT TO AREA COMMITTEE**

Date of Area Committee  
Committee Approval

#### **STATUTORY CONSULTATION**

Consult with Legal & Governance regarding title for order.  
Send out standard letter & plan to consultees - Allow 28 day period for reply.  
Report results of Statutory Consultation to Legal & Governance

#### **ADVERTISEMENT PERIOD**

Legal & Governance will produce a site notice. Arrange to have erected.  
Send copy of notice to Statutory Consultation consultees (no later than publication date of notice)  
Legal & Governance will advertise the proposal (Normally 21 days period)  
Legal and Governance will arrange for notice to be publicised on Aberdeenshire's Twitter account  
Legal & Governance will produce order

#### **REPORT ORDER TO COMMITTEE**

At the end of the advertisement period Legal & Governance will report back to committee detailing objections etc  
Committee will resolve to make the traffic order

#### **IMPLEMENTATION**

Legal & Governance will require a suitable implementation date. (Normally a minimum of 14 days after Committee decision)  
Issue instruction to Contractor to carry out necessary work.  
Check on site that work has been completed.

