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## **BYELAWS TO PROHIBIT THE CONSUMPTION OF ALCOHOL IN DESIGNATED PUBLIC PLACES**

**Report by Service Director Regulatory Services**  
**SCOTTISH BORDERS COUNCIL**

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**29 November 2018**

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### **1 PURPOSE AND SUMMARY**

- 1.1 This report is to advise and update Council on the current position regarding the Alcohol Byelaws and on the next steps required to progress the byelaws.**
- 1.2 Following engagement with the then Area Forums, the Community Councils and the public over a 7 month period in 2013/2014 a report on "Byelaws to Prohibit the Consumption of Alcohol in Designated in Public Places" was considered by Council in March 2014. The Service Director Regulatory Services was instructed to take matters forward under the statutory process.
- 1.3 In terms of the statutory process, Letters of Content are required from the Police and the Procurator Fiscal. Draft Byelaws were forwarded to the relevant parties for their comment which took some time to be received. On receipt of the comments further revisals were required to the draft Byelaws. At this stage the Council's Licensing Officers views on the comments received were also requested. Due to the comments received from all parties the draft Byelaws were further revised and fresh Letters of Content requested from the Police and Procurator Fiscal.
- 1.4 The draft Byelaws are now required to be submitted to the Scottish Government for their approval, along with the Letters of Content from the Police and Procurator Fiscal. If approved a formal public consultation exercise will be carried out in terms of the Local Government (Scotland) Act 1973. Fuller details of the process are outlined in Section 4 of this Report.
- 1.5 It has been over 4 and a half years since Council last considered this matter and it has therefore taken an exceptionally long period of time for this juncture to have been reached. For this reason, this report is being brought to Council for its information.

## **2 RECOMMENDATIONS**

### **2.1 I recommend that Council:**

- (a) note that the draft byelaws to prohibit the consumption of alcohol in designated public places will now be forwarded to the Scottish Government for approval.**
- (b) note that the Service Director Regulatory Services in conjunction with the Chief Legal Officer will report back to Council at the end of the statutory consultation period.**

### **3 BACKGROUND**

- 3.1 A report to Council in May 2013 sought approval to engage with the then Area Forums, Community Councils and the public as to their views on the introduction of 'Byelaws to Prohibit the Consumption of Alcohol in Designated Public Places'. This report also explained that Scottish Borders Council had resolved to introduce Byelaws in 2007 but these were never made because of an objection at that time which was not able to be resolved. The report was approved and an engagement process was conducted over a period of 7 months in 2013/2014.
- 3.2 A further report was submitted to Council on 7 March 2014 advising the Council of the outcome of the public engagement process and sought approval to take matters forward under the statutory process.
- 3.3 The majority of people, who responded to the Public Engagement questionnaire, were in favour of the existence of byelaws applying to towns with 1,500 people or more and a similar majority in favour of these applying to towns of 500 – 1,500. Those that responded were also in favour of there being exemptions to the byelaws for Common Ridings/Summer Festivals and Hogmanay.
- 3.4 This report also detailed the response from Area Forums and Community Councils regarding individual settlements. It noted that there was support for the introduction of byelaws in certain areas of the Scottish Borders being specifically the communities of Eyemouth, Coldingham, Galashiels (Town Centre), Hawick, Jedburgh and Newtown St Boswells. The introduction of byelaws in other towns was not supported.
- 3.5 NHS Borders and Police Scotland continue to support the introduction of byelaws. Police Scotland had previously expressed their support of the byelaws with a view to reducing public disorder generally in the Scottish Borders area. NHS are of the view that there are significant public health benefits in their introduction and the most effective way to reduce alcohol consumption and alcohol related harm is through the availability of alcohol which includes reducing exposure; stopping street drinking will contribute to this and to protecting vulnerable individuals and promoting safer communities. Both bodies remain of the opinion that byelaws would be a useful tool to assist and support other resources available.
- 3.6 It was noted in the 2014 Report that it was for the Council to determine which settlements should be included in the byelaws. Scottish Government Circular No. LJ/02/2014 on "Byelaws Prohibiting the Consumption of Alcohol in Designated Public Places (a copy of which is attached at Appendix A) notes that it is not Scottish Government's policy to pursue a blanket ban on drinking in public (i.e. over all of the local authority area), nor has it plans to introduce a general provision in primary legislation making it an offence to consume alcohol in any public place. Scottish Ministers will, however, consider byelaws that cover population centres or other specified geographical areas and will continue to support local authorities that come forward with appropriate byelaw proposals.

- 3.7 The report was approved and it was decided that matters were to be progressed with a further report to be submitted to the Council at the expiry of the statutory consultation period.

## **4 PROCESS**

- 4.1 As part of the process for the introduction of byelaws draft Byelaws had been prepared and submitted to the Procurator Fiscal and Police Scotland seeking their respective Letters of Content. These are required so that the draft Byelaws can be submitted to the Scottish Government for approval prior to them being issued for public consultation.
- 4.2 It took some time to obtain the comments from the various parties. When they were received the draft byelaws were further revised taking into account the comments from Police Scotland, the Procurator Fiscal and the Council's Licensing Officers and re-circulated for final comments. The draft byelaws are now in a position where they are ready to be forwarded to the Scottish Government. A copy of the draft byelaws together with plans showing the extent of the byelaws are attached at Appendix B.
- 4.3 Once the comments on the proposed draft byelaws have been received from the Scottish Government, Notices will be placed in local newspapers advising of the Council's intention to apply to the Scottish Government for confirmation of the byelaws. Copies of the byelaws and plans will be made available for public inspection for at least one month.
- 4.4 Any objections received during this public consultation period are to be sent to the Confirming Authority (Scottish Government) who shall take into consideration any objections received by them before deciding whether to confirm the byelaws. A local inquiry may be held by the Scottish Government to consider any objections if they think it necessary or desirable.
- 4.5 The byelaws are not operative until they have been confirmed by the Scottish Government who may confirm the byelaws with or without modifications or refuse to confirm them. If confirmed a commencement date would be agreed between the Scottish Government and the Council. If no date is fixed the byelaws come into operation one month after the date of their confirmation.
- 4.6 Once the byelaws are confirmed further Notices are published in local newspapers advising the date the byelaws come into operation. A copy of the byelaws should also be available on the Councils' website. Notices will be required to be displayed at the designated places and should remain in place during the currency of the byelaws to ensure that any persons entering the designated areas were aware that the byelaws were in place and of their effect.
- 4.7 Byelaws once in force must be reviewed at least every 10 years. The Council also has powers to revoke byelaws.

## **5 IMPLICATIONS**

### **5.1 Financial**

There will be advertising costs associated with the publication of the draft byelaws and costs of signage to be placed in the areas to be covered, when byelaws are made and confirmed. These costs will be met from existing budgets. Costs may also be incurred should there be any objections for which a local inquiry is required by the Scottish Government.

### **5.2 Risk and Mitigations**

There is a risk of adverse publicity if the Council is not seen to be progressing the byelaws as previously agreed.

There is a risk that if the byelaws are not introduced that an opportunity to assist in tackling Anti-Social Behaviour would be lost.

### **5.3 Equalities**

It is not considered that an Equalities Impact Assessment is required for this report.

### **5.4 Acting Sustainably**

There are no known significant impacts on the economy, community or environment arising from the proposals contained in this report.

### **5.5 Carbon Management**

It is not anticipated that the Council's carbon emissions will be effected by the Council's decision in regard to this report.

### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on rural areas from the proposals contained in this report.

### **5.7 Changes to Scheme of Administration or Scheme of Delegation**

There are no changes required to the Schemes of Administration or Scheme of Delegation.

## **6 CONSULTATION**

- 6.1 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 have been consulted and any comments received have been incorporated into the final report.

**Approved by**

**Brian Frater**

**Service Director Regulatory Services Signature .....**

**Author(s)**

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|----------------|----------------------------------|
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**Background Papers:** None

**Previous Minute Reference:**

Scottish Borders Council - 30 May 2013  
Scottish Borders Council - 27 March 2014

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

Contact us at Jacqueline Whitelaw, Place, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA, Tel 01835 825431, Fax 01835 825071, email [eitranslationrequest@scotborders.gov.uk](mailto:eitranslationrequest@scotborders.gov.uk).