

Countryside Recreation

Confirmation of Byelaws Relating to Countryside Recreation: Guidance for Byelaw-Making Authorities

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1. Introduction

- 1.1. This guidance has been prepared following a review of procedures aimed at reducing the time taken to confirm byelaws. It is intended for the benefit of byelaw-making authorities wishing to make or amend byelaws relating to countryside recreation which require confirmation by the Secretary of State for the Department for Environment, Food and Rural Affairs (Defra). These byelaws are handled by the Sponsorship, Landscape and Recreation Division of Defra. The guidance sets out changes to the procedures for confirming byelaws made under the Acts of Parliament listed in Annex 1, Part 1 (page 6).
- 1.2. Annex 1, Part 2 contains details of other byelaw confirming authorities both within Defra and in other Government Departments. This information is not comprehensive.

2. What are byelaws?

- 2.1 A byelaw is a local law that is made by a statutory body, such as a local authority, under an enabling power conferred by an Act of Parliament. Byelaws are not normally considered to be a suitable regulatory mechanism in cases where there are express powers in primary legislation for dealing with an issue (Annex 2 - pages 8 - 9). Byelaws should be considered only when all other means of control (such as voluntary schemes) have been tried and failed, or are not considered appropriate.

3. Summary of changes

(i) Procedure

- 3.1 A fast track scheme has been introduced for byelaws which exactly follow a Sponsorship, Landscape and Recreation Division model and to which there are no objections. The fast track scheme only applies to applications made under the Open Spaces Act 1906; the National Parks and Access to the Countryside Act 1949; and the Local Government Act 1972. Under these simplified procedures our aim is to complete action on such cases within ten working days of receipt of the formal application for confirmation and all required supporting information.
- 3.2 The processing of other, "standard" applications may take longer according to their complexity, the number of objections and the volume of cases we receive. We will deal with all cases as quickly as possible. In particular, for those byelaws which make only minor changes to a Defra model we aim to make a determination or, where necessary, seek further information from the byelaw-making authority within fifteen working days of receipt of the byelaws.

- 3.3 We will review these targets in the light of experience. We will let byelaw-making authorities know where there seems likely to be any unusual delay in dealing with a specific case.
- 3.4 Under the present system, cases have remained dormant for many months because the byelaw-making authorities concerned have not responded to our enquiries. We consider that if the system is to operate effectively, we must ask byelaw-making authorities to respond to requests from Defra within a reasonable period.
- 3.5 We will deem any application for byelaws to have lapsed if the byelaw-making authority fails to respond to an enquiry from us within eight weeks. Byelaw-making authorities should notify the Sponsorship, Landscape and Recreation Division as soon as possible if they are unable to meet the deadline so that a new deadline may be agreed.
- 3.6 All applications for countryside recreation byelaws should be submitted in accordance with the new procedures. Applications for byelaws submitted before that date will be dealt with under current procedures.

(ii) Introduction of an application form

- 3.7 Experience shows that byelaws submitted for confirmation are sometimes defective or overlook important procedural points. This can create delay and additional work for both the byelaw-making authority and Defra. We recognise that this is because, for many byelaw-making authorities, the preparation of a byelaw is an infrequent event.
- 3.8 We are therefore introducing an application form, which must be completed in respect of every byelaw application, whether submitted under the fast track or standard scheme. This will benefit byelaw-making authorities by explaining the information which the Sponsorship, Landscape and Recreation Division require in order to determine whether byelaws should be confirmed. It will also assist the confirming authority by ensuring that all the required information is provided at the outset, in a consistent form, thus enabling applications to be handled more effectively.

4. Model byelaws and the confirmation process

General

- 4.1 The chart at Annex 3 (page 10) sets out the procedure for establishing whether byelaws:
 - are likely to be appropriate,
 - are ones for which the Sponsorship, Landscape and Recreation Division is the confirming authority, and

- could be suitable for the fast track scheme.
- 4.2. As a general principle, it is for a local authority to decide the necessary and appropriate byelaws for its area. However, we expect local authorities to consult any interested parties and consider their views before making and advertising byelaws.

The Fast Track Scheme

- 4.3 The Sponsorship, Landscape and Recreation Division has devised a set of ready-made wording for byelaws (Annex 4 pages 11 - 14). We may add to or amend these in the light of experience, demand and any new legislation.
- 4.4 If a byelaw-making authority is applying under one of the following Acts:
- the Open Spaces Act 1906;
 - the National Parks and Access to the Countryside Act 1949; or
 - the Local Government Act 1972.
- and it is satisfied that the activities which it wishes to regulate may be adequately covered by a model byelaw it should obtain a copy of the up-to-date version of the model from either the Defra website at www.defra.gov.uk/wildlife-countryside/issues/byelaws/index.htm or by contacting the Sponsorship, Landscape and Recreation Division on 0117 372 8106 or by e-mail to countrysidebyelaws@defra.gsi.gov.uk.
- 4.5 The model byelaws offer a menu of clauses covering a wide range of activities. Byelaw-making authorities should adopt only those which are relevant. For example, a byelaw should not include the clause banning model aircraft if there is no history of these having been flown from the land or landing on it. Similarly in the case of land where there is no pond or other water, it would be inappropriate to include the clauses which relate to water.
- 4.6 In order to make use of the fast track procedure, byelaw-making authorities should use only model clauses without addition, omission or amendment. Provided they do so there will be no need to seek a view from Defra before sealing and advertising them.
- 4.7 Byelaw-making authorities applying for confirmation under the fast track scheme should complete the application form set out in Annex 5 (pages 15 – 18) and return it to the Sponsorship, Landscape and Recreation Division following the sealing and advertising of the byelaws.

The Standard Scheme

- 4.8 The procedure where a byelaw-making authority wishes to make byelaws under enabling legislation other than that set out in paragraph 4.4 above, or modify a model byelaw or make byelaws on an issue not covered by a model, is similar to the fast track procedure.

- 4.9 The one significant difference is that under the standard scheme the byelaw-making authority should submit the proposed byelaws, in draft, for provisional approval with the application form at Annex 6 (pages 19 - 22). Only when provisional approval has been given should the byelaw-making authority make, seal and advertise the byelaws.

Defra's Role – The Confirmation Process

- 4.10 The following paragraphs apply to all applications under the fast-track scheme and to standard applications following provisional approval of the draft byelaws.
- 4.11 The application for confirmation should not be made until the month of deposit of the byelaws has expired (see para 4.17).
- 4.12 When examining byelaws Defra needs to be satisfied that:
- the byelaws meet the requirements of the legislation under which they are made and that any action required by the legislation, such as consultation with a named public body, has been undertaken;
 - they do not duplicate or conflict with the general law, existing byelaws or any local Act, or common law;
 - the nuisance they address merits criminal sanctions and that, to a reasonable person, the penalty available is proportionate;
 - they directly address a genuine and specific local problem and do not attempt to deal in general terms with essentially national issues; and
 - they do not conflict with Government policy.
- 4.13 We shall assume that the wording of any byelaws has been checked. This will apply to any omissions or inclusions and any statement of areas to which the byelaws will extend. Generally, unless there is an obvious error, or an apparent error has legal implications or affects a point of principle, we will not take it up with the byelaw-making authority.
- 4.14 We expect byelaw-making authorities to consult interested parties and consider their views before making and advertising byelaws. We will usually seek the byelaw-making authority's views on objections made to Defra.
- 4.15 We also expect byelaws to be certain in their terms and not unreasonable in their effect but only the courts can give a definitive ruling in individual cases. We will draw the attention of byelaw-making authorities to those byelaws which clearly fail to meet normal standards of certainty and reasonableness.

4.16 Byelaws which exactly follow the model will meet the criteria in paragraph 4.15. We look to byelaw-making authorities to ensure that other byelaws which do not conform to the model also meet the criteria.

Sealing the Byelaws

4.17 When the draft byelaws have been provisionally approved and the byelaw-making authority has formally resolved to adopt them, sub section 236(3) of the Local Government Act 1972 requires that they should be made under the common seal of the authority or, in the case of byelaws made by a parish or community council not having a seal, under the hands and seals of two members of the council. Two sealed documents are required.

4.18 Where byelaws are made by a parish council which does not have a seal, a suitable subscription to the byelaws, would be:

Given under our hands and seals this.....
day of.....

(Signed)..... (Seal)[Sealing wax/parchment
seals may be obtained from Law Stationers}

(Signed)..... (Seal)

Members of the..... Parish Council

If members of the Parish Council who sign the byelaws do not possess personal seals, the imprint of a signet ring, coin or thumb or sealing wax will suffice.

4.19 The byelaws must be signed and sealed by two members of the council.

4.20 At least 6 inches (15 cm) space should be left after the byelaw-making authority's seal in order to provide sufficient room for the official stamp and the Secretary of State's seal signifying that the byelaws have been confirmed.

Advertising the Byelaws

4.21 Different legislative provisions may cover the procedures for advertising the byelaws (for example the 1876 Commons Act). The authority should check that section 236 of the Local Government Act 1972 applies to their byelaws before proceeding.

4.22 Section 236 requires that after the byelaws have been sealed, a notice of the authority's intention to apply for their confirmation must be given in one or more newspapers circulating in the area to which the byelaws must apply.

4.23 Additionally, for at least one month after the date of publication of the newspaper containing the notice, a copy of the byelaws must be held on deposit at the offices of the authority for inspection by the public at all reasonable hours.

4.24 Annex 7 (page 23) contains a model draft advertisement. When placing the advertisement, byelaw-making authorities should send one photocopy of the sealed byelaws to the Sponsorship, Landscape and Recreation Division together with a copy of the advertisement and letter indicating that the authority intends to apply for confirmation once the sealed byelaws have been on deposit for one month.

4.25 It is sometimes overlooked that it is "a copy of the byelaws" which has to be held on deposit. The period of deposit cannot effectively begin until the byelaws have been brought into existence by being sealed. To avoid confusion, authorities are advised to ensure that the byelaws are advertised only after they have been sealed.

4.26 The authority must, on request, provide any person with a copy of the byelaws or with a copy of any part of the byelaws. Byelaw-making authorities are allowed to charge a fee of not more than 10 pence for every hundred words contained in any copy supplied.

4.27 Where objections have been received copies will usually be forwarded to the local authority (or confirming authority if this is not a local authority) for their comments before any decision is taken on whether the byelaws should be confirmed. In contentious cases, particularly where the arguments are finely balanced, it is open to Defra to order a public inquiry to be held although this is rare. In the vast majority of cases we would expect any differences of opinion to be resolved locally between the byelaw-making authority and the objectors.

Action Following Confirmation

4.28 A copy of the confirmed byelaws must be deposited at the Authorities offices. The byelaws must be open to public inspection, at all reasonable hours, without payment. The Authority must provide any person who applies with a copy of the confirmed byelaws. Byelaw-making authorities are allowed to charge a maximum fee of 20 pence for every copy.

This Guide has been issued by Defra's Sponsorship, Landscape and Recreation Division, Zone 1/03, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB. Please send any queries to this address or by e-mail to countrysidebyelaws@defra.gsi.gov.uk. Alternatively please telephone 0117 372 8106.

The Sponsorship, Landscape and Recreation Division is responsible for the confirmation of byelaws made under the following powers:

1. Commons and Town and Village Greens

- s.6 The Metropolitan Commons Act 1866
- s.84 The Wimbledon and Putney Common Act 1871
- s.15 Commons Act 1876
- s.36 The Epping Forest Act 1878
- s.1 Commons Act 1899
- s.15 Open Spaces Act 1906
- s.193 Law of Property Act 1925
- s.235 Local Government Act 1972

N.B. Subsection (3) of s.235 is to be particularly noted: byelaw-making authorities should make byelaws under this power only when the issue they wish to address is not already covered by general legislation or a local Act and when it is not possible for them or another authority to make byelaws or take any other action under any other provision.

- s. 19 The Ashdown Forest Act 1974
- s.11 The Dartmoor Commons Act 1985
- s.17 of the Countryside and Rights of Way Act 2000

2. National Parks and Areas of Outstanding Natural Beauty

- ss.90 and 91 National Parks and Access to the Countryside Act 1949
- ss.12 and 13 Countryside Act 1968
- s.17 of the Countryside and Rights of Way Act 2000

3. Country Parks and Picnic Sites

- s. 41 Countryside Act 1968
- s.17 of the Countryside and Rights of Way Act 2000

4. Countryside

- Green Belt (London and Home Counties) Act 1938
- s.41 Countryside Act 1968
- London (Various Powers) Act 1990
- s.17 Countryside and Rights of Way Act 2000

Byelaws which fall either to other divisions within Defra or to other departments to confirm

- (i) Byelaws relating to local and national Nature Reserves and Special Sites of Scientific Interest are the responsibility of the National Designated Sites Policy Team, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB Telephone 0117 372 8767.
 - (ii) Byelaws made by navigation authorities for regulating the use of inland waterways (other than those managed by harbour or National Park Authorities) are the responsibility of Defra's Environment Agency and Waterways Division, 123 Victoria Street, London SW1E 6DE. Telephone 0207 082 8066.
 - (iii) Byelaws made by water companies under section 157 of the Water Industry Act 1991 are the responsibility of Defra's Environment Agency and Waterways Division, 123 Victoria Street, London SW1E 6DE. Telephone 0207 082 8066.
 - (iv) Byelaws for land drainage purposes can be made by the Environment Agency, local authorities and internal drainage boards. The byelaw making powers in Schedule 25 of the Water Resources Act 1991 and section 66 of the Land Drainage Act 1991 (both Acts as amended by section 100 Natural Environment and Rural Communities Act 2006) are the responsibility of Defra's Flood Management Division (Resilience and Institutional Framework Programme), Ergon House, Horseferry Road, London SW1P 2AL. Telephone 0207 238 6536.
 - (v) Byelaws which relate to pleasure grounds, public walks and open spaces, amusement premises, pleasure fairs, promenades, the seashore, good rule and government, and markets (and for which the Department for Communities and Local Government is the confirming authority) are the responsibility of the Department for Communities and Local Government, Democracy and Local Leadership Division, Zone 5/B1, Eland House, Bressenden Place, London SW1E 5DU Telephone: 020 7944 8154 Further details can be found on the DCLG website at www.communities.gsi.gov.uk
 - (vi) Byelaws relating to pleasure boats, personal watercraft (including jet-skis) and waterskiing are the responsibility of the Maritime and Coastguard Agency, Bay 1/13, Coastal Byelaws Section, Spring Place, 105 Commercial Road, Southampton, SO15 1EG Telephone 023 80 329 133 Further details can be found on the MCGA website at www.mcga.gov.uk; and
- For byelaws relating to land in Wales please contact The National Assembly for Wales, LG 1A, Cathays Park, Cardiff CF10 3NQ Telephone 02920 823621.

Byelaws which Defra's Sponsorship, Landscape and Recreation Division will not normally confirm

The following activities are covered by general legislation and are therefore not normally suitable to be controlled by byelaws. (Please note that the list is not comprehensive but includes those subjects on which byelaw-making authorities have sought byelaws in the past.)

Advertisements

This is regulated by Town and Country Planning Legislation.

Camping - removal of campers

Local authorities are empowered by section 77 of the Criminal Justice and Public Order Act 1994 to direct unauthorised campers to leave the land, and remove their vehicles and any other property.

Damage

This is already an offence under the Criminal Damage Act 1971.

Dangerous driving in parks and open spaces

Sections 1 and 2 of the Road Traffic Act 1991 have amended sections 2 and 3 of the Road Traffic Act 1988, making it an offence to drive dangerously on a road or other public place, or without due care and attention or without reasonable consideration for other persons using the road or place. It is therefore now possible to prosecute dangerous or careless driving in parks and open spaces under general legislation.

Defra also expects byelaws to address, in general terms, behaviour which causes nuisance or danger to others. They should not be used to protect people from the consequences of their own actions.

Dogs

Powers for local authorities and parish councils to make dog byelaws have been replaced with new powers to make Dog Control Orders. Local authorities and parish councils, defined respectively as primary and secondary authorities, can make Dog Control Orders in relation to the following:

- dog ban
- dog fouling
- dogs on leads
- putting and keeping a dog on a lead if directed to do so by an authorised officer
- restricting the number of dogs that can be taken onto land

Dog Control Orders can be made following the procedure prescribed in the Dog Control Orders (Procedures) Regulations 2006. The offences (see above) and Order-making forms are contained in the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006. Dog Control Orders do not need confirmation by the Secretary of State. Guidance has been published and is available at www.defra.gov.uk/environment/localenv/legislation/cnead/dogcontrol-orders.pdf

Authorised officers of primary and secondary authorities can issue fixed penalties for Dog Control Order offences. The fixed penalty amount can be set between £50 - £80 and discounts may be offered for early payment. Upon conviction offenders may be fined up to a maximum of £1000.

Dogs to be kept on leads near livestock

Byelaws requiring dogs to be kept on leads near livestock may be accepted. We would expect byelaws made under section 17 of the Countryside and Rights of Way Act (CROW) 2000 (in respect of land which is shown as open country or registered common land on a conclusive map issued by Natural England under section 9 of that Act) to be used as a last resort. This is because paragraphs 4 and 5 of Schedule 2 to the CROW Act already requires dogs to be kept on a short lead when on such land between 1 March and 31 July each year, and at all times when in the vicinity of livestock.

Dumping and fly tipping

The Refuse Disposal (Amenity) Act 1978 legislates against this activity.

Firearms

The Firearms Act 1968 already covers this area.

Fireworks

The Explosives Act 1875, the Health and Safety Act 1974, the Fireworks (Safety) Regulations 1997 (made under the Consumer Protection Act 1987), the General Product Safety Regulations 1994, the Noise Act 1996 and Fireworks Act 2003 already cover this area.

Graffiti

The Criminal Damage Act 1971 already covers this area.

Language – violent and threatening behaviour

This is already covered under public order legislation.

Litter

This is already extensively covered by the Environmental Protection Act 1990, the Environment Act 1995 and the Clean Neighbourhoods and Environment Act 2005.

Removal of travellers

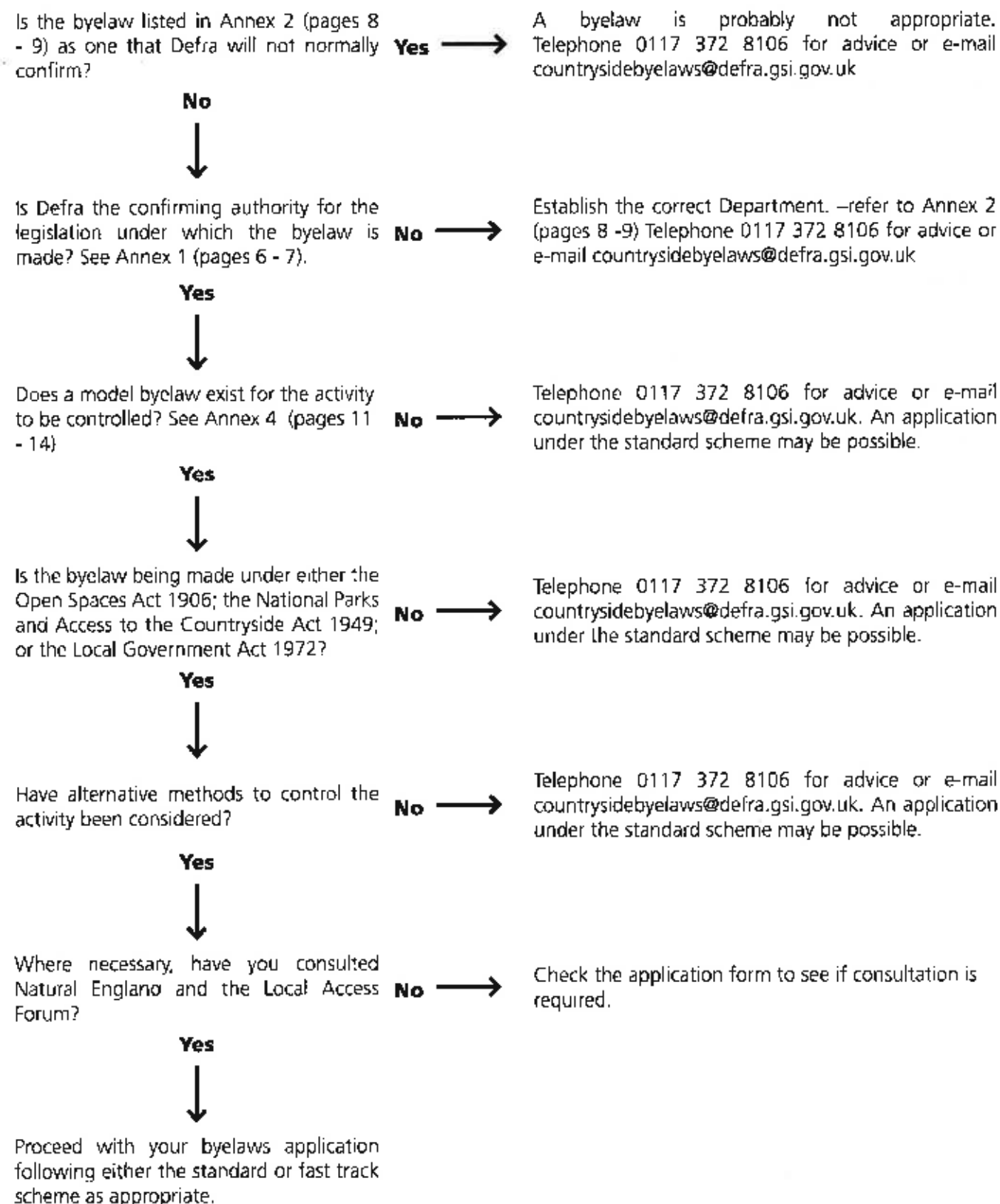
Any such byelaw would duplicate sections 77 to 79 of the Criminal Justice and Public Order Act 1994. In addition, a byelaw-making authority should be aware of the implications in this context of the Human Rights Act 1998 and the Race Relations (Amendment) Act 2000.

Traffic

Section 34 of the Road Traffic Act 1988 prohibits driving off road vehicles without lawful authority on land not forming part of a road. It also prohibits driving without lawful authority onto or upon any common land, moorland or land of any other description not being part of a road.

Procedure for determining whether to apply for byelaws

Where a byelaw-making authority wishes to vary a model clause in any way (even if only by just one or two words), or to control activities not covered by a model, **please apply under the standard scheme.**



Model Bylaws

1. Aircraft

No person shall, except in case of emergency or with the consent of the byelaw-making authority, take off from or land upon the land in an aircraft, helicopter, hang-glider or hot-air balloon.

2. Bathing

No person shall, without reasonable excuse, bathe or swim in any waterway comprised in the land, except in an area where a notice exhibited by the byelaw-making authority permits bathing and swimming.

3. Camping

No person shall on the land, without the consent of the byelaw-making authority, erect a tent or use any vehicle, including a caravan, or any other structure for the purpose of camping, except on any area which may be set apart and indicated by notice as a place where camping is permitted.

4. Erection of structures

No person shall on the land, without the consent of the byelaw-making authority, erect any post, rail, fence, pole, tent, booth, stand, building or other structure.

5. Fires

- 5.1 No person shall on the land intentionally light a fire, or place, throw or let fall a lighted match or any other thing so as to be likely to cause a fire.
- 5.2 This byelaw shall not prevent the lighting or use of a properly constructed camping stove or cooker in any area set aside for the purpose, in such a manner as not to cause danger of or damage by fire.

6. Games

- 6.1 Where the byelaw-making authority has, by a notice placed in a conspicuous position on the land, set apart an area on the land for the playing of such games as may be specified in the notice, no person shall:
- play in such an area any game other than the game for which it has been set apart;
 - use any such area so as to give reasonable grounds for annoyance to any person already using that area for any purpose for which it has been set apart; or
 - play any game so specified in any other part of the land in such a manner as to exclude

any person not playing the game from the use of that part.

- 6.2 No person shall, in any area of the land which may have been set apart by the byelaw-making authority for any game, play any game when the state of the land or other cause makes it unfit for use and a notice is placed in a conspicuous position prohibiting play in that area of the land.
- 6.3 (i) No person shall on the land play any game:
- so as to give reasonable grounds for annoyance to any other person on the land; or
 - which is likely to cause damage to any tree, shrub or plant on the land.
- (ii) This byelaw shall not extend to any area set apart by the byelaw-making authority for the playing of any game.

7. Golf

No person shall on the land drive, chip or pitch a hard golf ball [except on land set aside by the byelaw-making authority for use as a golf course, golf driving range, golf practice area or putting course].

8. Interpretation

In these byelaws:

“the byelaw-making authority” means [.....]

“the land” means [.....]

9. Kites

No person shall on the land fly or cause or permit to be flown any kite in such a manner as to cause a danger or annoyance to any other person on the land.

10. Metal detectors

No person shall on the land, without the consent of the byelaw-making authority, use any device designed or adapted for detecting or locating any metal or mineral in the ground.

11. Missiles

No person shall on the land, to the danger or annoyance of any other person on the land, throw or discharge any missile.

12. Model aircraft*

(Note: All flying of model aircraft in the United Kingdom is controlled by Article 64 of the Air Navigation Order, issued by the Civil Aviation Authority, which states that "A person shall not recklessly or negligently cause or permit an aircraft to endanger any person or property".)

Before making model aircraft byelaws, byelaw making authorities should seek advice from the British Model Flying Association and consult the Safety Code of the British Model Flying Association for guidance on what types of model might be flown in particular grounds.

- Byelaw 1 gives the interpretation of terms used in byelaws 2—5; use those which occur in the byelaws selected.
- Byelaw 2 bans power-driven model aircraft flying altogether.
- Byelaw 3 allows power-driven model flying in a designated area.
- Byelaw 4 places controls on the type of power-driven model aircraft flown.
- Byelaw 5 allows times and days to be specified on which power-driven model aircraft flying is allowed. Select only those appropriate. N.B.: Byelaw 2 cannot be used with byelaws 3-5.)

12.1 In these Byelaws:

- (i) "model aircraft" means;
 - (a) a power-driven aircraft which either weighs between 500 grams and 7 kilograms without its fuel or
 - (b) a power-driven aircraft which weighs more than 7 kilograms and up to 20 kilograms without its fuel and is regulated by the Air Navigation Order, Clause 87 or
 - (c) a power-driven aircraft which weighs over 20 kilograms without its fuel and which is exempt from the Air Navigation Order.
- (ii) "power-driven" means driven by the combustion of petrol vapour or other combustible vapour or other combustible and subject to the Code of Practice on Noise from Model Aircraft 1982.
- (iii) "radio-controlled" means controlled by a radio signal from a wireless transmitter or similar device;
- (iv) The "Noise Code" means the Code of Practice issued by the Department of the Environment in pursuance of the approval given by the Control of Noise (Code of Practice on Noise from Model Aircraft) Order 1981.*

12.2 General Prohibition

- (a) No person shall on the land release any power-driven model aircraft for flight or control the flight of such an aircraft.
- (b) No person shall cause any power-driven model aircraft to take off or land on the land.

12.3 Use permitted in Certain Specified Areas

- (i) Where any part of the land has, by a notice conspicuously exhibited on the land, been set apart for the flying of power-driven model aircraft, no person in any other part of the land shall release any such aircraft for flight, or control the flight of such an aircraft, and no person shall, in such other part of the land:
 - (a) cause such an aircraft to take off; or
 - (b) without reasonable excuse, cause such an aircraft to land.
- (ii) Where an area within a part of the land so set apart for the flying of power-driven model aircraft is designated as an area from which aircraft may be launched and is described in a notice placed in a conspicuous position on the land, no person shall release such an aircraft for flight, or cause such an aircraft to take off, in any part of the land other than that area.

12.4 Use Permitted if Under Control

No person shall on the land:

- (a) release any power-driven model aircraft for flight or control the flight of such an aircraft; or
- (b) cause any such aircraft to take off or land on the land, unless it is [insert as necessary according to the circumstances of the ground] attached to a control line [or] radio-controlled [and] kept under effective control.

12.5 Use Permitted within Specified Hours

No person shall on the land:

- (a) release any power-driven model aircraft for flight or control the flight of such an aircraft; or
- (b) cause any such aircraft to take off or land, except on the days and during the hours specified in the following table:

Name of land	Days	Hours

* *Byelaw making authorities should take account of the provisions of the Code of Practice on Noise from Model Aircraft, approved on 1 February 1982, which is obtainable from Her Majesty's Stationery Office and through booksellers. Before making and advertising byelaws the byelaw making authority should bring their proposals to the notice of the British Model Flying Association, Chacksfield House, 31 St Andrew's Road, Leicester, LE2 8RE and of any local model aircraft clubs and should consider their views.*

13. Noise

- (i) No person on the land shall, after being requested to desist by an officer of the byelaw-making authority, or by any person annoyed or disturbed, or by any person acting on his behalf:
 - (a) by snouting or singing;
 - (b) by playing on a musical instrument; or
 - (c) by operating or permitting to be operated any radio, CD player or other device capable of emitting sound;cause or permit to be made any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other persons on the land.
- (ii) This byelaw shall not apply to any person holding or taking part in any entertainment held with the consent of the byelaw-making authority.

14. Obstruction/Annoyance

No person shall on the land:

- (a) intentionally obstruct any officer of the byelaw-making authority in the proper execution of his duties; or
- (b) intentionally obstruct any person carrying out an act which is necessary to the proper execution of any contract with the byelaw-making authority; or of the land.

15. Penalty

Any person offending against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

16. Pollution of waterways

No person shall intentionally, carelessly or negligently foul or pollute any waterway comprised in the land.

17. Protection of Wildlife

- (i) No person shall on the land intentionally kill, injure, take or disturb any animal or fish, or engage in hunting, shooting or fishing, or the setting of traps or nets, or the laying of snares.
- (ii) This byelaw shall not prohibit any fishing which may be authorised by the byelaw-making authority.

18. Public shows, exhibitions and structures

No person shall on the land, without the consent of the byelaw-making authority, place or take part in any show or exhibition, or set up any swing, roundabout or other like thing.

19. Removal of structures

No person shall, without reasonable excuse, remove from or displace on the land any barrier, railing, sign, post or seat, or any part of any structure or ornament, or any implement provided for use in the laying out or maintenance of the land.

20. Removal of substances

No person shall remove from or displace on the land any stone, soil or turf, or the whole or any part of any plant, shrub or tree.

21. Revocation

- (i) The byelaws made by-----
-----on----- and confirmed by-----
-----on-----
relating to the land are hereby revoked.
- (ii) Byelaws [] and [] of the byelaws made by -----
---on -----and confirmed by the
(Secretary of State for-----
-----) on----- relating to the
land are hereby revoked.

22. Savings

- (i) An act necessary to the proper execution of his duty on the land by an officer of the byelaw-making authority, or any act which is necessary to the proper execution of any contract with the byelaw-making authority, shall not be an offence under these byelaws.
- (ii) Nothing in or done under any of the provisions of these byelaws shall in any respect prejudice or injuriously affect any public right of way through the land, or the rights of any person acting legally by virtue of some estate, right or interest in, over or affecting the land or any part thereof.

23. Trading

No person shall on the land, without the consent of the byelaw-making authority, sell, or offer or expose for sale, or let to hire, or offer or expose for letting to hire, any service, commodity or article.

24. Watercourses

No person shall knowingly cause or permit the flow of any drain or watercourse on the land to be obstructed or diverted, or open, shut or otherwise work or operate any sluice or similar apparatus on the land.

Countryside Recreation Byelaws

Fast track application form

This application form is to accompany:

- byelaws submitted for confirmation under the Fast Track Scheme. Please complete and submit with two copies of the sealed byelaws after the byelaws have been on deposit for one month. Please ensure that you have complied with paragraphs 4.1 - 4.7 of Defra's Countryside Recreation Byelaws Guide (BCR 1) before you submit the byelaws for confirmation.

Application for confirmation of byelaws based on Defra models (fast track scheme)

Name of Applicant Authority

Legislation under which byelaws are made

(Please tick the appropriate legislation)

Commons and Town and Village Green

- s. 15 Open Spaces Act 1906

N.B. Applications for byelaws relating to burial grounds are dealt with by the Department for Communities and Local Government, Democracy and Local Leadership Division, Zone 5/B1, Eland House, Bressenden Place, London SW1E 5DU Telephone: 020 7944 8154 Further details can be found on the DCLG website at www.communities.gov.uk

- s. 235 Local Government Act 1972

N.B. Subsection (3) of s.235 is to be particularly noted: byelaw-making authorities should make byelaws under this power only when the activity to be controlled is not already covered by general legislation or a local Act and when it is not possible for them or another authority to make byelaws or take any other action under any other provision.

National Parks and Areas of Outstanding Natural Beauty

- s.90 National Parks and Access to the Countryside Act 1949.....

N.B. For applications under s.90 of the National Parks and Access to the Countryside Act 1949 have you consulted Natural England?

Yes No

Country Parks and Picnic Sites

- s.41 Countryside Act 1968.....

Please note that byelaws under other Acts may ONLY be made under the Standard Scheme

Why are the byelaws necessary?

- Please note: applications for confirmation under the fast track scheme **must follow exactly** the wording of the Defra models.
 - **If any variations or additions to the model are included, the application will be returned for resubmission under the standard scheme.**
 - Please insert answers in the spaces provided, continuing on a separate sheet if necessary.
1. Byelaws should not attempt to address in general terms issues which are essentially national rather than local. Please explain what the specific local problem is which the proposed byelaws are intended to control.

2. Please explain the nature, location, extent and incidence of the problem and the reasons why the Authority considers byelaws are necessary to combat the nuisance being addressed.

3. What measures have been taken to address the nuisance?

4. Why is the byelaw-making authority satisfied that the nuisance caused by the activity is sufficient to warrant making the activity a criminal offence?

5. If appropriate, please describe what consultation **required by the legislation** has been carried out.

6. Please describe what **informal consultation** has taken place, both with individuals and groups likely to be affected by the byelaws.

7. Is the Authority content that the byelaws are reasonable in how they will be applied in the particular local context (i.e. that they are not partial or unequal in their application, that they are not manifestly unjust, and that they do not involve oppressive or gratuitous interference with the rights of those whom they affect)? Please justify this view.

8. Is the Authority content that:

(a) the proposed byelaws do not duplicate or conflict with existing byelaws? Yes No

(b) the Authority has included a byelaw revoking existing byelaws?* Yes No

* Byelaws made under section 8 (1) (d) of the Local Government Act 1894 cannot be revoked by byelaws made under any other enactment. They must be revoked by an Order under section 262 (8) (d) of the Local Government Act 1972

9. Is the Authority content that the byelaws do not duplicate or conflict with any:

• existing local Act? Yes No

• national legislation or common law? Yes No

• central government policy of which they are aware? Yes No

10. List any objections of which the authority is aware at this stage and the authority's response to those objections. Copies of any letters of objection or other relevant documentation should be attached.

11. **The byelaws will come into effect one month after confirmation** unless there are special circumstances which make it desirable for the byelaws to come into operation on a different date. If an alternative date is preferred, please state the preferred date here and explain why this date is required.

I submit the byelaws for confirmation in accordance with the fast track scheme set out in paragraphs 4 - 4.7 of this guide.

The Chief Executive, Secretary or other proper officer of the authority, as designated by the authority, should sign the proforma.

Signature Date
Name (BLOCK letters) Position

Please return the completed form to: Matthew Ashton, Outdoor Recreation Branch, Zone 1/03, Defra, Temple Quay House, 2 The Square, Temple Quay, Bristol B51 6EB

Continuation sheet
Question no.

Countryside Recreation Byelaws Standard scheme application form



Applications made under the standard scheme should be submitted to Defra in draft form before sealing and advertising.

Application for provisional approval of byelaws, which vary, or are not covered by, a Defra model

Name of Applicant Authority

Legislation under which byelaws are made

(Please tick the appropriate legislation)

Commons and Town and Village Green

- s. 15 Open Spaces Act 1906

N.B. Applications for byelaws relating to burial grounds are dealt with by the Department for Communities and Local Government, Democracy and Local Leadership Division, Zone 5/B1, Eland House, Bressenden Place, London SW1E 5DU Telephone: 020 7944 8154 Further details can be found on the DCLG website at www.communities.gov.uk

- s. 235 Local Government Act 1972

N.B. Subsection (3) of s.235 is to be particularly noted: byelaw-making authorities should make byelaws under this power only when the activity to be controlled is not already covered by general legislation or a local Act and when it is not possible for them or another authority to make byelaws or take any other action under any other provision.

- s.17 Countryside and Rights of Way Act 2000

N.B. Byelaws under section 17 of the Countryside and Rights of Way Act 2000 cannot be confirmed until the land is access land.

For applications under s. 17 of the Countryside and Rights of Way Act 2000 have you consulted Natural England and the local access forum?.....

Yes No

National Parks and Areas of Outstanding Natural Beauty

- s.90 National Parks and Access to the Countryside Act 1949

For applications under s.90 of the National Parks and Access to the Countryside Act 1949 have you consulted Natural England?

Yes No

- s.12 Countryside Act 1968

- s.13 Countryside Act 1968

For applications under s.12 or s.13 of the Countryside Act 1968 have you consulted Natural England?.....

Yes No

- s.17 Countryside and Rights of Way Act 2000

N.B. Byelaws under section 17 of the Countryside and Rights of Way Act 2000 cannot be confirmed until the land is access land.

For applications under s. 17 of the Countryside and Rights of Way Act 2000 have you consulted Natural England and the local access forum?.....

Yes No

Country Parks and Picnic Sites

- s.41 Countryside Act 1968.....
- s.17 Countryside and Rights of Way Act 2000.....

N.B. Byelaws under section 17 of the Countryside and Rights of Way Act 2000 cannot be confirmed until the land is access land.

For applications under s.17 of the Countryside and Rights of Way Act 2000 have you consulted Natural England and the local access forum?..... Yes No

Countryside

- s.17 Countryside Green Belt (London and Home Counties) Act 1938

Other Acts (please note that byelaws under other Acts may ONLY be made under the Standard Scheme)

Please specify

Why are the byelaws necessary?

- Please insert answers in the spaces provided, continuing on a separate sheet if necessary.
1. Byelaws should not attempt to address in general terms issues which are essentially national rather than local. Please explain what the specific local problem is which the proposed byelaws are intended to control.

2. Please explain the nature, location, extent and incidence of the problem and the reasons why the Authority considers byelaws are necessary to combat the nuisance being addressed.

3. What measures have been taken to address the nuisance?

4. Why is the byelaw-making authority satisfied that the nuisance caused by the activity is sufficient to warrant making the activity a criminal offence?

5. If appropriate, please describe what consultation **required by the legislation** has been carried out.

6. Please describe what **informal consultation** has taken place, both with individuals and groups likely to be affected by the byelaws.

7. Is the Authority content that the byelaws are reasonable in how they will be applied in the particular local context (i.e. that they are not partial or unequal in their application, that they are not manifestly unjust, and that they do not involve oppressive or gratuitous interference with the rights of those whom they affect)? Please justify this view.

8. Is the Authority content that:

(a) the proposed byelaws do not duplicate or conflict with existing byelaws? Yes No

(b) the Authority has included a byelaw revoking existing byelaws? * Yes No

* Byelaws made under section 8 (1) (d) of the Local Government Act 1894 cannot be revoked by byelaws made under any other enactment. They must be revoked by an Order under section 262 (8) (d) of the Local Government Act 1972

9. Is the Authority content that the byelaws do not duplicate or conflict with any:
- existing local Act? Yes No
 - national legislation or common law? Yes No
 - central government policy of which they are aware? Yes No

10. List any objections of which the authority is aware at this stage and the authority's response to those objections. Copies of any letters of objection or other relevant documentation should be attached.

11. **The byelaws will come into effect one month after confirmation** unless there are special circumstances which make it desirable for the byelaws to come into operation on a different date. If an alternative date is preferred, please state the preferred date here and explain why this date is required.

12. The attached draft byelaws do not follow the exactly model. I submit the draft byelaws for provisional approval prior to sealing and advertisement in accordance with the standard scheme set out in paragraphs 4.8 - 4.9 of the guide (BCR 1).

**The Chief Executive, Secretary or other proper officer of the authority,
as designated by the authority, should sign the proforma.**

Signature		Date	
Name (BLOCK letters)		Position	

**Please return the completed form to: Matthew Ashton, Outdoor Recreation Branch,
Zone 1/03, Defra, Temple Quay House, 2 The Square, Temple Quay, Bristol B51 6EB**

Advertising the Byelaws

The usual wording for the newspaper notice is as follows:

County/District/Parish of.....

Confirmation of Byelaws

Notice is hereby given that the County/District/Parish/Council of..... intend after the expiry of the period mentioned below to apply to the Secretary of State for confirmation of the byelaws made by the byelaw-making authority [*Insert here a description of the byelaws*].

Copies of the byelaws will be kept at the office of the byelaw-making authority at..... and will be open to inspection, without payment, on any week day during usual office hours for one calendar month from and after the date of the publication of this notice. Copies of the byelaws will also be supplied on receipt of an application [*free of charge/accompanied by a fee of..... for each copy.*]

Any objection to the confirmation of the byelaws may be made by letter addressed to:

- Sponsorship, Landscape and Recreation Division
Department for Environment, Food and Rural Affairs
Zone 1/03, Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6EB,

within one calendar month from the publication date of this advertisement. When objections are received, copies will usually be forwarded to the byelaw making authority for their comments before any decision is taken on whether the byelaws should be confirmed. Please indicate in your letter if you do not wish your objection to be made public.

[Signed]

Proper Officer of the byelaw-making authority

[Insert date of Signature].....

