

# **WELSH GOVERNMENT GUIDANCE FOR MODEL BYELAWS SET 8: GOOD RULE AND GOVERNMENT**

## **Introduction**

1. A byelaw is a local law which is made by a statutory body, such as a Council for a county or county borough in Wales, under an enabling power in an Act of Parliament or an Act of the National Assembly for Wales.
2. Model byelaws act as a template for Councils when drafting byelaws and set out appropriate wording for byelaws on a number of different subjects. However, the models should not be adopted en bloc, but as genuinely required to address an existing problem. Councils should note that some of the individual model byelaws and/or their provisions are optional and only those which are needed and appropriate should be adopted.
3. Once a Council has established that the problem to be addressed is covered by a particular model byelaw, the Council should locate a copy of it from the Welsh Government website and adapt it according to their needs. The accompanying guidance notes will assist in the drafting process. Councils should also follow the relevant procedure as set out in the Local Government Byelaws (Wales) Act 2012.
4. It is recommended that Councils follow the model byelaws in order to reduce the risk of drafting problems or avoid the implementation of byelaws which are not fit for purpose. It should be noted that the model byelaws are not compulsory and may be added to or amended in the light of experience, demand and changing circumstances. There are however some cases in which certain byelaws should be adopted in their entirety.
5. The following guidance note should be read alongside the model byelaws and the '*Local Government Byelaws (Wales) Act 2012 Guidance, including Statutory Guidance, to Welsh Local Authorities, Community and Town Councils, National Park Authorities and Natural Resources Wales*', issued by the Welsh Government. This can be found on the Welsh Government website at be:  
<http://gov.wales/topics/localgovernment/local-government-byelaws/?lang=en> :
6. This guidance is designed to support the use of Welsh Government's model byelaws to regulate the use of the Welsh Government model byelaws made under section 2 of the Local Government (Wales) Act 2012.

## **Further information/contact points**

7. Any queries regarding these model byelaws should be addressed to:

Local Government Partnerships Policy Team  
Local Government Partnerships Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ  
E-mail [ethicsandregulation@wales.gsi.gov.uk](mailto:ethicsandregulation@wales.gsi.gov.uk)

## The Enabling Power

8. Section 2 of the Local Government Byelaws (Wales) Act 2012 enables a Council for a county or borough council in Wales to make byelaws for the good rule and government of the whole or any part of its area, for the prevention and suppression of nuisances in its area. Byelaws made under section 2 do not require confirmation.
9. However, under section 2(2) of the 2012 Act, byelaws cannot be made under this section if provision for the purpose in question is made, or may be made, under any other enactment. Byelaws should not therefore be made under section 2 where UK or Welsh legislation addresses the problem or in respect of any area where another byelaw-making power is available. Before making byelaws, Councils should consult the appropriate Welsh Government department about any existing general legislation.
10. Many of the activities regulated by byelaws made under Section 2 of the 2012 Act are not in themselves a danger or nuisance, but may be if conducted in certain areas or in a particularly hazardous or annoying manner. Consequently, Councils do not have the power under section 2 of the 2012 Act to make byelaws to prohibit activities such as skateboarding or riding throughout their area. However, it may be appropriate to ban these activities in certain places where it causes a particular danger or nuisance, or to regulate the manner in which those activities can be conducted.

## Consultation

11. Section 6(2) of the 2012 provides that before making byelaws, Councils have a duty to consult any person (including, where applicable, a community council) who the authority thinks is likely to be interested in, or affected by, the issue.

## Use of the Model Byelaws

12. Words highlighted in italics give instructions on how to adapt the model (e.g. “*insert name*”) or provide a more detailed description of what is covered by the byelaw where a number of model byelaws relate to the same subject matter.
13. Square brackets are used to indicate:
  - a. additional wording, which it may be appropriate to use in some cases (e.g. “[Outside the designated areas]”);
  - b. a choice of wording; or
  - c. “numbers which it is likely will need to be updated when editing the model byelaw set (e.g. Schedule [1])
14. If the byelaws are to include schedules or maps, these should appear before the Council’s seal.

## **Interpretation provisions**

15. The general interpretation provision should be used to define terms which are used several times in the text of the byelaws. Councils should only use the definitions in the list which appear in the text of the model byelaws that the Council has selected. Where a defined word only appears in the text of one of the byelaws which a Council proposes to adopt, that definition should be included within the text of the relevant byelaw, preferably as a separate sub-paragraph (e.g. model byelaws 9(2) and 16(2)).

## **Application and Schedules**

16. These models provide alternative formulas for stating the geographical area to which the byelaws apply. Local authorities should consider carefully which provision or combination of provisions fulfils their intention.
17. Model byelaw 2 should be adopted where all of the byelaws will apply throughout the local authority area.
18. Model byelaw 3 should be adopted where the byelaws will apply to only parts of the local authority area.
19. Model byelaw 4(1) is appropriate where most of the byelaws are to apply throughout the local authority area, but with certain exceptions. These exceptions should set out through the appropriate use of model byelaws 4(2) to (4), which provide a number of possible means of limiting the application of one or more byelaws to part of the local authority area.
20. Model byelaw 4(2) is appropriate where the areas to which a byelaw is to apply are to be indicated by means of signs displayed in the relevant areas. This is likely to be appropriate only where small or clearly marked areas of land are covered by the byelaw.
21. Model byelaw 4(3) enables a Council to designate parts of the local authority area covered by the byelaw by listing those areas in a schedule to the byelaws. The words in square brackets refer to the use of a plan. A plan should be used in most cases, as a verbal description of the area will often not be enough to ensure that the boundaries of the areas referred to are clear.
22. Model byelaw 4(4) is similar to model byelaw 4(3) except that it applies to a discrete type of structure (bridges rather than "designated areas"). A plan may be necessary in some cases (see notes for model byelaw 4(3)).

## **Riding and vehicles on road margins and verges**

23. In most cases the margin or verge of a road will form part of the highway, and can therefore be regulated by means of a traffic regulation order under the Road Traffic Regulation Act 1984. These model byelaws should only be adopted where it is not possible to make a traffic regulation order.
24. In model byelaw 6(2), heavy commercial vehicles are excluded because they are already subject to regulation under sections 19 and 20 of the Road Traffic Act 1988.

## **Skateboarding etc.**

25. The definition of self-propelled vehicles is wide enough to encompass a number of activities in addition to skateboarding, including roller-blading and riding non-motorised scooters, but does not catch bicycles, wheelchairs or prams.
26. The words in square brackets in model byelaw 7 should be adopted where some or all of the land included in the "designated area" is a quasi-public space which has a private landowner (e.g. a privately owned car park), in order not to infringe on private property rights.
27. The words in square brackets in model byelaw 8 should be adopted where the council wishes to adopt model byelaws 7 and 8 together, i.e. to impose a general prohibition on dangerous and nuisance skateboarding on footpaths and roads throughout the local authority area and a complete prohibition on skateboarding within more specific areas, in order to make it clear that model byelaws 7 and 8 do not overlap.

## **Fairground attractions causing obstruction to traffic**

28. Regulates traffic hazards caused by fairground rides and stalls set up in public places or land adjacent to a public place or street. It cannot be used to regulate stalls or rides set up on the road, which should be dealt with by means of a traffic regulation order.

## **Games on or near the highway**

29. Games played on the highway to the annoyance of users of the highway are regulated by section 161 of the Highways Act 1980 (penalties for causing certain kinds of danger or annoyance). The purpose of these models is to address respectively the nuisance or danger of games played near the highway and games which cause annoyance to local residents, who are not protected by the 1980 Act unless using the highway.

## **Touting**

30. Limited to obstructions or nuisances caused by persons touting for business for services or stopping passers-by for market research purposes. Activities to promote the sale of goods can be dealt with under street trading legislation, namely, section 3 of and schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. Touting for taxi business is already the subject of legislation and is therefore excluded from the scope of the byelaw.

## **Revocation**

31. The text of this model, which can be used to revoke byelaws, contains a number of instructions which may require further elaboration:

*“insert name”* – the relevant name will be that of the council which made the byelaws, even if that Council is no longer the local authority for that area or is now defunct.