
MANAGEMENT RULES FOR PUBLIC LIBRARIES IN THE SCOTTISH BORDERS

Report by Service Director Regulatory Services
EXECUTIVE COMMITTEE

13 March 2018

1 PURPOSE AND SUMMARY

- 1.1 This report proposes that Scottish Borders Council approves the revised Management Rules for Public Libraries in the Scottish Borders.
- 1.2 Under the Civic Government (Scotland) Act 1982 the Council is empowered to create and operate a set of Management Rules for Public Libraries which define the way the service should be used and the conduct of the people using the service. This includes library membership, periods of borrowing, charges, returns and recovery of items, damage and loss of items, inappropriate and offensive behaviour and penalties.
- 1.3 The existing Management Rules were approved in April 2008 and expire on 14 April 2018. It is therefore necessary that a further set of Management Rules is made to continue to secure the purposes of those rules.
- 1.4 Scottish Borders Council no longer provides the library service itself, but rather does so through a Service Provision Agreement with Live Borders. It is however Scottish Borders Council who has the statutory power to make Management Rules and not Live Borders. Given that the libraries are still owned by Scottish Borders Council and that the library service is being provided on behalf of Scottish Borders Council further to a Service Provision Agreement relating to that service, the Council still has the legal authority to create new Management Rules. However to comply with the statutory scheme, the Council will require to appoint a Live Borders employee or employees as an officer of the council for the purposes of enforcing those Rules.
- 1.5 The Civic Government (Scotland) Act requires that any proposed Management Rules be subject to a period of public consultation prior to their being made. It is proposed that public consultation commence from 15 March 2018 and will, in keeping with the statute, run until 15 April 2018

2 RECOMMENDATIONS

2.1 It is recommended that Executive:

- (a) Authorise the commencement of public consultation on the proposed Management Rules for Public Libraries throughout Scottish Borders**
- (b) Authorise the Service Director Regulatory Service, in consultation with Chief Legal Officer, to make the Rules on completion of the consultation period if no substantive comments are received during that consultation period**
- (c) Appoint the Live Borders Libraries Staff as officers of Scottish Borders Council as regards the enforcement of the Management Rules**

3 MANAGEMENT RULES AND PUBLIC LIBRARIES IN SCOTLAND

- 3.1 The existing Management Rules have been reviewed and updated by employees of Live Borders working within the libraries service area together with Officers of the Council's Legal Services. The revised draft Management Rules are attached as Appendix A to this report.
- 3.2 The main changes to the proposed rules are changes to reflect new technology and changes to the library provision which has resulted from that new technology together with changes to reflect the fact that the libraries are now managed by Live Borders on behalf of the Council. Changes have also been introduced to reflect a change in culture within libraries that no longer require those facilities to be places of silence.
- 3.3 The Management Rules once approved will subsist for a period of ten years after which time they will automatically lapse. If it is considered that there is a need to review those rules during that ten year period then the legislation permits that to happen at any time.
- 3.4 The Act creates certain powers to enforce the Rules. In particular it allows a person contravening the Rules to be expelled or excluded from the premises. The power to expel or exclude does however lie with "an authorised officer of a local authority". In order to facilitate this ability to enforce it is therefore recommended that the libraries staff of Live Borders be appointed to act as authorised officers of the Council for these purposes. The appointees will not become employees of the council by virtue of this appointment, but simply will be empowered to act in these matters.

4 IMPLICATIONS

4.1 Financial

There are no financial implications arising directly out of this report. Once the Management Rules are approved they will require to be exhibited within each of the library buildings. However Live Borders will bear the cost of that display.

4.2 Risk and Mitigations

- (a) If the Management Rules are made there is a risk that they could be challenged on the basis that Scottish Borders Council no longer operates the libraries on its own behalf. However this risk has been mitigated by full consideration being given to the powers available to Scottish Borders Council under Section 112 of the Civic Government (Scotland) Act 1982. It is considered that the Council can lawfully make and approve the Management Rules for Libraries. The risk is further mitigated by the consultation process. Stakeholder engagement in that process will reduce the risk of future challenge.
- (b) If the recommendation in this report is not approved and the Management Rules are not made there is a risk that the library service will not be able to operate properly or efficiently.

4.3 Equalities

There are no equalities issues arising out of this report or from these Management Rules.

4.4 Acting Sustainably

There are no economic, social or environmental effects arising out of this

report.

4.5 Carbon Management

There are no impacts on carbon emissions arising out of this report.

4.6 Rural Proofing

There are no rural proofing issues arising from this report

4.7 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Scheme of Administration or Scheme of Delegation arising out of this report.

5 CONSULTATION

5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR and the Clerk to the Council are being consulted and any comments received will be incorporated into the final report.

Approved by

Brian Frater
Service Director Regulatory Services

Signature

Author(s)

Name	Designation and Contact Number
Nuala McKinlay	Chief Legal Officer

Background Papers: [insert list of background papers used in compiling report]

Previous Minute Reference: [insert last Minute reference (if any)]

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Nuala McKinlay can also give information on other language translations as well as providing additional copies.

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