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## **ALCOHOL IN DESIGNATED PUBLIC PLACES CONSULTATION: STAGE 1 REPORT**

**Report by Service Director Regulatory Services**

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### **SCOTTISH BORDERS COUNCIL**

**31 October 2019**

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#### **1 PURPOSE AND SUMMARY**

**1.1 The purpose of this report is to provide an update on the responses to the consultation on Alcohol in Public Places and to determine the next steps.**

1.2 Following the Council meeting of 20 December 2018 it was agreed to conduct a full consultation on whether an alcohol byelaw should be introduced in the Scottish Borders.

1.3 It was decided that a two stage consultation would be commenced. The initial stage establishing two matters:

- Whether the consumption of alcohol in public places was a problem that required to be addressed?
- Would preventing alcohol being consumed in public help meet the licensing objectives?

Depending on the results of that Stage 1 consultation a second stage consultation might then be carried out to consider options in more detail.

1.4 The results from Stage 1 are set out in Appendix 1. Whilst the responses to Stage 1 indicate a wide variety of views on the matter, there is considerable support particularly from key stakeholders to progress to Stage 2.

#### **2 STATUS OF REPORT**

2.1 This report seeks a decision from Council on whether to progress to Stage 2 of the consultation and if so, what the basis for that further consultation should be.

#### **3 RECOMMENDATIONS**

3.1 **I recommend that Council:-**

**(a) Instructs officers to proceed to Stage 2**

- (b) Instructs officers on which of following options the Stage 2 consultation should consider:**
- i) the introduction of an Alcohol Byelaw to cover the whole of the Scottish Borders; or**
  - ii) the introduction of a pilot Alcohol Byelaw for specific towns only, being Galashiels and Hawick. The period after which the pilot should be reviewed would form part of the Stage 2 consultation.**

## 4 ALCOHOL IN PUBLIC PLACES STAGE ONE CONSULTATION

- 4.1 At the December 2018 Council meeting it was agreed to carry out a full consultation on the potential introduction of an alcohol byelaw in the Scottish Borders. A two stage consultation was implemented, where Stage 1 would identify if there was a problem with the drinking alcohol in public places, and, if prohibiting the consumption of alcohol in public places would help meet the 5 Licensing Objectives. Depending on the results of that Stage 1 consultation the matter might progress to Stage 2 which would determine in more detail whether and/or where alcohol byelaws should be introduced.
- 4.2 Stage 1 consultation was open between 27 March and 30 June 2019. An extensive consultation was conducted via Citizen Space (the Council's public engagement tool). Hard copies of the consultation were distributed to SBC Contact Centres and available upon request to members of the public. A link to the consultation was sent to all Community Councils, Elected Members, interested parties and Community Planning Partners. The consultation was also presented at each of the Area Partnerships between April and June 2019. A copy of the consultation document is attached as Appendix 2.
- 4.3 The results of the Alcohol in Public Places consultation is shown in Appendix 1. The main findings of the report are:
- 4.3.1 There were a total of 491 responses with the majority (95%) from individuals. There were specific responses from some Community Planning Partners, namely, Police Scotland, NHS Borders, Borders Alcohol and Drugs Partnership and Scottish Borders Children's and Young People's Leadership Group.
- 4.3.2 Of all the respondents 44% did not think that drinking alcohol in a public place was causing a problem, whilst 36% thought it did and 20% were unsure. The table below shows the summary of the responses.

Alcohol in Public Places causes a problem.	Individual	Organisation / Group	Grand Total	Percent
1. Yes	163	12	175	36%
2. No	209	8	217	44%
3. Don't Know	92	7	99	20%
<b>Grand Total</b>	<b>464</b>	<b>27</b>	<b>491</b>	<b>100%</b>
<b>Percent</b>	<b>95%</b>	<b>5%</b>	<b>100%</b>	

- 4.3.3 A number of settlements were identified by respondents as having public places where public consumptions of alcohol was causing a problem, with Galashiels and Hawick attracting the most comments. Kelso, Peebles and Selkirk were also named in a number of such comments. Police Scotland highlighted that weekend nights had the highest levels of alcohol related anti-social behaviour incidents.
- 4.3.4 Of the 175 respondents who said "Yes", that drinking alcohol in a public place is causing a problem, 160 further explained their

response. Over 100 respondents identified safety / anti-social behaviour as alcohol related problems and 66 identified specific locations. Other issues included: litter / nuisance (65), underage drinking (59), behaviour (56), Common Ridings / 7s / Events (44) and atmosphere /area reputation (44)

4.3.5 The full response to this question from Police Scotland was:

“The crime data does not consistently identify offences where there is alcohol use therefore a manual selection process of identifying the crimes types that are likely to be aggravated by alcohol was used in extracting the above information and includes offences such as:

- breach of the peace
- common assault
- threatening or abusive behaviour
- drunk and incapable and habitual drunkenness
- urination

It is believed that all of these offences and the severity of the incidents could be reduced by the introduction of local byelaws.”

4.3.6 Respondents were asked if they thought not allowing people to drink alcohol in some public places would help meet the 5 licensing objectives. These 5 licensing objectives are set out in the Licensing (Scotland) Act 2005, the main piece of legislation controlling the sale of alcohol in Scotland. The act seeks to balance the rights of the majority of people who drink responsibly against the need to protect local communities from nuisance and crime associated with the misuse of alcohol. The tables below show firstly the proportion of respondents, and secondly the number of respondents, who thought not allowing people to drink alcohol in some public places would help to meet each of the 5 licensing objectives. Respondents believe the objective most likely to be met by not allowing people to drink alcohol in some public places was: Preventing public nuisance.

Do you think that not allowing people to drink alcohol in some public places will help to meet the 5 licensing objectives?				
Licensing Objective / Response	1. Yes	2. No	3. Don't Know	Grand Total
Preventing crime and disorder	52%	38%	9%	100%
Securing public safety	52%	38%	10%	100%
Protecting or improving public health	37%	47%	16%	100%
Preventing public nuisance	59%	30%	11%	100%
Protecting children and young persons from harm	50%	39%	11%	100%

Do you think that not allowing people to drink alcohol in some public places will help to meet the 5 licensing objectives?				
Licensing Objective / Response	1. Yes	2. No	3. Don't Know	Grand Total
Preventing crime and disorder	256	189	46	491
Securing public safety	254	186	51	491
Protecting or improving public health	183	231	77	491
Preventing public nuisance	288	149	54	491
Protecting children and young persons from harm	245	190	56	491

4.3.7 Respondents who said yes to 'alcohol in public places causes a problem' were more likely to agree that not allowing people to drink alcohol in some public places would help meet the licensing objectives. Full details can be seen in Appendix 1.

4.3.8 **Police Scotland** responded to this point in the following terms:

"Alcohol consumption can take place within our communities whether that is attributed to a private dwelling, Licensed Premise or within a public space environment.

Alcohol Byelaws are used within the three other local council areas within Lothian and Borders, namely East Lothian, Midlothian and West Lothian. By having such byelaws in force it assists Police Scotland in reducing anti-social behaviour and violence both of which are known to have an association with drinking in public. Currently the Scottish Borders area is the only local authority area in Scotland that does not have byelaws restricting the consumption of alcohol in public places."

4.3.9 **NHS Borders, Borders Alcohol & Drug Partnership and Scottish Borders Children and Young People's Leadership Group** responded in the following terms:

"Alcohol consumption can take place in our communities' private space as well as within licensed premises. Not allowing people to drink in a public place will help to reduce the "normalisation" of alcohol being an ordinary commodity and builds communities and environments that supports a culture change and reduces exposure for our children and young people.

Public drinking can adversely affect the quality of life for residents and our communities. Alcohol Focus Scotland report that 1 in 2 Scots experience harm from another's drinking and often this harm is experienced in public spaces (although not necessarily from public

space drinking). In this study 37% had experienced harm to others in public places and this was mostly (51%) experienced by the younger age group (16-25).

Alcohol Byelaws can be used as an additional tool to reduce the nuisance and disorder normally associated with public drinking. Licensed premises are well regulated within the Scottish Borders and provide the opportunity to consume alcohol in a safe environment. The Scottish Borders is the only local authority area in Scotland that does not have byelaws restricting the consumption of alcohol in public places.”

4.3.10 When asked for final comment on drinking alcohol in public places a number of themes were identified.

- Explicitly agree to restricting drinking in public places (81)
- A minority of people cause a problem, most adults are responsible (76)
- Common Ridings / 7s / Events (57)
- Not an issue or a problem (56)
- Culture Change is needed (52)
- Concerns about Police / effectiveness (43)
- Concerns about safety/ anti-social behaviour (37)
- Concerns about atmosphere or area reputation (31)
- Concerns about people’s behaviour (31)
- Concerns about over regulation / it is minor problem (28)
- Concerns about litter or nuisance (27)
- Concerns about underage drinking (16)

4.3.11 **Police Scotland’s** final comment in full was:

“If there are to be Byelaws it is recommended from a policing perspective that it is a blanket across the entire area to avoid confusion and objections.”

4.3.12 Below is an extract from **NHS Borders, Borders Alcohol & Drug Partnership and Scottish Borders Children and Young People’s Leadership Group** final comments:

“Having an alcohol byelaw in place in areas that the community requests, allows environments that are supportive to our children and young people and reduces exposure and availability of alcohol. We know children’s exposure to parental drinking can influence their own attitude and consumption meaning they can start drinking at an earlier age and be more likely to drink in adolescence.”

4.4 The responses to the Stage 1 consultation are mixed. More respondents consider that drinking alcohol in public places is not causing a problem than those who consider it is. However, neither group form a majority of all respondents. Conversely in response to the question regarding meeting the licensing objectives, a majority of respondents did consider that such an approach would help meet 3 of those 5 objectives

- 4.5 Importantly CPP Partners who responded to the Consultation were strongly in favour of the introduction of a byelaw which they see as a useful tool to assist both in addressing crime and disorder and in reducing the harmful impacts which can arise from alcohol consumption
- 4.6 It is therefore considered that these results could suggest a variety of answers to the question: "What's next?". These could be any of the following:
- i. Further consultation on an Alcohol Byelaw to cover the whole of the Scottish Borders (Police Scotland preferred option)
  - ii. Further consultation on an Alcohol Byelaw to be introduced for specific towns only (e.g. Galashiels, Hawick, Kelso, Peebles and Selkirk)
  - iii. Further consultation on an Alcohol Byelaw in other locations
  - iv. No introduction of alcohol byelaws
- 4.7 Galashiels and Hawick are both identified by a sizable number of respondents as being areas which are currently impacted determinately by the public consumption of alcohol. Police Scotland identify these towns as being 2 of the towns where the consumption of alcohol in public places has played a notable role in Anti-Social behaviour incidents. Further NHS Borders have identified both Galashiels and Hawick as being amongst the towns where there is most evidence of alcohol related harm. For these reasons, it is considered that there is merit in conducting a further consultation into the possibility of introducing alcohol byelaws in these towns on a pilot basis. If they are seen to be successful, the Council could consider introducing further byelaws in the future. If they are not deemed to be successful they could be revoked. If this course of action is supported, the Stage 2 consultation should also consider what areas of the two towns should be covered by the byelaw. To avoid confusion Police Scotland would recommend that the byelaw should apply to the entire area of the two towns

## **5 IMPLICATIONS**

### **5.1 Financial**

The costs of Stages 1 and 2 will be met from existing budgets. Should it be decided following further consultation that a byelaw be introduced then there will be costs associated with the implementation of the byelaw e.g. advertising the draft byelaw and signage. These costs could be met from existing budgets.

### **5.2 Risk and Mitigations**

There is a risk of consultation fatigue in a further round of consultation where members of the public may feel they have already responded to these questions. This risk is mitigated by the fact that the earlier part of this consultation was branded very much as a Stage 1 with the possibility of a second more detailed consultation later in the year.

There is a risk that if no further action is taken then an opportunity to provide support and an additional tool to our partners in Police Scotland and NHS Borders will be lost. Members may however take the view that this

tool is not appropriate or needed in addressing the problems identified in this report.

There is a further risk that if a Stage 2 consultation is progressed in some but not all areas of the Borders communities may feel either that they are being singled out, or, conversely, left out. This risk is mitigated by the fact that the Stage 1 consultation indicated greater support for possible introduction of an Alcohol Byelaw in certain areas than in others. It is also mitigated by the possible introduction of a Pilot which could subsequently be withdrawn or replicated in other areas should there be a desire to do so.

### 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, Communications 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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**Background Papers:** None

**Previous Minute Reference:**

Scottish Borders Council – 20 December 2018

**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).