
REPORT TO:	COUNCIL	AGENDA ITEM: 17
DATE OF MEETING:	29TH SEPTEMBER 2011	CATEGORY: DELEGATED
REPORT FROM:	CHIEF EXECUTIVE	OPEN PARAGRAPH NO: N/A
MEMBERS' CONTACT POINT:	NEIL BETTERIDGE (595895)	DOC:
SUBJECT:	BYE-LAW – URINATING IN A PUBLIC PLACE	REF:
WARD(S) AFFECTED:	ALL	

1.0 Reason for Exempt

1.1 Not applicable.

2.0 Recommendation

2.1 That the Council considers the introduction of a bye-law relating to the offence of urinating or defecating in a public place.

3.0 Purpose of Report

3.1 To consider a request from the Derbyshire Constabulary to introduce a bye-law relating to the offence of urinating or defecating in a public place.

4.0 Detail

4.1 A letter has been received from the Head of Criminal Justice at Derbyshire Constabulary, advising that following a recent meeting with staff who have responsibility for decision-making on whether to issue a summons to prosecute, an issue has arisen in respect of the offence of urinating in a public place.

4.2 Currently, the offence is covered by Bye-law 10 of the Derbyshire County Council Bye-laws and Regulations 1962. The maximum penalty for this offence is a fine of forty shillings (£2) and as such, is considered derisory. Consequently, the Crown Prosecution Service has questioned whether a prosecution for an offence carrying such a fine is in the public interest. Following a recent case that was heard at Buxton Magistrate's Court, discussions have been held with the Legal Department at Derbyshire County Council, where the legality of bringing such a charge under Bye-law 10 is in question. However, the County Council no longer have the power to make a further order to cover this offence.

4.3 To rectify this issue, an order would have to be introduced by a District Council under Section 235 of the Local Government Act 1972 for 'the good rule and government' of that District Council and for the 'prevention and suppression of nuisance'. Such a

bye-law has been introduced by Amber Valley Borough Council and is currently in force for this offence which is liable on summary conviction to a fine not exceeding level 2 on the standard scale (£500). However, this appears to be the only one in existence throughout Derbyshire which, it is felt, creates confusion, unfairness and an inability to deal with such issues.

- 4.4 Accordingly, the Council has been requested to consider the introduction of a bye-law relating to the offence of urinating or defecating in a public place with a proposed maximum penalty of Level 2 on the standard scale. It is felt that this will resolve the anomalies outlined above and allow effective enforcement of such anti-social behaviour.

5.0 Financial Implications

- 5.1 There would be advertising costs associated with any bye-law made by the Council. These can be accommodated from existing budgets.

6.0 Corporate Implications

- 6.1 The current Derbyshire County Council Bye-law covering this offence is outdated and difficult to enforce.

7.0 Community Implications

- 7.1 The making of a bye-law will allow effective enforcement of such anti-social behaviour.

8.0 Background Papers

- 8.1 27 Jun 2011 Letter from Derbyshire Constabulary