

**HERTFORDSHIRE COUNTY COUNCIL**

**EDUCATION, LIBRARIES AND LOCALISM PANEL  
THURSDAY, 7 FEBRUARY 2019 AT 10:00AM**

**PROPOSALS TO UPDATE HERTFORDSHIRE COUNTY COUNCIL'S PUBLIC  
LIBRARY BYELAWS**

*Report of the Director of Resources*

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Executive Member: Terry Douris (Education, Libraries and Localism)

**1. Purpose of report**

1.1 To propose amended Hertfordshire County Council Byelaws for the use of public libraries, to reflect modern public library practice and updated guidance from the Department for Digital, Culture, Media and Sport (DCMS).

**2. Summary**

2.1 Under section 19 of the *Public Libraries and Museums Act 1964* ("the Act"), local authorities may make byelaws regulating the use of library facilities run by each authority under the Act. The Secretary of State for DCMS is required to confirm such byelaws before they can have effect.

2.2 In practice, the relevant government department (currently the DCMS) has produced model byelaws for the regulation of public libraries in England, for adoption by local authorities. These model byelaws have been updated from time to time to reflect changing public library practice. Hertfordshire's current byelaws (attached as Appendix A) were last updated in 1996.

2.3 In 2017, the DCMS issued revised model byelaws for public libraries (attached as Appendix B), drawn up in consultation with The Society of Chief Librarians to reflect changes in how people use libraries whilst maintaining suitable protections.

**3. Recommendation**

3.1 Panel is asked to note and comment upon the content of the report and to recommend to Cabinet that it recommends to Full Council that it adopts the revised Public Library Byelaws, as set out in Appendix B.

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## **4. Background**

- 4.1 Under section 19 of the Act, local authorities may make byelaws regulating the use of library facilities run by each authority. The Secretary of State is required to confirm such byelaws before they can have effect.
- 4.2 The byelaws are intended to help libraries deliver their service within a safe and comfortable environment, to safeguard library property and to make libraries pleasant places for everyone. They assist the library workforce in their daily role, they can be used when necessary to deal with the more extreme cases of behaviour experienced and they allow for flexibility in dealing with local concerns.

## **5. Process**

- 5.1 It is a function of full Council to approve the making of byelaws by virtue of paragraph F, schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 / 2853. In turn Section 236 of the Local Government Act 1972 details the process a local authority must follow to make this particular type of bylaw. The byelaws do not however take effect until they are confirmed by the Secretary of State for DCMS in accordance with section 19 (1) of the Act.
- 5.2 In order for a byelaw to be confirmed by the Department for DCMS the local authority need to firstly send their byelaws to DCMS indicating whether the local authority is adopting the model byelaws with amendment or seeking amendments or additions. Any changes will need to be detailed.
- 5.3 Following receipt of a request from the local authority to create or review the library byelaws, using the new model, the DCMS will then consider the request, confirm whether they are content and notify the local authority. Upon receipt of confirmation from the DCMS, the local authority must:
- 5.3.1 Announce the proposed byelaws in the local newspaper; and
  - 5.3.2 Deposit a sealed copy of the byelaws for public inspection at the offices of the local authority for one month from the date of the newspaper announcement.
- 5.4 Once 5.3 has been completed, the local authority must send to the DCMS:
- 5.4.1 The signed and sealed byelaws for formal approval;
  - 5.4.2 Newspaper cuttings showing the announcement;
  - 5.4.3 A certified copy of the byelaws for departmental records; and
  - 5.4.4 Confirmation that one-month public inspection has taken place.
- 5.5 The local authority must also display copies of all their public library byelaws in any library building maintained by them and used by the public.

## **6. Summary of changes between the current and proposed Draft Byelaws**

- 6.1 In Paragraph 1(h), in order to take account of Hertfordshire's Community Libraries, it is proposed that the definition of a library officer is broadened to include "any officer employed, or volunteer appointed by the library authority in connection with its functions under the Act". This is the only point on which it is proposed that the Hertfordshire Byelaws should vary from the model library byelaws drawn up by the DCMS.
- 6.2 In Paragraph 3, the phrase "No person shall give a false name and address" is replaced by the phrase "A person shall not supply an age, name, address or other means of identification which is false or misleading".
- 6.3 In Paragraph 5(a), the phrase "any dog (other than a working dog accompanying a disabled person)" is replaced by the phrase "any dog (other than an assistance dog)".
- 6.4 In Paragraph 5(b), the phrase "a wheeled vehicle of conveyance other than a wheelchair, pram, pushchair or shopping trolley" is replaced by the phrase "a wheeled vehicle or conveyance other than those necessary for the assistance of people with limited mobility".
- 6.5 In Paragraph 5(d), the phrase "remain in the library after the time fixed for its closing)" is replaced by the phrase "access or remain in the library outside of the times fixed for its opening".
- 6.6 In Paragraph 9, the phrase "No person shall behave in a disorderly manner in the library, [or] use violent, abusive or obscene language therein", is replaced by the phrase "No person shall behave in a violent, disorderly or indecent manner in the library [or] use violent, abusive, insulting or obscene language therein".
- 6.7 Paragraph 10, which prohibits "sleeping" in the library and Paragraph 12, which prohibits "engaging in audible conversation in any part of the library where such conversation is prohibited" are removed. These are subsumed into Paragraph 10 in the revised byelaws, which states "No person shall remain in the library without making proper use of the library's facilities after having been advised or requested, by a library officer, to make such proper use of the facilities."
- 6.8 Paragraph 15 which reads - "No person shall, without the consent of a library officer, offer anything for sale in the library or canvass or seek signatures for petitions" is replaced by Section 13 in the revised byelaws - "No person shall, without consent of a library officer, offer anything for sale or seek donations on library premises or canvass or seek signatures for petitions."
- 6.9 Paragraph 17 which reads - "No person shall smoke, light a match or use a cigarette lighter in the library" is replaced by Paragraph 15 in the revised byelaws - "No person shall bring into or light any flame on library premises."

- 6.10 Paragraph 18 which reads – “No person in any part of the library shall inhale any toxic substances for the purpose of intoxication or take any controlled drug as defined by Schedule 2 of the Misuse of Drugs Act 1971 other than drugs dispensed for and pursuant to prescription issued for him by a doctor under and in accordance with the aforesaid Act” is replaced by Paragraph 16 in the revised byelaws – “No person in any part of the library shall supply, take or be under the influence of alcohol or any toxic substance sot the purpose of causing intoxication; or supply, take or be under the influence of any controlled drug as defined by Schedule 2 of the Misuse of Drugs Act 1971 other than drugs dispensed for and pursuant to prescription issued for him by a doctor under and in accordance with the aforesaid Act.”
- 6.11 Paragraph 20, prohibiting the use of mobile telephones, portable computers and other electrical equipment is removed.
- 6.12 Paragraphs 21 and 22, setting out procedures for overdue notices are replaced by Section 19 in the revised byelaws, which states that: “Any person who has borrowed library property which if returned would be returned late and who has been served with a notice by the library authority demanding return of the library property shall return the library property or pay the appropriate replacement cost and charges to a library provided by the library authority within 14 days from the date the notice was served”.
- 6.13 A new byelaw is introduced in Paragraph 20, which states that: “Any library user whose personal details change must notify a library officer as soon as reasonably possible or take responsibility for updating their own customer account”.
- 6.14 A new byelaw is introduced in Paragraph 21 to cover the use of online library services. This states that: “A person shall use online resources in a way consistent with any Conditions of Use Policy or similar rules of the library, as advertised or notified by the authority. Breach of any such policy shall, without prejudice to any other legal sanction or remedy available to the library authority, lead to the barring of the use of such online resources”.
- 6.15 Paragraph 22 clarifies the consequences of contravening the byelaws. It states that: “Any person who contravenes any of these byelaws shall, without prejudice to any other legal sanction or remedy, be liable to prosecution by the library authority for contravention of the byelaws and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale in respect of each offence.”

## **7. Financial implications**

- 7.1 If the amendments are adopted by the County Council and confirmed by the Department for DCMS, the byelaws will need to be republished and distributed to relevant stakeholders. The cost will be met from within the existing Libraries budget.

## **8. Equalities implications**

- 8.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered, the equality implications of the decision that they are making.
- 8.2 Rigorous consideration will ensure proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public-Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 8.3 The Equality Act 2010 requires the County Council, when exercising its functions, to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.
- 8.4 An EqIA was not undertaken for the revised Byelaws, as they do not represent new policy. The changes update existing policy and practice, following DCMS guidelines.

### **Background Information**

*None*