

**LUSS BYELAW REVIEW - CONSUMPTION OF ALCOHOL IN PUBLIC PLACES**

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**1. SUMMARY**

- 1.1 This report advises the Council of a proposal to amend the Luss byelaw prohibiting consumption of alcohol in designated public places.
- 1.2 The description and nature of the offence within public drinking byelaws can vary in accordance with models endorsed by the Scottish Government.
- 1.3 Specifically, all of the byelaws within Argyll and Bute council area, with the exception of the Luss byelaw, state it is an offence to drink alcohol from a container or be in possession of an open container where it is reasonable to infer that a person intended to drink from it. The Luss byelaw refers solely to consumption of alcohol from a container and not also to possession of alcohol with the intention to drink it.
- 1.4 It has been reported that the wording of the Luss byelaw prevents full and effective enforcement of the drinking byelaw and compromises action by the police to tackle alcohol related anti social behaviour.
- 1.5 It is proposed that the Luss byelaw is amended to also provide for an offence being committed if a person is in possession of an open container from which intention to drink from it can be reasonably inferred.

**2. RECOMMENDATION**

- 2.1 The Council agrees to proceed with the steps detailed below (3.4) to align the offence description within the Luss byelaw with that of the other byelaws in Argyll and Bute.

**3. DETAILS**

- 3.1 The Argyll and Bute principal byelaws, prohibiting consumption of alcohol in designated public places, were

established in 1998 and then amended in April 2009 following a review of the principal byelaws.

Prior to the 2009 amendment the Argyll and Bute principal byelaws, in keeping with the majority of byelaws across Scotland, provided that any person:

“who consumes alcoholic liquor in a designated place shall be guilty of an offence.”

- 3.2 The amendment to the principal byelaws included a change to the description of the offence as follows:

“...any person who consumes alcoholic liquor in a designated place or is found to be in possession of an open container of alcoholic liquor in a designated place in circumstances whereby it is reasonable to infer that the person intended to drink from it whilst in a designated place shall be guilty of an offence and liable to summary conviction to a fine not exceeding level two on the standard scale.”

This model was selected following consultation and is in accordance with Scottish Government guidance contained within Circular JD/8/2009, **Byelaws Prohibiting the Consumption of Alcohol in Designated Public Places.**

Its purpose is to overcome difficulties in proving that an accused had been drinking alcohol if they had not been seen explicitly drinking from the container of alcohol.

- 3.3 The 2009 amendment was specific to the principal group of byelaws and the Luss byelaw (established in 2006), therefore, fell outside of consideration.

Currently the description of the offence within the 2006 Luss byelaw is the earlier wording and does not provide for an offence also being committed if a person is in possession of an open container and where it can be reasonably inferred they intended to drink from it.

- 3.4 To align the Luss byelaw with the previously amended principal byelaws the Council is required to undertake the following:

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

- II. Advise the Scottish Government of the intention to amend the byelaw and submit a draft copy.
- III. Advertise the intention to apply for confirmation of the byelaw amendment as required by the Local Government (Scotland) Act 1973 Act (advertise in press, allow one month for objection).
- IV. After a minimum of one month from the date of expiry of the advertisement the Council makes the byelaw and submits to the Scottish Government for confirmation by Scottish Ministers.
- V. Fix the date on which the byelaw comes into operation (S202, Local Government (Scotland) Act 1973) which is normally one month after the byelaw has been confirmed.

#### **4. IMPLICATIONS**

4.1 Policy	None
Financial	None
Personnel	Governance and Law coordination of the process and production of amended byelaw
Equal Opportunities	None

For further information contact:

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