



Law Society  
of Scotland

# Consultation Response

## Restricted Roads (20 mph Speed Limit) (Scotland) Bill

28 January 2019



## Introduction

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The Law Society of Scotland is the professional body for over 11,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Criminal Law Committee welcomes the opportunity to consider and respond to the Scottish Parliament Finance and Constitution Committee Call for Views in relation to the Restricted Roads (20 mph Speed Limit) (Scotland) Bill (the Bill).

## General

The Bill's Policy Memorandum sets out its purpose as being "to reduce the general speed limit on a restricted road from 30 mph to 20 mph"<sup>1</sup>. The intention is stated as:

"to make 20 mph the norm in built-up areas, rather than the exception, while still allowing a limited network of through-routes in towns and cities which are subject to speed limits higher than 20 mph".

Paragraph 11 of the Bill's Policy Memorandum refers to the general limit applicable in built-up areas as "not being lawful for a person to drive a motor vehicle on a restricted road at a speed exceeding 30 miles per hour"<sup>2</sup>. Paragraph 19 of the Bill's Policy Memorandum refers to the actions required under the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 when councils wish to set or vary speed limits. This includes when they wish to lower the speed limit on a road in a built-up area from 30 mph to 20 mph.

We understand with regard to bringing forward the Bill that the motivation is in part that the procedures required to make such regulations in lowering the speed limit are described as "expensive,

<sup>1</sup> [https://www.parliament.scot/S5\\_Bills/Restricted%20Roads%20\(20%20mph%20Speed%20Limit\)%20\(Scotland\)%20Bill/SPBill39PMS052018.pdf](https://www.parliament.scot/S5_Bills/Restricted%20Roads%20(20%20mph%20Speed%20Limit)%20(Scotland)%20Bill/SPBill39PMS052018.pdf)

<sup>2</sup> Section 81 of the Road Traffic Regulation Act 1984.

administratively burdensome and time-consuming”<sup>3</sup>. We are not in a position to offer comments in relation to these procedures. The committee has the following comments to put forward for consideration:

## Policy Objectives

We are aware of the practice where a number of councils have restricted the speed limit to 20mph in so far as a number of roads in residential areas are concerned. That is supportive of the Scottish Government’s policy which indicated that “for residential streets, a maximum design speed of 20 mph should normally be an objective”<sup>4</sup>. We understand and support that policy on the grounds of public safety where there is justification for the speed to be restricted to 20mph. Whether or not there should be any further restriction to all such roads in built up areas by reducing the speed to 20 mph is not a matter on which we would comment.

However, we would question whether a blanket reduction of the speed-limit to 20mph in relation to these restricted roads would be justified.

We stress that mechanisms currently exist for reducing the speed limit to 20mph when councils seek to do so, on a road by road basis. If that involves too unduly onerous procedures as highlighted above, the best approach might be to seek to simplify these procedures. Alternatively, if there are specific categories of restricted roads that should qualify automatically such as roads around schools, crossings leading to schools and roads around care homes and hospitals as these areas that are frequently busy with members of the public, these may merit an extension of the 20mph limit. Consideration could be given to where there might “qualifying roads” forming part of the restricted road category but not extend to all restricted roads.

## Enforcement

We question the enforceability of the measures contained in the Bill.

We support the recommendation at Paragraph 40 of the Bill’s Memorandum<sup>5</sup> where it indicates that there is a need for driver awareness regarding the effect of driving at speed. This is fundamental to making our roads safer as well as ensuring that drivers are aware of the potential consequences of driving at speed.

<sup>3</sup> Paragraph 19 of the Bill’s Policy Memorandum.

<sup>4</sup> *Designing Streets: A Policy Statement for Scotland*, Scottish Government, 2010, available at: <https://www.gov.scot/Publications/2010/03/22120652/0>

<sup>5</sup> [https://www.parliament.scot/S5\\_Bills/Restricted%20Roads%20\(20%20mph%20Speed%20Limit\)%20\(Scotland\)%20Bill/SPBill39PMS052018.pdf](https://www.parliament.scot/S5_Bills/Restricted%20Roads%20(20%20mph%20Speed%20Limit)%20(Scotland)%20Bill/SPBill39PMS052018.pdf)

We agree that there is a need to “[i]ncreas[e] the levels of disapproval and [to] introduc[e] .... clear links between inappropriate speed, collisions and injuries [which] are key in creating a step change in attitudes which is then expected to translate to behaviour modification where drivers lower their speed.”<sup>6</sup> However, we suggest that these objectives may best be achieved at the outset by public safety and traffic campaigns and does not need any further legislative changes.

The Bill’s Policy Memorandum seems silent in how to achieve the effective enforcement of speed limits. Our members have experience of enforcement as they represent the prosecution of drivers by the Crown Office and Procurator Fiscal Service and the defence of drivers where it is alleged that the speed limit has been exceeded.

Where drivers exceed the speed limit which applies on any road, they are subject to the consequences of prosecution and thereafter criminal sanctions (which range from fixed penalties through to court-imposed sentences). Making the drivers aware of the impact and significance of the potential imposition of penalty points on their driving licence (and ultimately of ‘totting-up’ implications) in the event of their conviction is very important. That provides a deterrent to them and to others in the future.

If the 20mph limit were to be imposed more widely as proposed, there would need to be effective enforcement. There would presumably follow a substantial increase in the number of restricted roads affected by the reduced speed-limit and potentially, this would have implications for the number of those being caught offending when exceeding the speed limit on these roads. These roads would need to have appropriate monitoring for enforcement whether by cameras or police officers.

This change may have significant implications for the criminal justice processes and organisations which would need to be fully considered. The financial considerations are reflected in the Financial Memorandum to the Bill at paragraph 55<sup>7</sup>. This does not fully reflect the need for capacity and time within the criminal justice system which would need to be considered as well.

**For further information, please contact:**

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<sup>6</sup> Paragraph 40 of the Bill’s Policy Memorandum.

<sup>7</sup> [https://www.parliament.scot/S5\\_Bills/Restricted%20Roads%20\(20%20mph%20Speed%20Limit\)%20\(Scotland\)%20Bill/SPBill39FMS052018.pdf](https://www.parliament.scot/S5_Bills/Restricted%20Roads%20(20%20mph%20Speed%20Limit)%20(Scotland)%20Bill/SPBill39FMS052018.pdf)