

Justice Directorate  
Neil Rennick, Acting Director

T: 0131-244 8491 F: 0131-244 8494  
E: neil.rennick@scotland.gsi.gov.uk



Ms Elena Carlisle  
Solicitor  
Legal and Democratic Services  
Corporate Governance  
Aberdeen City Council  
Business Hub 6, Level 1 South  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

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Your ref: L105030  
Our ref:  
20 June 2014

Dear Ms Carlisle,

Thank you for your letter dated 3 March 2014 enclosing the Aberdeen City Council (Prohibition of Begging in Designated Area) Byelaws 2014.

It is helpful to begin by outlining what the effect of the byelaws would be in the event of being confirmed. We understand that the effect of the byelaws would be that two different types of conduct within the designated area would constitute a criminal offence.

The first type of conduct triggering the offence would be where a person begs. Therefore, in order to prove the offence, it would be required only to prove that a person has begged in the designated area.

The second type of conduct triggering the offence would be where a person acts with the purpose of inducing the gift of money or goods, so as to cause or be likely to cause annoyance, and fails to desist upon being required to do so by a constable. Therefore, in order to prove the offence, it would be required to prove that (a) a person has acted with the purpose of inducing money/goods within the designated area, (b) the person has done so in a manner that caused or was likely to cause annoyance, and (c) the person has failed to stop after being asked to do so by the police.

In line with the prescribed procedure, you submitted the byelaws for confirmation following a period of local advertising. Further to your letter of 3 March, you have also offered a response to the objections received during this advertising period.

I am now writing to advise that, having carefully considered the byelaws, the objections received, and the Council's response, the Scottish Ministers have decided not to confirm the byelaws as they are not persuaded that they are either conducive to good rule and

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government, or reasonable or expedient in the interests of preventing or suppressing nuisances.

The specific grounds for not confirming the byelaws are as follows:

1. It is clear from the Council's response that you have adopted a comprehensive multi-agency approach to deal with the issues associated with street begging which involves a number of local partners including Police Scotland. The outcome of this approach has been a reported visible decrease in the number of people engaging in street begging which has been confirmed by Police Scotland. This would appear to provide evidence of a successful approach to tackling street begging and in our view does not justify introducing byelaws that would criminalise people for street begging.
2. The proposed byelaw would mean that the simple act of begging would be criminalised and this would be the case whether or not the act of begging was aggressive begging. As a matter of public policy, we are satisfied that it is right that the criminal law can be used to deal with people who beg in an aggressive manner and there are existing criminal offences such as breach of the peace which are capable of being utilised to deal with aggressive forms of begging. There is also an offence at section 53 of the Civic Government (Scotland) Act 1982 which enables the police to deal with people who obstruct pavements and other public places. In addition, we do not think it is appropriate to criminalise a person who is begging in a non-aggressive manner such as sitting on a street pavement with a cup or hat in front of them seeking money from passers-by.
3. We note that it is your view that additional powers are required to reduce and eliminate street-begging through the introduction of the byelaws. However, we also note that you have offered no evidence based on the experience of other cities to support the view that such measures would be expected to be more effective than the existing approach in reducing or eliminating street begging.

In addition to these specific points, we have noted that neither Police Scotland nor the Crown Office and Procurator Fiscal Service (COPFS) in the local area support the proposed byelaws.

We note that Police Scotland, in a letter dated 5 December 2013, indicated that there has been a visible decrease in the amount of people begging in recent times in the area that would be covered by the byelaws. They also indicated that they will continue to tackle aggressive and organised street begging using the powers they currently have and are not seeking further powers to tackle street begging.

Police Scotland also recognised that street begging is a complex issue which will not be resolved by police enforcement alone. They are supportive of developing local strategies to tackle street begging and will continue to work in partnership with the Council and others to identify long term sustainable solutions to tackle street begging. This is in line with the Scottish Government's policy on a multi-agency approach to tackle street begging.

We have also noted that COPFS have raised concerns about the need for byelaws, their potential effectiveness, their potential impact on the criminal justice system and their enforceability. They highlighted that police powers to deal with breach of the peace offences have been improved through the relatively new threatening and abusive behaviour offence contained in the Criminal Justice and Licencing (Scotland) Act 2010.

I hope this explains the reasons why the Scottish Ministers have not confirmed the byelaws.

A copy of this letter goes to Police Scotland, COPFS, local Aberdeen MSPs and the people who raised objections to the byelaws.

Yours sincerely

Neil Rennick