

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	18 December 2013
DIRECTOR	Pete Leonard & Angela Scott
TITLE OF REPORT	Street-begging
REPORT NUMBER:	H&E/13/090

1. PURPOSE OF REPORT

The purpose of this report is to obtain a decision from Council on progression of a byelaw to prohibit street-begging in Aberdeen city centre. A proposed byelaw is presented for Council's approval. The byelaw would apply in essentially the same area as the Business Improvement District (BID). The report provides background information on street-begging activity and interventions currently being taken to help address the issue.

2. RECOMMENDATIONS

The Council is recommended to:

Decide whether to approve a begging byelaw and the area to which it would apply as set out in Appendix A, and instruct officers to complete the statutory process for seeking confirmation of such byelaw from Scottish Government.

3. FINANCIAL IMPLICATIONS

Should Scottish Ministers in due course confirm a byelaw then costs of approximately £3,000 would be incurred in placing a press advert in accordance with the Local Government (Scotland) Act 1973 and erecting signage in the designated area around the city centre. Costs could be contained within existing community safety budgets however future decisions through budget setting process may impact on this. If community safety budgets are reduced specific funds shall require to be identified from the general fund to meet these costs.

4. OTHER IMPLICATIONS

Byelaw procedures are set out in the Local Government (Scotland) Act 1973. Section 201 of the Act provides that local authorities "*may make byelaws for the good rule and government of the whole or any part of their area, and for the prevention and suppression of nuisances therein*". Standing order 38 of

the Council's Standing Orders and Orders of Reference means that the making of byelaws requires approval at Full Council. Confirmation of the byelaw by the Scottish Ministers would be required before they could come into force. Hence, a street-begging byelaw cannot be achieved without the Scottish Ministers' agreement.

Legal Services have written to officers at the Scottish Government as earlier instructed by Council. A response has been received offering technical views mainly concerned with clearly identifying which streets are to be covered. Clarification was sought and confirmation provided that Aberdeen City Council is fully aware of the views of the Scottish Government on the general policy of criminalizing non-aggressive begging. The Scottish Government's response has been taken into account in producing the suggested byelaw.

The Scottish Government wrote to all local authorities in 2012 informing of their policy in respect of street-begging byelaws. A copy of this letter is appended to this report as appendix E.

The Scottish Government stated that "*the act of begging itself should not to be criminalised and we will not support any byelaws that seek to criminalise the act of begging*".

This gives a clear indication that the Scottish Government is highly unlikely to confirm a street-begging byelaw.

5. BACKGROUND/MAIN ISSUES

The Council meeting on 21 August 2013 instructed officers to commence without delay consultation with the Scottish Government on a potential byelaw to prohibit street-begging, noting the success of the local byelaw in respect of drinking in public places and confirming that the report noted Aberdeen City Division, Police Scotland, was supportive of the Council exploring further measures in how to positively deal with those who beg in Aberdeen, which included their support for further investigation of a byelaw to prohibit street-begging

The street-begging forum is a local partnership which meets to develop strategies to address issues related to street-begging in Aberdeen city centre. The partnership includes the Council (housing, homelessness, community safety and social work), Police Scotland, UK Border Agency, Alcohol and Drug Partnership (ADP), Big Issue and voluntary sector organisations including Bethany Christian Trust and Aberdeen Cyrenians.

Frequency of meetings have increased during 2013 prompted by requests from the Council's administration for the introduction of a byelaw to criminalise street-begging in the city. The partnership's focus is not solely on a legislative response and it identifies and agrees a wider strategic response.

Survey

Grampian Police undertook a survey in February 2013 to inform the partnership on numbers of street-beggars, their housing, social and health needs, and motivations. A summary of findings is as follows:

1. 31 individuals who regularly beg (not all at the same time) were encountered.
2. 19 UK nationals and 12 foreign nationals (mix of mostly Eastern European individuals).
3. 26 males (18 UK nationals, 8 non-UK nationals) and 5 females (2 UK nationals and 3 non-UK nationals).
4. None are 'homeless/roofless' but one male is resident in a hostel.
5. 29 have Aberdeen addresses, 2 (1 male and 1 female non-UK nationals) have the same address in Kirkcaldy.

Most UK national beggars have alcohol and/or drugs misuse problems and are begging to fund their habits. Non-UK nationals tend to be begging because it is a relatively easy source of income.

Most street-begging happens at evenings as a consequence of the generosity of people socialising in city centre.

Non-UK nationals are mostly, if not all, Romanian and Bulgarian nationals.

Comparing these findings with a surveys undertaken in 2009 shows that the overall number of street-beggars is similar. However in 2009 all beggars could be described as local and most with substance misuse problems. The reduction in numbers of local people street-begging gives some indication that positive impact has been made in dealing with the issue.

Officers consider that street-begging activity has decreased in the past nine months. This applies particularly to begging activity by migrant street-beggars. More robust policing further described below is likely to be the main reason for this reduction.

Complaints, criminal charges and views

Since April 2013 Police Scotland has recorded 32 incidents in the city centre where reference has been made to street beggars. Not all of these related to begging activity. In the same period police has detected 15 crime in relation to street begging. Most of which were proactively initiated by Police Officers. Of these 15 people charged two have been from Eastern European states and the majority local residents of white Scottish ethnicity.

It should be noted that police also receive complaints from street-beggars reporting as victims of aggression and intimidation from members of the public

A review of Council records has identified five complaints received in the past three years.

Aberdeen Inspired (formerly known as Aberdeen Business Improvement District), which has been participating in the partnership, was been asked to obtain information from its members on the impact that street-begging has on business and general views on the issue. Aberdeen Inspired report that various members have been adversely affected by street-begging activity. Often shop or security staff will move beggars on from around their premises either as a preventative approach or in response to complaints. No incidents involved migrant beggars however some staff do feel insecure when locking up and migrant beggars are situated close by. There is some sharing of information between beggars and security staff at shopping centres which has allowed a mutually beneficial arrangement to develop.

Partnership Actions

The street-begging forum has agreed the following actions which are on-going or in the process of being implemented.

The communications strategy has been refreshed with the over-riding message asking that people do not give directly to beggars. Further, highlighting that almost all (if not all) have access to housing and other relevant services to meet any health and social needs. That many beggars use the money collected to feed alcohol and drug habits will also be communicated.

Aberdeen Cyrenians and Bethany Christian Trust will continue to engage beggars on-street helping direct beggars towards relevant support services if appropriate. An information booklet for beggars giving information about relevant services is being revised and will be distributed by various services which encounter beggars – eg police and city wardens. Bethany Christian Trust receive funds collected through begging boxes to enable purchase of items that will help remove begging needs of individuals (obviously this will not extend to alcohol and drugs).

UK Border Agency have undertaken patrols to address begging by relevant non-UK nationals who cannot remain in the country if supporting themselves by street-begging. Police also have powers in this regard and this was clarified to officers earlier this year so that these powers can be robustly utilised.

Increased focus on street-begging this year prompted Police to review their response to street-begging activity. Since 1 April Police have been taking a far more pro-active approach to dealing with incidences of street-begging that they encounter on patrols and in response to complaints received. Greater use of public space CCTV to monitor activity is also an element of their enhanced approach. This more pro-active approach is considered to be a main reason for the perceived reduction in street-begging activity in recent months.

Byelaw

The Council has previously thoroughly investigated and considered a street-begging byelaw with reports to Policy and Strategy committee in 2008 and Council in 2009. Council resolved to follow the advice from the Scottish Government, the Procurator Fiscal, Grampian Police and Council officers and not proceed at that time with efforts to establish a byelaw against street begging in Aberdeen.

As mentioned above, on 4 September 2012 the Cabinet Secretary for Justice wrote to all local authorities setting out the Scottish Government's policy on byelaws to prohibit street-begging. This letter explained that the Scottish Government had received a number of inquiries from local authorities on the subject in recent years. The Scottish Government believes that there are currently sufficient criminal powers to deal with aggressive type begging and that *"the act of begging itself should not to be criminalised and we will not support any byelaws that seek to criminalise the act of begging"*. The Scottish Government also expresses support for multi-agency approaches to dealing with the complex housing, health and social needs that it believes are factors leading to street-begging.

A byelaw to prohibit street-begging is at appendix A. This is a revised version of the draft byelaw developed in 2009 and our legal services have provided guidance in preparing this. Should Council decide to approve a begging byelaw the Council must approve the wording of this as part of its decision

Reflecting that the vast majority of street-begging occurs around the city centre and in support of city centre regeneration objectives, the street-begging byelaw would apply to the designated Business Improvement District (BID) area around the city centre. A plan of the proposed area is at appendix B. It is proposed to append a map clearly defining the boundaries of the area within which begging is to be prohibited. A large version of the map will be displayed in the Council Chamber during the Council meeting. The use of an area specific byelaw would introduce an element of inconsistency in the city. For example, begging would be permitted in streets immediately adjacent to others where it would be an offence. However, begging outside the city centre is likely to continue to be infrequent given that beggars rely upon high levels of footfall which are far less outside the city centre. If an area specific byelaw results in increased begging outside the city centre then it might create additional safety risks to the public in the event of aggressive street-begging. Areas outside the proposed specified area are unlikely to have CCTV coverage, likely to have less city warden and police patrols and fewer other members of the public to act as deterrents and to intervene in respect of aggressive begging.

Officers have consulted Police Scotland and the Procurator Fiscal regarding a potential byelaw.

Police Scotland would be responsible for enforcing a byelaw and in May, Police Scotland expressed the following views on a potential byelaw.

“Aberdeen City Division, Police Scotland, is supportive of our partners exploring further measures in how we positively deal with those who beg in Aberdeen. This includes our support for further investigation and appraisal of a bye-law to prohibit street-begging.

Police Scotland has been consulted again on this matter and its full response is detailed at appendix C. The following sets out Police Scotland’s current views on the byelaw proposal:

“Our overarching position is that we will tackle aggressive and organised begging robustly using the powers we currently have at our disposal. We are not seeking additional powers in this regard.”

The Procurator Fiscal would be responsible for prosecuting offences under any future byelaw. The PF has previously raised some concerns about the need for a byelaw, its potential effectiveness, its potential impact on the criminal justice system and also raised issues related to its enforceability. Further, he highlighted that police powers to deal with breach of the peace offences which might arise through street-begging activities have been improved through enactment of the Criminal Justice and Licensing (Scotland) Act 2010. The PF has been consulted on this report and any views to be received would be shared with Council in advance of the meeting.

Council officers have liaised with counterparts from Glasgow Community Safety Services who are working with Glasgow City Council on preparing a case for a street-begging byelaw. Colleagues in Glasgow have expressed a desire to work collaboratively with this Council and other Scottish cities with a view to a combined approach to the Scottish Government. Officer advice is that a combined approach supported by evidence from various local authorities may be more persuasive than individual approaches. No further joint progress has been made since previously reported to Council.

Further discussion

Street-begging is a long-standing issue in Aberdeen city centre and in many other major towns and cities, nationally and internationally.

Since 2009 when the Council previously considered a street-begging byelaw the extent of begging has not increased and perhaps there may have been a slight decrease in activity. A significant change has been the prevalence of migrant street-beggars attracted to beg in Aberdeen apparently due to it providing an easy source of income.

Unlike most UK national street-beggars, most migrant street-beggars are not begging to fund any substance misuse problem nor does it seem to be a consequence of housing, social or health needs. It also seems that there may be an element of organisation to street-begging by migrant beggars in order to maximise income. Romanian and Bulgarian nationals can enter and live in

the UK without needing to apply for permission, if they can support themselves and their families in the UK without becoming an unreasonable burden on public funds. Currently Bulgarian and Romanian nationals may need to apply for permission before they can work here. Street-begging is not an acceptable means of supporting themselves or their families hence police and UK Border Agency will take action when Romanian and Bulgarian nationals are found to be street begging. In 2014 these rules are relaxed and as a consequence the powers of police and UK Border Agency to deal with street-begging by Romanian and Bulgarian nations will cease.

Most UK national street-beggars have a substance misuse problem but substance misuse services are accessible and certainly far more so than in 2009. This is particularly helped through the services provided at the Timmermarket clinic which is situated in the city centre.

Recorded complaints about street-begging in Aberdeen may be considered low compared with perceived levels of public dissatisfaction about the prevalence of street-begging in Aberdeen city centre. The low level of recorded complaints may be explained by apathy and uncertainty about where complaints should be made. However, essentially members of the public who give money to street-beggars are perpetuating the problem through these actions.

The Scottish Government are unequivocal that they do not support byelaws for street-begging. Police Scotland and the Procurator Fiscal would concur that there are already sufficient powers to deal with aggressive begging. There would also be consensus with the Scottish Government's view that beggars' housing, social and health needs should be met and a collaborative approach is key to this. However, and particularly in respect of migrant beggars, there are no apparent unmet needs in these regards. And, where needs do exist significant effort is being exerted to direct and encourage engagement with relevant services which seem to be relatively readily available. The street begging forum is ensuring a collaborative approach is being delivered with diverse actions taken to reduce levels of street-begging in the city centre.

Council should also consider that begging has been against the law in England for over 100 years and yet begging remains an issue in cities and large towns there. This would support Procurator Fiscal's view that a street-begging byelaw may not be sufficiently effective.

It can be concluded that more needs to be done to address street-begging. The street-begging forum is ensuring an approach in keeping with Scottish Government recommendations however this approach is insufficiently effective in eliminating street-begging. Whilst there may be views that a byelaw is required, it is highly unlikely that the Scottish Ministers would confirm such as matters stand. Should Council decide that further work should be undertaken in pursuance of a byelaw then this may be most effectively served by collaborating with other Scottish local authorities and engagement with the Scottish Government.

6. IMPACT

Reducing levels of street-begging is likely to enhance the city centre's reputation as place to visit, shop and socialise. Addressing the social, health and housing needs of street-beggars supports various objectives within the single outcome agreement and five-year business plan.

Concerns exist in the city about street-begging activity in terms of fear and alarm caused; impact on business and city image; and also, concern for the well-being of the beggars. The street-begging forum delivers an extensive strategy in line with Scottish Government recommendations however the issue does persist. Additional intervention is required to further reduce and eliminate street-begging.

Equalities and human rights issues need to be considered in the context of the Council's public sector equality duty as set out in s 149(1) of the Equality Act 2010. Members' attention is directed to the EHRIA appended (Appendix D). There are various negative and positive impacts likely to arise through the implementation of a byelaw. It may be perceived that people who complain about feeling unsafe due to the presence of street beggars (which include people with disabilities and older people, local businesses and others) may benefit from the introduction of the byelaw. Disability groups would experience positive impacts through reduced trip hazards arising from street-beggars. All protected characteristics would benefit from reduced alarm and distress caused by aggressive street-begging. People who beg may be subject to warnings/arrest/fine/criminal record etc for begging in Aberdeen and this includes individuals with multiple long term problems including substance misuse. Beggars may face increased poverty due to removal/reduction in begging income. However, this may encourage their engagement with relevant support services resulting in their improved health and well-being outcomes in the longer term.

The byelaw may interfere with an individual's rights under Article 3 (inhumane/degrading treatment or punishment) and/or 10 (freedom of expression) however it may be argued that the byelaw is towards a legitimate aim and proportionate.

Street-begging is a subject that attracts a high profile in local media. Discussions about a street-begging byelaw are likely to be a matter reported nationally.

7. MANAGEMENT OF RISK

Street-begging has a negative impact on the city's reputation. Failing to satisfactorily address the matter may create risk to the vibrancy of the city centre.

Care must be taken that public expectation is not raised unrealistically that a street-begging byelaw may be secured and that should it be, then it would eradicate entirely street-begging in the city.

Best practice interventions are essential to manage risk of harm to street-beggars in terms of protecting them from harm and meeting their housing, health and social needs.

Some beggars have indicated that they beg as an alternative to committing crime. Prohibition of street-begging may create risk that street-beggars will commit crime particularly to fund drug and alcohol dependencies.

From 2014, restrictions on Bulgarian and Romanian's status within the UK will change meaning that powers of the UK Border Agency and police to deal with street-begging no longer apply. This creates risk of increased street-begging however this risk may be reduced with increased rights to public funds and benefits.

8. BACKGROUND PAPERS

Street-begging report and minute of Housing and Environment committee meeting 14 May 2013

Proposed Street-begging Byelaw report and minute of Council meeting 20 May 2009.

Street-begging report and minute of Council meeting

Update Street-begging report and minute of Council meeting 31 October 2013.

8. REPORT AUTHOR DETAILS

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