

1. SUMMARY

- 1.1 This report advises the Area Committee that existing byelaws in all of Argyll and Bute prohibiting consumption of alcohol in public require to be reviewed this year.

Attached to the report is a schedule of the designated areas within Bute and Cowal to which the public have access and where it is an offence to consume alcoholic liquor.

The Area Committee is asked to consider whether the geographical area of the existing byelaws in Bute and Cowal should remain the same or require amendment to either reduce or extend the scope of the byelaws.

It is considered that it would be appropriate to deal with all proposed amendments in all areas of Argyll and Bute as a single submission to Scottish Ministers in December 2008 for confirmation of all byelaws prohibiting consumption of alcohol in public.

This report acknowledges the progress already made in respect of an amendment to the existing byelaw in Rothesay and provides an update on the current position and seeks agreement from the Members of the Bute and Cowal Area Committee to proceed with consultation on extending the byelaw to cover the area of Rothesay shown on the attached plan (appendix 1)

2. RECOMMENDATION

- 2.1 That a review of the existing Bute and Cowal byelaws is progressed as a result of Members deciding if the geographical area of the Bute and Cowal byelaws should remain the same or be considered for amendment
- 2.2 That any proposed amendments within Bute and Cowal by the Area Committee form part of the overall Argyll and Bute review to be completed by December 2008 rather than on a piecemeal basis throughout the authority.
- 2.3 Approval is given to carry out a consultation on the proposal for an extension of the area in Rothesay and this is then incorporated into the single submission to Scottish Ministers for confirmation in December 2008.

3. BACKGROUND

- 3.1 The existing byelaws covering Argyll and Bute were made in December 1998. Section 202A of the Civic Government (Scotland) Act 1982 requires that a local authority shall not later than 10 years from the coming into force of a byelaw undertake a review of said byelaw. The Council, therefore, require to carry out a review of the existing byelaws this year. Should the review process not be completed by December 2008 the existing byelaws remain effective.

- 3.2 Should the Area Committee move to amend the current alcohol byelaw the process for doing so is the same process as applying for a new byelaw prohibiting the consumption of alcohol in designated places.

An area has to be designated to which the amended byelaw would apply. It is based on information and evidence gathered and in particular information received from the Police. The area should be clearly definable both in the byelaw and on the ground to avoid confusion and doubt.

Exceptions may be considered in the application of the byelaw to cover celebrations and local festivals etc.

The effect would be that any person consuming alcohol in any place to which the public have access within the area designated would be committing a criminal offence. This would apply to all persons; not simply to tourists or visitors but to the inhabitants as well.

Enforcement of any byelaw created will be the responsibility of the Police. It will be their role, as is normal in regard to criminal matters, to investigate alleged breaches of the byelaw and arrest those involved.

3.3 Advice from the Scottish Government contained in Circular JD/6/2007 details the procedure required in order to obtain approval for a byelaw.

Consider justification for the boundaries of proposed areas. Police and interested parties should provide information to help determine the extent of the boundaries.

Consult with the Police and, thereafter, the Procurator Fiscal to ensure they are content with the proposal and that it is sufficiently precise for the purpose of prosecution.

Advise the Scottish Government of the intention to make a byelaw and submit a draft copy.

Consult with relevant and interested parties. It is considered that the relevant parties for such a consultation the Community Council, the licensing trade organisations, the local crime prevention groups and other identified within the locality. This consultation is not a legal requirement but is recommended as good practice. A four week period should be given for responses.

Draft byelaw and have it put before the full Council for approval.

Advertise the intention to apply for confirmation of the byelaw as required by the 1973 Act (advertise in press, allow 28 days for objection).

Submit the byelaw to the Scottish Government for confirmation and to fix the date on which the byelaw comes into operation. (S202(4) Local Government (Scotland) Act 1973)

Place notices in the local press advising that the byelaw has been made.

Arrange for notices to be put up around the designated area advising the byelaw applies and the penalty, on summary conviction, for an offence.

- 3.4 In areas of the authority where amendments to existing byelaws have already been proposed and progressed, it is considered appropriate that these also form part of the overall review of the existing byelaws and a single submission is made to Scottish Ministers for confirmation of all byelaws in Argyll and Bute prohibiting consumption of alcohol in public.
- 3.5 Progress has already been made in respect of the earlier proposal to amend the existing byelaw in Rothesay. The police have advised that they are supportive of the area covered being extended in Rothesay and have provided a breakdown of incidents from 22 November 2006 to 30 June 2007.

The Area Procurator Fiscal has advised that he is happy that the plan is sufficiently precise and that if the Council consider this byelaw is necessary he would not argue against it and, to that extent, he is content with the proposal.

The Criminal Justice Directorate of the Scottish Government have confirmed that the process for amending the current alcohol byelaws is the same process as applying for new byelaws and that if it was considered appropriate to proceed with an extension to the area in Rothesay then an amended byelaw is required.

The next step in the process in the consideration of any proposal to amend the Rothesay Byelaw is to seek approval from the Area Committee to carry out a consultation on the extension. This would involve consultation with the Community Council together with other relevant bodies such as local licensing trade organisations. This consultation is not a legal requirement but is recommended as good practice. This consultation exercise provides a four week period for consultees to respond with their view on whether the proposed area and byelaw is appropriate.

4. IMPLICATIONS

Policy	None
Financial	None
Personnel	Democratic Services and Governance coordination of the process. Legal Services production of Byelaws
Equal Opportunities	None

For Further Information contact Robert Cowper, Anti Social Behaviour Coordinator – tel. 01436 658831

B&C area comm. 26 May 2008
(reports)