

## REGULATORY SERVICES COMMITTEE - 5 DECEMBER 2018

### PART I – PART DELEGATED

#### **6. REVIEW OF BYELAWS: NEW MODEL BYELAWS FOR PLEASURE GROUNDS, PUBLIC WALKS AND OPEN SPACES (DCES)**

##### **1 Summary**

- 1.1 This report provides Members with an update to the report received at Regulatory Committee on the 6 December 2017. At that time officers had prepared documents in support of new byelaws for Pleasure Grounds, Public Walks and Open Spaces. Please see Appendix 1 for the Minutes RG13/17.

##### **2 Details**

- 2.1 In early 2018, officers learned the Ministry of Housing, Communities and Local Government (MHCLG), the authors of the Model Byelaws, planned to make amendments to the model. In particular, the amendment would include the use of Sky Lanterns, a topic of concern at that time. It was felt prudent to await the release of the new updated model byelaws before finalising our byelaws and submitting them for consultation. An update on progress was reported to members in the Members' Information Bulletin, July 2018, see Appendix 2.

##### **2.2 The Legislation**

The Byelaws (Alternative Procedure) (England) Regulations 2016 ("the Regulations") introduced new arrangements for byelaws.

- 2.3 The Regulations simplify the procedures for making new byelaws and amending byelaws, including changing the role of the Secretary of State for Housing, Communities and Local Government in confirming byelaws. This is now a matter for the local council, having taken account of any representations made about the proposed byelaw. Whilst the Secretary of State should give approval for the byelaw, these steps can now take place concurrently.
- 2.4 The MHCLG provide a number of 'Model' Byelaws, with guidance for such byelaw, via the GOV.uk website. These are provided for creating and revoking byelaws.
- 2.5 The Council adopted its current Open Spaces byelaw in February 1981. This present review has been prompted by the need to ensure that all relevant Council land is covered by byelaws and that the byelaws are up to date. The review has been led, to date, by an officer group formed from Departments across the Council, who are responsible for parks and open spaces.
- 2.6 A draft of the new byelaws for Pleasure Grounds, Public Walks and Open Spaces is attached at Appendix 3; this has been based on the 'model' byelaws.

##### **2.7 Proposed draft timeline**

5 December 2018 Report to Regulatory Committee

8 January 2019	Open Consultation
5 February 2019	Close Consultation
February 2019	Consideration of the outcome of the consultation process
Feb to May 2019	Refer byelaws to Secretary of State for approval
22 May 2019	Council approval to the making of the new bylaws
July 2019	Go Live

### **3 Consultation**

- 3.1 Officers have produced a Question and Answer (Q&A) document to support the public consultation; see Appendix 4. Following the example of other local authorities who have completed reviews of byelaws, the Q & A document will anticipate and answer as many public questions as possible, covering each byelaw. This aims to help any consultees with their potential queries and to provide further insight into the effectiveness of the byelaws.
- 3.2 The consultation will take the form of inviting comments from the stakeholders, once having read the Q&A document. Officers have prepared a comprehensive list of potential stakeholders who will be contacted and invited to comment. The draft Byelaws and consultation documents will be available on the Three Rivers website.
- 3.3 Following the close of the consultation period, some amendments may be made to the byelaws and Regulatory impact assessment. Consideration of responses will be delegated to the DCE in consultation with the Chairman.

### **4 Policy/Budget Reference and Implications**

- 4.1 The recommendations in this report are within the Council's agreed policy and budgets. The relevant policies are entitled:

Community Strategy 2012 – 2018

Strategic Plan 2017 – 2020

The relevant aims and objectives are:

Community Strategy:

5) Crime and Anti-Social Behaviour

Strategic Plan:

1) Better Neighbourhoods

1.1.1) Maintain high quality local neighbourhoods and streets.

1.1.2) - Maintain the number of accredited open spaces, parks and woodlands.

2) Healthier Communities

2.3.1) Reduce anti-social behaviour and crime.

2.4.1) Ensure the safety of people in the district.

2.5.1) Improve and facilitate access to leisure and recreational activities for adults.

**5 Financial Implications**

5.1 All costs are accounted for in approved budgets including the costs of the new signage that will be required.

**6 Legal Implications**

6.1 The existing 1981 byelaws are enforceable but out of date, they are written in an antiquated language and a number of areas, which need to be protected, are currently not covered by the byelaws. The model Open Space byelaws have been produced by MHCLG and officers are recommending following the model.

6.2 The Regulations have simplified the procedures for adopting updated model byelaws and the recommendations in the report ensure that the Council follows the necessary legal procedures to enable new byelaws to be adopted across the District. The byelaws have to be approved by Full Council.

6.3 Enforcement of the byelaws will not change dramatically. Members of the public are encouraged by signage and by Officers to comply with the rules in everyone's best interests; as is the current position. The current and new byelaws are, in effect, self-policing. Prosecution for breach of the byelaw is a last resort.

6.4 Once the new byelaws are adopted the Council will revoke the existing byelaws for Parks and Open Spaces (1981).

**7 Equal Opportunities Implications**

7.1 Relevance Test

Has a relevance test been completed for Equality Impact?	Yes Previously provided 6/12/2017
Did the relevance test conclude a full impact assessment was required?	No

**8 Staffing Implications**

8.1 None specific.

**9 Environmental Implications**

9.1 None specific.

**10 Community Safety Implications**

10.1 The byelaws will facilitate the maintenance and enjoyment, by all members of the public, of high quality parks, woodlands and open spaces across the district as they will support the Council's ability to manage inappropriate and unacceptable behaviour.

**11 Public Health implications**

11.1 None specific.

**12 Customer Services Centre Implications**

12.1 None specific.

**13 Communications and Website Implications**

13.1 Impact Assessment

**14 Risk Management and Health & Safety Implications**

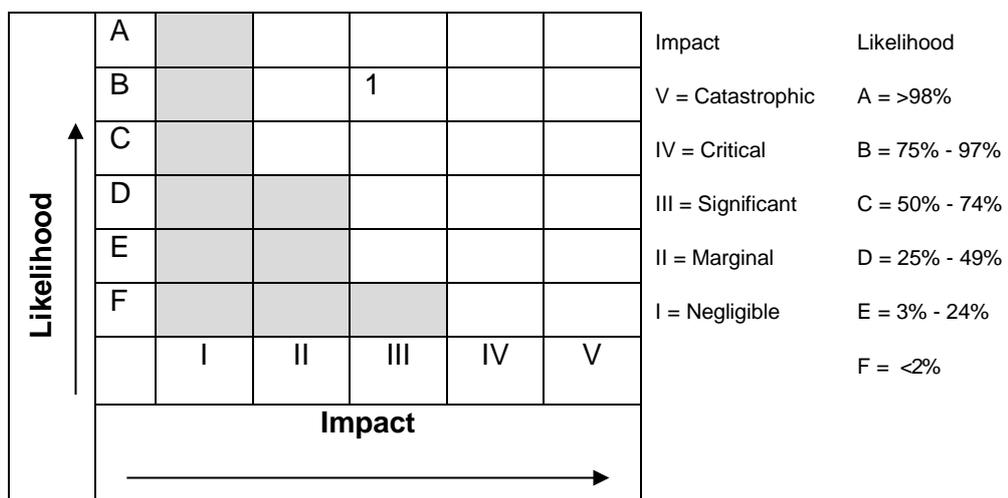
14.1 The subject of this report is covered by the Leisure and Landscape and Environmental Protection service plans. Any risks resulting from this report will be included in the risk register and, if necessary, managed within these plans

14.2 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk		Impact	Likelihood
1	Unable to manage inappropriate and unacceptable behaviour within parks, woodlands and open spaces	III	B

14.3 Of the risks detailed above none is already managed within a service plan.

The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



14.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

**15 Recommendation**

That:

- 15.1 Reconfirm its decision to go out to formal consultation on the new model bylaws as soon as possible.
- 15.2 That the consideration of any responses to the consultation exercise be delegated to the DCE in consultation with the Chairman of the Committee and that authority be delegated to the DCE again in consultation with the Chairman to make any minor amendments to the model byelaw Pleasure Grounds, Public Walks and Open Spaces, as drafted.
- 15.3 That following the consultation exercise DCE be authorised to apply to the Secretary of State for approval of the new byelaws

TO COUNCIL

- 15.4 That the Council formally adopts the new byelaws for Pleasure Grounds, Public Walks and Open Spaces on approval from the Secretary of State to come into operation in 2019
- 15.5 That once the new byelaws for Pleasure Grounds, Public Walks and Open Spaces are adopted, the existing byelaws for Parks and Open Spaces (1981) be revoked.

### **Data Quality**

Data sources:

<b>1</b>	<b>Poor</b>	
<b>2</b>	<b>Sufficient</b>	✓
<b>3</b>	<b>High</b>	

### **APPENDICES / ATTACHMENTS**

- 1. Minutes of Regulatory Committee 6 December 2017 RG 13/17
- 2. Members Information Bulletin, July 2018
- 3. Draft byelaws for Pleasure Grounds, Public Walks and Open Spaces
- 4. Consultation Question and Answer document