

**To the Chair and Members of the
ELECTIONS AND DEMOCRATIC SERVICES COMMITTEE**

PROPOSED SPITTING BYELAW

EXECUTIVE SUMMARY

1. The report reviews the background and recommended actions to be taken in relation to a proposal to introduce a byelaw to prohibit spitting within the Borough (or parts of the Borough).

EXEMPT REPORT

2. Not applicable.

RECOMMENDATION

3. To proceed to a public consultation exercise on the proposal to introduce a byelaw to prohibit spitting within the Borough and for a further report to be presented to this Committee on the outcome of the consultation exercise.

BACKGROUND

4. The Mayor has expressed a wish for the introduction of a byelaw to prohibit spitting. Previous government guidance had been that they did not consider a prohibition on spitting to be a suitable issue for a byelaw. The Coalition government revised this guidance last year and has now indicated that it is prepared to consider applications for such a byelaw on a case by case basis and on its own merits.
5. The power to make byelaws is a Council function with the EDS Committee having the power to make recommendations to the Council on the making and revision of byelaws. This report sets out the background to the making of a byelaw to prohibit spitting and seeks recommendations for the formal commencement of the process to introduce a byelaw by commencing with a public consultation exercise.
6. The steps for making a new byelaw are prescriptive and include the submission of a formal application to the relevant Secretary of State for provisional approval of the byelaw together with the submission of evidence which supports the tests that the Council has to meet. These are that the byelaw "is necessary in the local context" and that the application "is reasonable and that other means of addressing the situation at which the byelaws are directed are inappropriate or insufficient".

7. In particular, the evidence in support of the application will need to incorporate the following:
 - a. Details of the nature, extent and location of the problem;
 - b. The measures previously taken to address the problem;
 - c. Why the Council is satisfied that the nuisance is so great so as to merit a criminal offence; and
 - d. What consultation has taken place with groups and persons likely to be affected.
8. A breach of a byelaw is a criminal offence and enforcement of byelaws can be undertaken by both the Council's Enforcement Teams and the Police. In this instance it is anticipated that it would be the Council who would take the lead in enforcing this byelaw. At present this would mean a prosecution in the magistrates court but there are government proposals for the penalty for breach of a byelaw to be subject to Fixed Penalty Notices.
9. Enforcement of any spitting byelaw would therefore rest with the Council. There are a number of teams that could potentially enforce through their day-to-day duties:
 - Enforcement Officers within the new Environmental Protection service;
 - The Neighbourhood Response Team that sits within Community Safety; and
 - Area Officers within the Communities service.

Establishing our evidence base

10. An initial scoping exercise involving Partner agencies within the Safer Doncaster Partnership has already taken place to establish their views on the introduction of a Spitting Byelaw. A range of questions have been asked, including what evidence they hold to support the application and the support they could give to such an initiative.

The response from the Group to this initiative is given in full in **APPENDIX A**. However, it is clear that the response was varied with the issue not being seen as a major priority to some respondents.

11. In addition, officers of the Council's Neighbourhood and Enforcement teams are to undertake a specific exercise on a particular day to identify evidence of spitting primarily by direct witnessing of acts of spitting. Details of the outcome of this exercise will be available before the committee. If the recommendation within this report is accepted then it is intended that there will be further observation days undertaken during the period of the public consultation exercise as evidence from these observations will both inform the evidence base of any application as well as indicating the resources required to enforce such a byelaw.

12. The first stage in taking this initiative forward would be a public consultation exercise which will inform both the evidence base for the application and anticipate possible future objections in advance of the deposit stage. There are a number of options for this exercise, the cost of which would be dependent on which option was selected. Regardless of the option chosen, it is anticipated that this would commence following the purdah period and be for a minimum of 3 months following which, and subject to the outcome of that exercise and any further evidence obtained, a further report would be presented to this committee for a recommendation to Council for the approval for the making of the byelaws.
13. The options for the public consultation exercise are numerous and dependent upon the resources available to support the work. The public consultation would seek responses to a range of questions which would include asking people for evidence as to any incidents of spitting they had witnessed, and if so where and the frequency of this to whether they would support the introduction of a byelaw which would make spitting a criminal offence. Given the size of the Borough, a response of c. 1,200 responses is considered the minimum for the consultation to be statistically valid.

Following liaison with colleagues in Corporate Communications, these options are as follows:

OPTIONS WITH NO FURTHER COST (STAFF TIME ONLY)

As a minimum, we could institute a consultation programme that uses methods that would not cost any money beyond paying for existing staff. These methods include:

- Use of Council internet pages – dedicated internet page for ‘Spitting Byelaw’, with an eform set up for people to register their views;
- Use of Social Media – the Council already has a Twitter and Facebook presence (under ‘MyDoncaster’), so these methods can be used to both encourage people to register their views via internet pages or to ‘snap survey’ what people think;
- The Council’s ‘What’s On’ guide is being posted to all households in the Borough in May; this can either be used to promote our webpages or a survey can be included for people to return.

OPTIONS WITH FURTHER COSTS

If we wanted to boost the number of people who would respond to the consultation, we could also introduce these options:

- A specific survey to c. 5-6,000 households asking for options directly. This could cost up to **£5,000** owing to postage and printing costs.
- If we wanted to boost public recognition of the issue, we could

also promote our webpages/surveys via options such as a full page ad in the Free Press (£660), a 2 week radio campaign on Trax FM (£1,400) or putting up 500 posters around the town (cost of production = £200).

It is recommended that the Committee indicates what methods they believe would be appropriate in undertaking this consultation, considering the financial restrictions in place at the authority.

14. It is anticipated that subject to the outcome of the public consultation exercise and formal Council processes, an application for provisional approval of the byelaw could be made in Autumn 2012.

OPTIONS CONSIDERED

15. The option is to either proceed with the initiative or not.

REASONS FOR RECOMMENDED OPTION

16. The option recommended enables the present initiative to be taken forward to proceed to a public consultation exercise.

IMPACT ON THE COUNCIL'S KEY PRIORITIES

17. The impact of the introduction of a Spitting byelaw versus the Council's key priorities is as follows.

Priority Theme	Mayor's Priorities for 2011/12	Implications of this initiative
1. Creating a strong, connected and inclusive economy	<ul style="list-style-type: none"> • Drive forward the Doncaster economy • Get the balance of public and private transport right • Promote Doncaster as a tourist destination • Regenerate Doncaster's town centres 	
2. Developing stronger communities	<ul style="list-style-type: none"> • Encourage community harmony and cohesion. Treat people as individuals, not by reference to labels and artificial groupings 	
3. Increasing and improving housing	<ul style="list-style-type: none"> • Raise housing standards and ensure that there are enough homes to suit all requirements 	
4. Protecting and improving all our children's lives	<ul style="list-style-type: none"> • Continue to improve education and skills • Build on a strengthening Children's Service 	
5. Improving health and support for independent lives	<ul style="list-style-type: none"> • Encourage attitudes of self-reliance, self-improvement and mutual respect within Doncaster communities 	
6. Tackling crime and anti-social behaviour	<ul style="list-style-type: none"> • Reduce crime and all forms of anti-social behaviour 	Spitting is a form of anti social behaviour and the introduction
7. Creating a cleaner	<ul style="list-style-type: none"> • Continue to protect the environment 	

Priority Theme	Mayor's Priorities for 2011/12	Implications of this initiative
and better environment	from developers, decay and architectural vandalism	of a byelaw will promote the reduction of such behaviour.
8. Internal Transformation	<ul style="list-style-type: none"> Ensure local people get value for money from council services 	

RISKS AND ASSUMPTIONS

18. The proposal seeks to introduce a byelaw to prohibit spitting. The byelaw will require the approval of the Secretary of State. Initial indications from the government is that a byelaw to prohibit spitting is one in respect of which a byelaw can now be made. The Council will need to present a strong evidence base to support the making of the byelaw.

LEGAL IMPLICATIONS

19. The Council has powers to make byelaws under the Local Government Act (1972). The byelaw will require both the provisional approval to the draft byelaw and confirmation of the byelaw by the Secretary of State.

FINANCIAL IMPLICATIONS

20. In terms of cost, proceeding to a public consultation exercise on the proposal to introduce a byelaw to prohibit spitting is dependent upon the required number of responses.

If the minimum of 1,200 responses is acceptable then other than staff costs there will be no additional cost to the Authority as the current media methods can be utilised.

However, if the preference is to encourage around 6,000 households to respond using other methods of promotion then the following costs would be incurred:

Description	£
Postage and printing of survey direct to households	5,000
Free Press advertising	660
Trax FM 2 week campaign	1,400
Printing 500 posters	200
Total	7,260

If the Committees' preference is to encourage a greater level of response then the maximum cost would be £7,260. However, it has yet to be established how this will be funded.

CONSULTATION

21. Appropriate scoping and consultation has been undertaken as identified within this report.

This report has significant implications in terms of the following:

Procurement		Crime & Disorder	x
Human Resources		Human Rights & Equalities	
Buildings, Land and Occupiers		Environment & Sustainability	x
ICT		Capital Programme	

BACKGROUND PAPERS

22. None.

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