

REPORT TO PROCEDURES COMMITTEE - 25th MAY 2018

DELEGATED POWERS OF AREA COMMITTEES – SPEED LIMITS

1 Recommendations

The Committee is recommended to:

- 1.1 Note the current position and that a further report will be received at the next meeting of Procedures Committee on September 7th, 2018
- 1.2 Agree that time be allocated to this matter at the next workshop that is being held for the Procedures Committee, on June 8th, 2018.

2 Background / Discussion

- 2.1 At the meeting of Procedures Committee on 20th April, 2018, the Committee received a report on the delegations to Area Committee with proposed revisions to the delegated powers of Area Committees
- 2.2 The purpose of the revision was to include a proviso that Area Committee cannot make decisions outwith Council policy in relation to Road Traffic Orders.
- 2.3 The decision of the committee was -
 - (1) to 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;
 - (2) to 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; and
 - (3) that officers report back to a future meeting with proposed amended wording to further clarify the decision-making process and the committee delegations in relation to road traffic orders in Part 2A of the Scheme of Governance.
- 2.4 Following the meeting on 20th April, Legal officers and Roads officers have considered how to amend the current powers and incorporate this position into the Scheme of Governance. The re-drafting of the amendments to the delegated powers of Area Committees and the drafting of new delegated powers for Infrastructure Services Committee revealed that the process required to support the governance is very complex.
- 2.5 It has become apparent that much more work is required on the amendments to the Scheme of Governance and the time available between Procedures

Committee meetings did not allow this work to be undertaken properly and thoroughly. There is also a concern that the full extent of ensuring that there is clarity between strategic and operational management has yet to be explored. The opportunity will also be taken to add this matter as an item to the agenda of the Area Committee Chair's meeting on 4th June. The outcome of this meeting can be reported at the workshop. It is requested that committee agree that a section at the end of the work shop (that has been already been arranged to discuss grants, grant applications and loans) can be allocated to this matter.

2.6 It is the intention of Infrastructure Services to review the policy on the assessment of speed limits during 2018/19. There is currently a proposal for a Member's Bill on speed limits before the Scottish Parliament. The recommendations arising from the review will depend on whether or not this bill is enacted. However, it is proposed that the policy review should take place regardless of the outcome of the Scottish Parliament's consideration of the bill.

2.7 The current process that will remain in place until any amendments to the delegated powers in relation to Road Traffic Orders are approved is -

- I. 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. Only proposed traffic orders that comply with Policy are reported to Area Committee.
- II. 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.
- III. 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.

Note - The legislation does not permit any other options.

2.8 The position that was noted by Committee at the meeting of the 20th April, 2018 is that Area Committees make decisions that accord with existing Council Policy. The Scheme of Governance is 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. This is done in terms of General Provision 12 of Part 2A (List of Committee Powers). 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.

- 2.9 As noted by Committee in the report received at the meeting of 20th April, 2018, the Head of Roads, Landscape Services and Waste Services and the Head of Transportation recommended that the essence of the case put forward by ETLIC 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.
- 2.10 The remit of Infrastructure Services Committee is in relation to Roads (F.1.1) and all Roads policy issues. It does not have a remit to determine Road Traffic Orders, but it does have the remit to agree any exceptional circumstances and to endorse an Area Committee's reasons for a road traffic order that is outwith policy.
- 2.11 Therefore, the current position is that if an Area Committee purports to make a decision in relation to a road traffic order that is outwith Council policy, then the Monitoring Officer shall refer the matter to Infrastructure Services Committee.
- 2.12 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
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