

ABERDEEN CITY COUNCIL

COMMITTEE	Communities, Housing and Public Protection
DATE	16 May 2023
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Parks & Open Areas Management Rules 2024
REPORT NUMBER	RES/23/143
DIRECTOR	Steven Whyte
CHIEF OFFICER	Mark Reilly
REPORT AUTHOR	Steven Shaw
TERMS OF REFERENCE	1.4.2

1. PURPOSE OF REPORT

- 1.1 The report seeks approval to make new Management Rules for Parks and Outdoor Areas within the remit of Aberdeen City Council as the existing Management Rules are due to expire in March 2024.

2. RECOMMENDATION(S)

That the Committee: -

- 2.1 Approve the draft Aberdeen City Council (Parks and Outdoor Areas) Management Rules 2024 as set out in Appendix 2 subject to the appropriate consultation being undertaken;
- 2.2 Instruct the Chief Officer - Operations and Protective Services to conduct a public consultation on the proposed Management Rules;
- 2.3 Instruct the Chief Officer - Operations and Protective Services to report back to committee if significant objections or comments, which have not been withdrawn, addressed or resolved, are received during the public consultation with: (a) the results of the public consultation; and (b) a recommendation as to the form the Management Rules should take following the public consultation; and
- 2.4 Instruct the Chief Officer - Governance to execute the Management Rules on behalf of Aberdeen City Council if no significant objections or comments are received during the public consultation or any such objections or comments as are received during the public consultation are withdrawn, addressed or resolved; and authorise that Chief Officer, before executing the Management Rules, to make any minor amendments to the Management Rules which they consider to be necessary.

3. CURRENT SITUATION

- 3.1 Aberdeen City Council have in place Management Rules regulating the use of and conduct of persons within Parks and Outdoor Areas within the remit of Aberdeen City Council (Appendix 1). The Management Rules are reviewed and updated to ensure they continue to meet the needs, requirements, and expectations of users.
- 3.2 The current Management Rules have been reviewed and the proposed changes/additions include the following:
- 3.2.1 Additional rule added at 3.(e) that will state that no person shall: “*Operate a drone in such a way that it annoys or frightens other users, animals or wildlife (and they must follow the UK Civil Aviation Authority Drone and Model Aircraft Code at all times)*” The reason for this addition is to advise drone users of their responsibilities including the requirement to follow the UK Civil Aviation Authority drone code.
- 3.2.2 Additional rule added at 3.(f) that will state that no person shall: “*Attach or leave permanent memorials such as plaques, vases, ornaments, plastic flowers or other forms of memorabilia.*” The reason for this addition is to address the increase in permanent memorabilia being left within Parks and Open Areas. The laying of fresh flowers is acceptable.
- 3.2.3 Additional rule added at 4.(k) that will state that no person shall, except with the prior written consent of the Council: “*Use drones for commercial activities such as filming and surveying purposes*”. The reason for this addition is to raise awareness that written approval from Aberdeen City Council is required.
- 3.2.4 Additional rule added at 4.(l) that will state that no person shall, except with the prior written consent of the Council: “*Undertake any archaeological study, or wildlife or wildflower survey or recording*”. The reason for this addition is to raise awareness that written approval from Aberdeen City Council is required and to ensure the appropriate Service is aware of and approve the activity.
- 3.3 Management Rules are not a mandatory requirement. Section 112 of the Civic Government (Scotland) Act 1982 details the process by which local authorities can make Management Rules which includes a period of public consultation.
- 3.4 Formulating Rules

To summarise the procedure, the draft Management Rules will need to be made available for inspection for at least a month to comply with the requirements set out in the Civic Government (Scotland) Act 1982. Members of the public will require to be notified by way of a newspaper advertisement where the draft Management Rules may be inspected and the address to which objections may be sent. Once the notified period for inspection and objection (which cannot be less than a month) is up the Operations and Protective Services will consider (following consultation with officers from Legal Services) whether any changes to the draft Management Rules are required and these changes will be presented to Committee if significant. The Management Rules will only become effective when they are executed by a Proper Officer of Aberdeen City Council.

- 3.5 The Management Rules will, unless revoked, continue in force for a period of ten years from the date of their execution and will be available for public inspection.

4. FINANCIAL IMPLICATIONS

4.1 Enforcement Costs

There is little point in making Management Rules unless resources will be committed to their enforcement. The level of costs stemming from enforcement will be determined by how actively the Council wish to pursue enforcement. It should be borne in mind that where Management Rules have been introduced, the breach of any rules is not, of itself, a criminal offence but only entitles an authorised officer of the Council to require the person concerned to leave the ground/premises or to exclude them; should the person fail to comply, prosecution for that criminal offence might follow. However, the decision to pursue a criminal prosecution rests with the Procurator Fiscal Service and not with the Council. It should be noted that the only punishment that may be imposed is a fine. This fine may not exceed Level 1 on the Standard Scale. Where any person repeatedly fails to comply with any such rules, the Council is entitled to make an exclusion order with failure to comply with any such order incurring liability to possible criminal prosecution (again there is no guarantee the procurator fiscal service would wish to pursue a prosecution against a breach of an exclusion order and the only punishment available is a fine not exceeding Level 1 on the Standard Scale).

4.2 Advertisement Costs / New Signage

Under Section 114 of the Civic Government (Scotland) Act 1982 signs are required to be displayed at the entrance to the land or premises to which Management Rules apply so that the Management Rules may be seen by members of the public intending to have access to the land or premises. The cost of installing appropriate signage will be met from current Operational Services budgets. Additionally, before Management Rules can be made, a notice informing the public of the Council's intention to make new Management Rules will need to be published in a local newspaper. The cost of publishing this notice will be met from current Operational Services budgets.

5. LEGAL IMPLICATIONS

- 5.1 The Civic Government (Scotland) Act 1982 lays down the process which must be followed when making management rules.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H) *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
Strategic Risk	No significant risks identified	N/A	L	Yes
Compliance	No significant risks identified	The making of Management Rules is not a mandatory requirement. Section 112 of the Civic Government (Scotland) Act 1982 details the process by which local authorities can make Management Rules.	L	Yes
Operational	No significant risks identified	N/A	L	Yes
Financial	No significant risks identified	N/A	L	Yes
Reputational	No significant risks identified	N/A	L	Yes
Environment / Climate	No significant risks identified	N/A	L	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
	Impact of Report
Aberdeen City Council Policy Statement	<p>Supports the delivery of Aberdeen City Council Policy through the Council's commissioning intentions, aligned to the LOIP key drivers, and stretch outcomes.</p> <p>The proposals within this report support the delivery of the following aspects of the policy statement:-</p> <ul style="list-style-type: none"> □ We Strive to achieve Net Zero to ensure a Just Transition is fair, both economically and socially for the citizens of Aberdeen. □ Improving active travel infrastructure. □ Seek to make Aberdeen a UNICEF child friendly City by creating outdoor spaces that they can enjoy and help with their health and wellbeing.
Aberdeen City Local Outcome Improvement Plan	
Prosperous Economy Stretch Outcomes	<p>The Parks & Open Areas management rules in relation to parks and green spaces will contribute to the city as a visitor destination linked to heritage tourism, specifically supporting the following areas of the Local Outcome Improvement Plan 2016-26,</p> <p>“We will seek to develop a City of Learning approach that empowers people and communities to put lifelong learning at the heart of their civic and cultural identities.”</p> <p>Key Driver 1.1 “Diversification of the economy into other growth sectors including wider energy related sectors; tourism; food and drink; life sciences; health and social care and construction.”</p>
Prosperous People Stretch Outcomes	<p>The Parks & Open Areas management rules will support the delivery of LOIP Stretch Outcome 4 95% of children (0-5 years) will reach their expected developmental milestones by the time of their child health reviews by 2026.</p> <p>Through Key Driver 4.3 Improving health and reducing inequalities. Stretch outcome 5 90% of children and young people will report that their experiences of mental health and wellbeing have been listened to by 2026. This is reflected in interactions, activities, supports and services.</p> <p>Through Key Driver 5.2 Increasing children's knowledge and understanding of their own physical and mental wellbeing and take an early intervention and prevention approach.</p>
Prosperous Place Stretch Outcomes	<p>The Parks & Open Areas management rules support the delivery of stretch outcome -</p>

	<p>13. Addressing climate change by reducing Aberdeen's carbon emissions by at least 61% by 2026 and adapting to the impacts of our changing climate.</p> <p>14. Increase sustainable travel: 38% of people walking and 5% of people cycling as main mode of travel by 2026</p> <p>15. Addressing the nature crisis by protecting/managing 26% of Aberdeen's area for nature by 2026.</p>
Regional and City Strategies	Contributes to the targets and objectives in a range of regional and city strategies including: Regional and Local Transport Strategies, Strategic and Local Development Plans, Local Outcome Improvement Plan, Aberdeen Adapts, Local Housing Strategy and Net Zero Routemap for the City.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Full impact assessment not required.
Data Protection Impact Assessment	Not required
Other	Not required

10. BACKGROUND PAPERS

10.1 Land Reform (Scotland) Act 2003 <http://www.legislation.gov.uk>

10.2 Scottish Outdoor Access Code (SOAC). <http://www.outdooraccess-scotland.com>

10.3 Civic Government (Scotland) Act 1982 <http://www.legislation.gov.uk>

10.4 Wildlife & Countryside Act 1981 <http://www.legislation.gov.uk>

10.5 The Conservation (Natural Habitats, &c.) Regulations 1994 <http://www.legislation.gov.uk>

11. APPENDICES

- 11.1 Appendix 1 - Aberdeen City Council (Parks and Outdoor Areas) Management Rules 2014 (current Management Rules)
- 11.2 Appendix 2 - Aberdeen City Council (Parks and Outdoor Areas) Management Rules 2024 (Proposed draft Management Rules)

12. REPORT AUTHOR CONTACT DETAILS

Name	Steven Shaw
Title	Environmental Manager
Email Address	stevens@aberdeencity.gov.uk
Tel	Tel : 07786976381