

FC90. Review of Byelaws

Council considered a report by the Director of Corporate and Housing Services proposing amendments of the Byelaws prohibiting the consumption of alcohol in public places.

The current Byelaws prohibit 'any person who consumes alcohol in a designated place'. However it is not clear if this includes a person who is holding a container of alcohol but not drinking from it. For the Police to enforce the Byelaw it has to be argued that from the circumstances it is reasonable to infer that alcohol has been consumed.

A review of the offences contained in other Local Authorities' Byelaws was undertaken to determine if clearer wording could be used. From this four options emerged. These were provided in an appendix to the report together with Scottish Government comment on each of the four, option 2 was recommended. This is:-

'any person who consumes alcohol in a designated place or is found to be in possession of an open container containing alcohol in a designated place shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale'.

Police Scotland considered option 2 the most practicable of the 4 options presented.

It was recommended that the scope, extent and geographical area (Falkirk Town Centre and 12 other towns and villages in the area) remain unchanged.

It was noted that if Council agreed to adjust the Byelaw, further consultation would be required with Police Scotland, the Procurator Fiscal and the Scottish Government. Any minor comments would simply be incorporated. However, should there be substantial comment a report would be submitted to Council. The finalised proposals would then be advertised within one month. If there were objections the Scottish Government could hold an enquiry. If there were none, the Director of Corporate and Housing Services would introduce the Byelaws and arrange for confirmation and the date on which they come into effect to be advertised.

Decision

Council agreed to:-

- (1) amend the wording of the Byelaws and alter the offence to say "any person who consumes alcohol in a designated place or is found to be in possession of an open container containing alcohol in a designated place shall be guilty of an offence...." As set out in the draft new Byelaws at appendix 1 of the report;**
- (2) retain broadly the same scope, extent and geographical area covered by the existing Byelaws, namely all the towns and villages in the Falkirk Council area, including the town of Falkirk, with some minor amendments and deletion of small rural areas previously included;**

- (3) instruct the Director of Corporate and Housing Services to: consult with Police Scotland, the Procurator Fiscal and the Scottish Government; incorporate such minor amendments as may be suggested from the consultation; and thereafter to advertise the intention to introduce new Byelaws and revoke the current Byelaws;**
- (4) if there are no objections received, instruct the Director of Corporate and Housing Services thereafter to apply to the Scottish Ministers for confirmation of the new Byelaws; and to revoke the current Byelaws on the same date as the new Byelaws commence; and**
- (5) note that the new Byelaws and supporting new maps would be publicised on the Council website.**