

OVERVIEW AND SCRUTINY MANAGEMENT BOARD
Wednesday 10 May 2023

Present:- Councillor Clark (in the Chair); Councillors Bacon, Baker-Rogers, Browne, A Carter, Cooksey, Elliott, Pitchley, Wyatt and Tinsley.

Apologies for absence:- Apologies were received from Councillors Baum-Dixon and Yasseen.

The webcast of the Council Meeting can be viewed at:-

<https://rotherham.public-i.tv/core/portal/home>

185. MINUTES OF THE PREVIOUS MEETING HELD ON

The Chair thanked Cllr Joshua Bacon for chairing the previous meeting and Cllr Tony Browne for introducing the recommendations from the Spotlight Scrutiny Review of Modern Slavery.

Resolved: - That the Minutes of the meeting of the Overview and Scrutiny Management Board held on 19 April 2023 be approved as a true record.

186. DECLARATIONS OF INTEREST

There were no declarations of interest.

187. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

There were no questions from members of the public or press at the meeting.

188. EXCLUSION OF THE PRESS AND PUBLIC

There were no exempt items.

189. BYELAWS OVERVIEW FOLLOWING COUNCIL MOTION

The Chair invited the officers to introduce the briefing and presentation on Rotherham Council Byelaws following the motion to Council considered at its meeting on 30 November 2023.

In considering the detail of the resolution, OSMB was asked to consider the potential actions, make any recommendations it deemed necessary, and involve the proposer of this motion as part of any related Scrutiny activity.

The Chair welcomed the Strategic Director – Regeneration and Environment, the Head of Service – Community Safety and Regulatory Services and the Service Manager – Regulation and Enforcement to the meeting.

A short presentation was given providing detail on byelaws and their application. It was highlighted that byelaws should be a measure of last resort, after other alternative actions have been explored and exhausted. It was outlined that byelaws were a regulation made by a Local Authority made under any of the following enabling powers:

- The Byelaws (Alternative Procedure) (England) Regulations 2016
- Public Health Act 1875 - Byelaws relating to the regulation of public walks and pleasure grounds
- Local Government Act 1972 – Byelaws relating to good rule and government and suppression of nuisances
- South Yorkshire Act 1980 – Byelaws relating to land, open spaces and municipal property and to the regulation of good and orderly conduct of persons

There were a number of byelaws in place in Rotherham, some dating back to 1968. The byelaws applied to country parks related to matters such as open water swimming and fires, whereas byelaws relating to good rules and government apply to anti-social behaviour for example off-road motorbiking.

It was outlined that permission was required by the Secretary of State to enact a byelaw and a breach of a byelaw can be considered by a magistrate court (and therefore can be construed as a criminal offence). However, it was noted that it been difficult to find examples of byelaws being enforced in Rotherham and there was little evidence of fines being issued in the recent past.

An overview of other available enforcement powers was given. For serious criminal offences, including criminal damage, the police had existing powers to deal with such instances. It was noted that damage to life saving equipment was covered by this existing provision. Other options included Public Spaces Protection Orders (PSPO) where conditions can be applied to sites to restrict activities and issue fines if conditions were breached by either police or local authority enforcement officers. Individuals causing nuisance can be served with a Criminal Protection Notice, injunction or injunction warning depending on the seriousness of the activity.

It was outlined that community protection and environmental health officers were authorised to discharge some of the existing powers. Consideration could be given to widening this remit to include specific groups such as those working in green spaces, however due regard should be given to the evidence base to support this action. Noting that damage to life saving equipment was a concern, it was outlined that only one recorded case of damage had been found.

Alongside enforcement action, details of risk assessment processes and education initiatives such as “Swim Your Swim” and “Sam’s Army” were

shared.

It was outlined that a partnership group had been set up with a specific remit to look at open water sites, improving working between partners and information sharing/recording incidents. It was noted that different agencies may have responsibilities for equipment depending on its location and therefore, rather than each agency developing its own reporting process, it would be helpful to have a single mechanism in place (reporting as 'criminal damage'). It was highlighted that a monthly review process was to be established to monitor the evidence base and identify trends or hotspots and consider next steps in light of relevant intelligence.

Consideration was given to each of the respective actions outlined in the Council motion, with detail of the risks and benefits attached to each of the points.

That OSMB was asked to consider the following:

- Review Existing Byelaws
- Bring Forward Draft Byelaw regarding Lifesaving Equipment
- Consider Enacting New Byelaws to prohibit undesirable behaviours/ Consult with parties as to where they may be beneficial
- Implement a system of regular review

In terms of a review of existing byelaws, as a number had been enacted some years ago, it was likely that these had been superseded by more recent legislation. Enforcement opportunities may also be provided if powers were renewed. It was noted however, that a review of existing byelaws had a significant resource requirement as would renewal of byelaws. It was also highlighted that the evidential requirements of byelaws were higher, possible sanctions were lower and more difficult to deliver compared with other enforcement powers.

In respect of bringing forward new draft byelaws (in relation to life-saving equipment and to prohibit undesirable behaviour), whilst it was noted that introducing a new byelaw may provide clearer expectations of behaviour and standards, it was reiterated that existing powers (for example reporting as criminal damage or introducing a Public Space Protection Order) would be greater than a new byelaw. In addition, prior to any new byelaw being introduced, the authority would need to meet certain criteria to establish that it had considered all available options, whether the measure would increase or decrease the regulatory burden, and if there were any financial customer benefits. It was also highlighted that this course of action would have significant resource implication and there may be limited enforcement capability if made.

In concluding the presentation, Members were invited to comment on the risks and benefits, identify key issues and problem-solving plans, the resource implications and potential impact of proposed changes on other services or priorities.

The Chair invited questions and comments from the Board Members and a discussion on the following points ensued.

- Had consideration been given to sub-regional working and if responsibility for life-saving equipment came under the remit of the Police and Crime Commissioner (PCC) and Mayoral Combined Authority (MCA). It was confirmed that this was not a matter for the MCA. In respect of the PCC, the police powers had been outlined in the presentation.
- How intelligence was gathered to understand the extent of the issue. It was reiterated that the partnership meetings would have overview of the available data and develop options for enforcement which can be applied across the partnership. Further details were sought to establish if the PCC could assist with data gathering.
- Officers were asked to clarify if byelaws being a 'last resort' was a legislative requirement or Council policy. It was confirmed that it was a government expectation that the Council would demonstrate all avenues had been explored and no legislative alternative existed prior to the Secretary of State giving approval for a byelaw.
- What training would be given to Green Spaces officers if enforcement powers were extended to them? It was outlined that the directorate had a robust training programme to ensure that officers were briefed on legislations and powers regularly.
- Was equipment on Council land or facilities checked regularly? It was confirmed that life-saving equipment on local authority land was checked routinely to ensure that it was in working order. It was suggested that the partnership be approached to establish the frequency of checks on equipment on other land (for example Canals and Rivers Trust or reservoirs).
- If new byelaws were introduced, how would they be enforced (and by whom)? As the powers of the byelaw would not supersede existing statute, what would be its purpose.
- Given the number of historic byelaws across different services, whether a review of all byelaws would be time-consuming and resource intensive or if it should focus on specific aspects, such as equipment near open water.
- Clarification was sought on who attended the partnership meetings. It was outlined that this included different Council Services (Community Safety and Streetscene, Children and Young People's Services etc), South Yorkshire Police, South Yorkshire Fire and Rescue, Canals and Rivers Trust and Yorkshire Water. An example was given of some of the work taking place in schools and colleges to raise awareness.
- Clarification was sought if the Council used its byelaws to their full potential. It was noted in some areas (such as markets) the byelaws were still relevant. However, as highlighted previously others were more difficult to enforce, had been superseded or the issues were addressed through a partnership approach.

- Further details were sought on the timing of awareness raising sessions or education initiatives. It was clarified that these were timed in advance of peak periods (before summer holidays). Examples were given of the partnership work in schools and colleges, greater presence around open-water sites and detached and outreach work.
- The importance of sharing expectations with the public about behaviour, what equipment is available and how to report defects. It was noted that it was important to expedite this work before the summer holidays.
- How access to equipment can be made easier.

The Chair invited Cllr Adam Tinsley (as the proposer of the Council Motion) to comment.

He reiterated the importance of life-saving equipment being readily available in emergencies and that measures should be taken to ensure that were protected from intentional damage, including the use of byelaws as appropriate. He suggested that the adoption of 'model byelaws' may reduce duplication, ensure relevancy and compliance with current legislation and act as a deterrent. Examples were given from other councils that had adopted such measures.

The Chair thanked officers for the presentation. She suggested that the Board undertook a spotlight review on the issue focussing on life-saving equipment, liaising with officers to determine the scope at the earliest opportunity.

Resolved:

- 1) That the presentation and briefing be noted.
- 2) That the Board undertakes a spotlight review into life-saving equipment and related byelaws.
- 3) That Board Members be asked for expressions of interest to be part of this work.

190. WORK PROGRAMME - FEEDBACK FROM SCRUTINY STRATEGY/WORK PROGRAMMING DAY

The Senior Governance Advisor gave a presentation outlining the key points from the recent Scrutiny Strategy/ Work Planning Day held on 26 April 2023. Fifteen members attended the session, along with Link Officers and Governance Advisors. The day was supported by the Local Government Association as a follow-up to its "Effective Scrutiny of Children's Services" session delivered to members of Improving Lives Select Commission in October 2022.

The presentation covered the following areas:

- Overview

- The purpose of Overview and Scrutiny (O&S)
 - What does O&S do (and what it can't)
 - Role of "scrutiny" and "overview"
- Work programming
 - Provides a framework for scrutiny activity (rather than prescriptive list)
 - Should be member led
 - Be selective – can't focus on everything
 - Need to consider what resources are available to support – time and information
 - Usually determined at the start of each municipal year
 - Is a living document - reviewed and revised regularly
- Longlisting
 - Can scrutiny add value or influence?
 - Is it being looked at elsewhere?
 - Is it a priority – council or community?
- Developing a consistent shortlisting criteria e.g.
 - T: **Time**: is it the tight time, enough resources?
 - O: **Others**: is this duplicating the work of another body?
 - P: **Performance**: can scrutiny make a difference
 - I: **Interest** – what is the interest to the public?
 - C: **Contribution** to the corporate plan
- Scoping scrutiny activity
 - What are the key issues?
 - What is the outcome that we want?
 - Who are the key stakeholders?
 - Who should be involved?
 - Benchmarking?
 - What evidence is needed?
 - What are the potential barriers/risks you may need to overcome?
 - What are the timescales?
 - What is NOT included in the review?
- Types of scrutiny
 - Whole Committee review?
 - Formal meetings
 - Task and finish to drive the investigation work?
 - Spotlight reviews
 - Individual or paired Councillors to drive the review?
 - Visits
- Putting into practice – examples of scoping work
- Health Select Commission
 - Social prescribing
 - Access to mental health support
- Improving Lives Select Commission

- Preparation for adulthood
- Safeguarding of children educated in a non-school setting
- Improving Places Select Commission
 - Environment Act- opportunities to increase reuse/recycle (including partnerships with social enterprises)

A further report would be submitted to the Board detailing options for work planning in due course.

The Chair invited questions and comments from Board Members.

The Chair of Improving Places Select Commission commented on the recent Council motion on the Nature Crisis and how the commission would focus on this area as part of its work programme.

Clarification was sought about OSMB's work programme. It was outlined that the programme would be submitted early in the new municipal year for discussion and approval. It was noted that the Board had prioritised a number of areas for scrutiny over the current year which would be factored into the work programme.

Resolved: - 1) That the presentation be noted.

2) That a further report detailing options for scrutiny work programmes be submitted to this Board.

191. WORK IN PROGRESS - SELECT COMMISSIONS

The Chair of Improving Lives outlined that work had been done to draft its work programme, which would be circulated to its members in due course. She also raised concerns about the impact of cost-of-living pressures on mental health and asked if this was being considered.

The Chair of Improving Places Select Commission referred to his earlier comments about its review of the Nature Crisis which had started recently.

192. FORWARD PLAN OF KEY DECISIONS - MAY 1, 2023 TO JULY 31, 2023

The Board considered the Forward Plan of Key Decisions 1 May 2023 to 31 July 2023. The Chair outlined that the Board would wish to consider the Equalities Annual Report and Financial Monitoring Reports. It was noted that Improving Places Select Commission would receive a report on CCTV to a future meeting.

Resolved: - That the Forward Plan be noted.

193. CALL-IN ISSUES

There were no call-in issues.

194. URGENT BUSINESS

There were no urgent items.

195. DATE AND TIME OF NEXT MEETING

Resolved: - That the next meeting of the Overview and Scrutiny Management Board will be held at 10.00am on Wednesday 14 June 2023 at Rotherham Town Hall.

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