

## General Purposes Committee

### AGENDA STATUS: PUBLIC

<b>Report Title</b>	<b>UPDATE THE BYELAW FOR GOOD RULE AND GOVERNMENT FOR THE BOROUGH OF NORTHAMPTON</b>
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<b>Date of Meeting:</b>	27 April 2010
<b>Directorate:</b>	Environment and Culture
<b>Ward(s)</b>	All

### 1. Summary

- 1.1 The purpose of this report is to request General Purposes Committee to exercise its powers under Section 235 of the Local Government Act 1972 to allow the process to update and adopt the Byelaw for Good Rule and Government for the Borough of Northampton (see Appendix 1). This will provide police and wardens with an additional tool to tackle lower levels of anti social behaviour. Most of the byelaws cover the whole of the Borough. The exception is the prohibition of skateboarding in certain key pedestrian areas in the town centre (see schedule 1 of the byelaw and attached map – Appendix 1). The procedure for making the byelaw following this consultation is outlined in the report (items 3.1.20 through 3.1.24).

### 2. Recommendations

- 2.1 To authorise consultation with the general public for the updated draft Byelaw for Good Rule and Government for the Borough of Northampton in order to tackle low level anti social behaviour affecting residents and businesses.
- 2.2 To authorise Officers to place the necessary advertisement as required by legislation

### 3. Report Background

#### 3.1 Report Background

- 3.1.1 During the work of Safer Stronger Northampton Partnership's Town Centre Task Group it became apparent that the police and wardens were unsure of what Byelaws were in force for Northampton. After further investigation it became evident that they were outdated and most of the Byelaws could no

longer be enforced as they have either been superseded by other legislation or are no longer considered criminal offences.

- 3.1.2 A Byelaw is a rule that generally requires something to be done, or not done, in a particular location where express powers to address the issue do not already exist in national legislation. They are accompanied by a sanction or penalty for non-observance. Byelaws have the force of law within the areas to which they apply but they are subsidiary to national laws and cannot over-ride them.
- 3.1.3 Section 235 of the Local Government Act 1972 enables District and Borough Councils to make Byelaws for the good rule and government of the whole or any part of the District or Borough and for the prevention and suppression of nuisances.
- 3.1.4 Byelaws cannot be made under this Section if provision for the purpose in question is made, or may be made, under any other enactment. Byelaws should not therefore be made under Section 235 where general or local legislation addresses the problem or in respect of any area where another Byelaw-making power is available. Before making Byelaws, local authorities should consult the appropriate government department about any existing general legislation. This has been done.
- 3.1.5 Many of the activities regulated by Byelaws made under Section 235 are not in themselves a danger or nuisance, but may be if conducted in certain areas or in a particularly hazardous or annoying manner. Consequently, local authorities do not have the power under Section 235 to make Byelaws to prohibit activities such as skateboarding throughout their area. However, it may be appropriate to ban these activities in certain places where it causes a particular danger or nuisance, or to regulate the manner in which those activities can be conducted.
- 3.1.6 Byelaws should not be adopted en bloc, but only as genuinely required to address an existing problem.
- 3.1.7 The model Byelaw was sent out for consultation to interested parties throughout the borough in order to establish which items should remain and, where necessary, which areas need defining in order to come up with the attached draft (Appendix 1).
- 3.1.8 Internal and external officers consulted during the pre-consultation stage:-
  - Internal NBC Consultees
  - Director of Safer Stronger Northampton Partnership
  - Street Scene
  - Parks and Open Spaces
  - Community Safety
  - Anti Social Behaviour Unit
  - Town Centre Operations
  - Environmental Health including EH Officers and Wardens
  - CCTV
  - Neighbourhood Coordinators
  - Leader of the Council
  - Portfolio holder for the Environment

Portfolio holder for Communities  
Labour Group Leader  
Conservative Group Leader  
Independent Councillors

External Consultees

Northamptonshire Police – sector inspectors, SCTs, Community Safety Sergeant  
Parish Councils  
Northamptonshire County Council  
Northamptonshire Fire and Rescue  
Northampton Retail Crime Initiative  
ComPaSS  
Pubwatch  
Portfolio holder for Customers and Communities, Northamptonshire County Council  
Probation Service  
Town Centre Partnership

- 3.1.9 All responses regarding this consultation were generally in favour of all parts of the byelaw.
- 3.1.10 However, concern was raised that the byelaw regarding games on the highway could be enforced too rigidly while others were concerned it may not be enforced at all. To ensure a good balance is reached, enforcement guidance will be developed.
- 3.1.11 CCTV Manager and the Town Centre Manager were especially keen to ensure skateboarding in inappropriate areas was curtailed. The CCTV Manager stated that skateboarders regularly use the multi storey car parks because of the ramps and are in serious danger of getting hurt or even killed. Damage to vehicles is also a possibility.
- 3.1.12 Concern was expressed that, although skateboarding in pedestrian areas should be prohibited, there was no dedicated provision for skateboarders within the town centre area. This cause has been taken up by another group who are currently seeking funding for a skateboarding facility.

**Public Consultation**

- 3.1.13 The reason for full consultation with the general public is to ensure the proposed byelaw is robust which reduces the risk of any challenges before the byelaw is signed, sealed and advertised. If this stage is bypassed we would on balance be susceptible to a challenge (s) when the provisional byelaw is advertised. This would then require changes to be made and to re-advertise which will be an additional expense.
- 3.1.14 There is no statutory requirement to consult on proposed byelaws. However, we propose to start the public consultation on 13 May 2010 until 5 August 2010, allowing 12 weeks, which is in line with Northampton Borough Council's Toolkit on Consultations.

- 3.1.15 A notice will be published in a local newspaper circulating in the area informing the general public of the intention to update the Byelaw and stating where copies of the draft Byelaw can be obtained.
- 3.1.16 A copy of the Byelaw will be kept on deposit in the Guildhall for inspection by the public at all reasonable hours for the duration of the public consultation stage.
- 3.1.17 Awareness raising will include the following
- Press campaign
  - An officer will attend NBC lead public meetings during the consultation period.
  - Byelaw will be available on the website
  - Through Safer Community Teams and Wardens
- 3.1.18 After the consultation period of 12 weeks has passed a further report to Full Council will be prepared in order to ensure that any representations regarding the byelaw are considered fully.
- 3.1.19 If appropriate and having had full regard to representations Full Council will be asked for consent to proceed with the process of making the byelaw.
- 3.1.20 After the public consultation has taken place and been evaluated by Full Council and they have resolved to continue with the process, the next step towards making the byelaw is to seek provisional approval from the Department of Communities and Local Government. As this byelaw follows a model and the DCLG have been consulted from the outset, this should be a straightforward process.
- 3.1.21 Once provisional approval has been provided the byelaw is made by affixing the common seal of the Borough Council following which a notice of the Borough Council's intention to apply for confirmation by the Secretary of State must be given in one or more newspapers circulating in the area to which the byelaws are to apply.
- 3.1.22 For at least one month after the date of notice in the newspapers circulating in the area a copy of the byelaw must be held on deposit at the offices of the Borough Council for inspection by the public at all reasonable hours and the Borough Council must provide any person who applies, with a copy of the byelaw.
- 3.1.23 After the month for deposit has expired the application to the Secretary of State would be undertaken by sending two sealed copies of the byelaws, together with copies of the newspapers advertising the byelaw.
- 3.1.24 On receipt of the sealed byelaws, provided no objections have been received, they will normally be stamped as confirmed by the Secretary of State and returned to the Borough Council as soon as possible. Where an objection has been received following the advertisement(s) of the byelaws, the Borough Council will be provided with copies of the objections for its officers to comment upon, which in turn will be considered by the Secretary of State. Should the Secretary of State still be unclear as to the proper resolution of these objections then a Public Inquiry may be ordered to be

held into the objections to the adoption of the byelaws and confirmation or refusal of confirmation dependent upon the Chair of the Inquiries decision.

## **Issues**

- 3.2.1 The Byelaw will provide an additional tool to police and wardens to tackle the more minor types of nuisance and anti social behaviour that residents are concerned about. This may initially increase workload of the Wardens and Police but once established it should help prevent re-offending.
- 3.2.2 The Byelaw will be enforced through the Magistrates Court, however, it is expected that in the near future new legislation will also enable Fixed Penalty Notices to be issued. This will make enforcement a quicker and easier process.
- 3.2.3 The banning of skateboarding in certain key areas may be controversial due to the lack of dedicated resource. However, the areas where it is proposed to introduce a ban are due to issues of safety for the skateboarders themselves as well as the general public. The wording of the Byelaw reserves the right of the landowner to give permission for skateboarding so organised events on these areas could be held in the future if required, such as the mobile skate park in the Market Square.

## **3.3 Choices (Options)**

- 3.3.1 Leave the outdated Byelaw in place – the current Byelaw is outdated and many of the items are now no longer able to be enforced or are covered by other legislation making them redundant. This is not really an option.
- 3.3.2 Further amend the draft Byelaw prior to the public consultation stage. However, the draft has already been through a full pre-consultation stage with relevant officers and agencies and amended appropriately.
- 3.3.3 Take the proposed draft Byelaw through to the full public consultation stage. This is the preferred option as the draft has already been through a pre-consultation stage with Officers of Northampton Borough Council, Northamptonshire County Council, Northamptonshire Police and Parish Councils and is representative of local issues facing residents and businesses of the borough.

## **4. Implications (including financial implications)**

### **4.1 Resources and Risk**

- 4.1.1 The financial implications are costs of publication in the local press prior to the public consultation period and again to advertise a notice of intent of adopting the provisional Byelaw. This will be covered through existing resources within the Community Safety budget. If the public is not fully consulted at this stage we run the risk of receiving objections when the provisional Byelaw is advertised, resulting in changes being made and further notices being required and additional expense.

4.1.2 If major changes to the draft Byelaw are requested a second consultation period would be required.

4.1.3 If the general public request only minor changes to the draft, it may be possible to proceed without further public consultation.

## 4.2 Legal

4.2.1 To ensure that the public have full access to information, Guidance recommends that all local authorities: -

(a) publicise the proposal to make such a byelaw identifying the location, and effect and invite representations;

(b) after making the Byelaw but before it takes effect, publish in the local newspaper the effect of the Byelaw, where copies may be inspected and obtained and publish a copy of the Byelaw on the local authorities website.

4.2.2 Policy - There are two current Byelaws that would need to be revoked:

- Current Byelaw for Good Rule and Government which is now outdated.
- Current Byelaw for Urination etc. This is now included in the new, updated model set for Good Rule and Government.

## 4.3 Other Implications

4.3.1 An Equality Impact assessment has been carried on the NBC Anti-Social Behaviour Policy 2008-2011, to which this report is linked, and there are no known equality and diversity implications.

4.3.2 Monitoring - The management of the project is being monitored by the Community Safety Department and the Town Centre Manager. Once the Byelaw is made, the effectiveness of the Byelaw will be monitored by the partner organisations under the direction of the Safer Stronger Northampton Partnership.

4.3.2 The proposals in this report support the NBC Corporate Priorities to '*achieve safer, cleaner, greener, communities*' and to contribute towards '*partnership and community engagement*' by '*improving partnerships to deliver joined up services*'.

4.3.4 They also are in line with our Service Objectives to help our communities to become safer by '*reducing the fear of crime and reducing anti-social behaviour*' and supports LAA outcome SSC2B to '*build respect, reduce the fear of crime and the impact of anti-social behaviour*'.

4.3.5 The proposals also fully support the aims and objectives contained within the Northampton Borough Council Anti-Social Behaviour Policy 2008-2011.

## 5. Background Papers

5.1 Model Byelaws set 8 'Byelaws for Good Rule and Government' – The Department for Communities and Local Government.

5.2 Model Byelaw 8: Guidance Notes – The Department for Communities and Local Government.

**Report Author and Title:** **Debbie Ferguson, Community Safety Manager**

**Telephone and Email:** Ext 8731, [dferguson@northampton.gov.uk](mailto:dferguson@northampton.gov.uk)