

Board/Committee:	FULL COUNCIL
Date of meeting:	29 JULY 2020
Title:	SEASHORE BYELAWS
Author:	BOROUGH SOLICITOR AND MONITORING OFFICER
Status:	FOR DECISION

Purpose

Previous reports to have referred to reviewing the Council's byelaws. The priority has to be the seashore byelaws which are out of date and causing practical issues of enforcement on the seashore within the Borough. The report sets out the process for reviewing and amending the byelaw including consultation and seeking the approval of the Secretary of State.

Recommendation

That the Council approves the review of the seashore byelaws and the process and actions set out in this report including:

- **regulatory assessment of draft proposed byelaw including initial informal consultation**
- **sending byelaw to Secretary of State following informal consultation and any necessary amendment**
- **advertising the byelaw and putting it out to further formal consultation on its return from Secretary of State**

1.0 Background

1.1 In January 2020 a report to Community Board proposed the review of the Council's byelaws to ensure that these were up to date and effective. Any obsolete or out of date byelaws should be revoked.

1.2 It has been identified that the Seashore Byelaws which are dated 8 January 1958, are in need of updating to ensure that they refer to activities which require regulation and also so that enforcement powers are sufficiently robust and create a deterrent.

2.0 Report

2.1 The process for amending a byelaw is the same for making a new byelaw. Before amending a byelaw the Council should consider whether the byelaw needs to be retained at all, even in its amended state, as it may now no longer be required. For example, the issue the byelaw addressed in the past may now be addressed through national legislation. Having reviewed the position regarding the seashore byelaws, it is clear that no other legislation

exists to regulate certain activities at the seashore. The Government's own website contains model byelaws that can be used and adapted for local requirements and as such Officers have adapted the byelaws which are relevant for seashore activities to replace the wording of the existing byelaws. A set of these draft byelaws are appended to this report. The precise area to which these byelaws should apply will be proposed as part of the consultation exercise.

2.2 The Council will need to undertake a regulatory assessment of the proposed byelaws to ensure that these are proportionate. The regulatory assessment must include at least the following considerations:

- what is the objective of the proposed byelaw?
- could the objective be achieved in any other way, short of a byelaw?
- what will be the impact of the byelaw upon those affected by it?
- will the proposed byelaw increase, or decrease, the regulatory burden imposed upon those affected by it, and can the local authority express this increase or decrease as a financial cost or benefit?
- how does making the proposed byelaw compare with taking no further action?

2.3 In carrying out the regulatory assessment, the Council must consult such persons it considers may be affected by the proposed byelaw. As well as being a requirement of the byelaw making process, thorough consultation with interested parties can result in the creation of a more suitable byelaw that is more resistant to challenge and less likely to be the subject of objections than would otherwise have been the case. Consultation also allows the Council to gauge support for the proposed byelaw. It is expected that the Council will consult particular groups affected including seashore users, operators, disability groups

2.4 Following the regulatory assessment and consultation the draft byelaws will be submitted to the Secretary of State for leave to make the proposed byelaw. If leave is given the byelaw will need to be advertised and a period of formal public consultation entered for not less than 28 days.

2.5 Upon expiry of the consultation period the Council will have to decide whether to make the byelaws at a further meeting of the full Council. At this future meeting the Council must consider all representations received, including objections, and determine how to proceed with any representations received. If the Council formally resolves to make the proposed byelaw it should be executed as a formal legal document.

2.6 Byelaws are local enactments that may result in a prosecution in the courts and a fine. Publicising the byelaw is an integral part of ensuring that any new byelaw that will soon come into force is brought to the attention of the wider local community. The Council must therefore publicise the fact that a new byelaw has been made at least 7 days before the day on which the

byelaw comes into force by placing signs and publicising the new byelaw on its website. Byelaws come into force 30 days after the date they are made.

3.0 Risk Assessment

3.1 The byelaws need to be updated in order to be effective in regulating the activity set out within them. Without updating the byelaws the older version of the seashore byelaws will remain in place.

4.0 Conclusion

4.1 The next steps are summarised as follows:

- A formal Regulatory Assessment including informal 28 day consultation
- Sending the byelaw to Secretary of State for leave to make the byelaws.
- Byelaw is advertised upon its return from the Secretary of State for formal public consultation
- Further report to Full Council to consider final representations, whether to amend byelaw and confirm it.

Financial Services comments:	None
Legal Services comments:	Contained within the report
Crime and Disorder:	N/A
Equality and Diversity:	N/A
Service Improvement Plan implications:	
Climate Change implications:	
Corporate Plan:	
Risk Assessment:	See section 3.
Background Papers:	Community Board report February 2020
Appendices:	
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